



HOUSE OF LORDS

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Internal Market Sub-Committee

Inquiry on

ONLINE PLATFORMS AND THE EU DIGITAL SINGLE MARKET

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Witnesses: Evelyne Gebhardt MEP and Clare Moody MEP

USE OF THE TRANSCRIPT

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Members present

Lord Whitty (Chairman)
 Lord Aberdare
 Baroness Donaghy
 Lord Green of Hurstpierpoint
 Lord Mawson

Examination of Witnesses

Evelyne Gebhardt MEP and Clare Moody MEP

Q73 The Chairman: Thank you very much for giving us your time today. As you know, we are here to look specifically at the platform dimensions of the digital single market. This arose because we are responding to the Commission's proposals on the digital single market and anticipating a follow-through by the Commission on various aspects of it, but the bit that intrigued us most was the issue of platforms and whether there is scope or necessity for any regulatory intervention, whether they present new problems and how that fits in with the other strands of the digital single market. Ms Gebhardt, I understand that you have an own-initiative report on the digital single market. I do not know whether you are quite at the point where you have finalised the report, but perhaps you could give us a brief outline of the findings on the digital single market, in particular relating it to the platforms issue.

Evelyne Gebhardt: Thank you for inviting me to speak to you and to inform you about the work of the European Parliament. I am very happy that it is possible to do it this morning. The digital area is a very important one because we are seeing a revolution for society throughout the world. We have to tackle what is happening, so I was happy that the European Commission proposed a text. The work I am doing now is to analyse it and see what is missing. There are many good proposals and information within it, but, as you were told, platforms are one of the things missing from the European Commission's text.

It will be necessary to analyse what kind of platforms we have, because it is absolutely impossible to give one definition for a platform. We have search platforms like Google or Uber, and others involved in e-commerce like Amazon. Yesterday evening I spoke with Bosch, which has a platform within its enterprise. There are platforms for self-employed persons—click working—and many other forms. Uber and Airbnb are other forms of platform, so it is not possible to speak about the platform; we have to speak about many different sorts of platform. The first thing to do is to analyse what they are.

I focus on two sorts of platform. The first are platforms in e-commerce where there is discrimination by geo-blocking. That is one part of it that it is really important for IMCO¹ to tackle. We have an internal market, and it is not only for enterprises but for people. Sometimes you are blocked from buying on a platform because you are in the wrong country, you have the wrong credit card or whatever. Those are problems we have to address.

¹ Internal Market Committee at the European Parliament

The second sort of platforms are those involving work crowding—I do not know whether that is the right wording—where people are asked to work as self-employed. We will have to have a close look at what is happening there. I am sure that we have a problem here of precarity. We have to ensure that people working there have the possibility of living—I am sorry for my poor English. I think Clare is focusing on that area too. It will be necessary to have a look, because the Posted Workers Directive and everything we have in our European laws will not be an answer to these problems. People are not going from one country to another; they are working in their own country, so the posting of workers does not apply. Those are things we have to tackle. We have to see what it is necessary to do at a European level. We know it is not possible to make a law for each country. I pass over to Clare.

Clare Moody: Exactly as Evelyne said, the bit that the Commission has not really focused on is the consequence on employment and the employment area. In particular, we have seen in the news recently with Uber drivers and false self-employment that potentially this is very exposed in what are called sharing platforms. The issue is the enforcement of existing laws and the potential for exploiting loopholes, be it through false self-employment or the enforcement of minimum wage legislation, health and safety standards and other areas. There is also insufficient evidence about the impact on gender and ethnicity, and the potential embedding of discrimination and indeed of advantage through the use of these platforms.

The Chairman: To some extent, we are anticipating what will be the next question, from Lord Aberdare. Do you want to add to it, Alastair?

Q74 Lord Aberdare: It was going to be a question to Ms Moody on exactly that topic—her view of the Commission's work on the collaborative economy. The second half of the question is whether you feel that different Member States are likely to be able to reach a common view on the collaborative economy issues, or whether there is a risk of regulatory fragmentation between Member States.

Clare Moody: There is a risk of regulatory fragmentation, and not just in this area. It is useful that you are having this hearing, because if we are looking at regulating the digital single market as a whole across the EU and avoiding races to the bottom, it is really important that part of the conversation is about the related employment issues and the potential discrimination issues as well.

Lord Aberdare: The other point that should perhaps underlie some of our discussion is getting the balance right between doing, on the one hand, what I think the Commission and all of us want to do, which is to encourage this market to grow and develop in Europe and, hopefully, get some European platforms that might be competitive with some of the big names that already exist, while on the other hand ensuring that there is the kind of fairness, proper regulation, competition management and so forth that we want to achieve. Sometimes there is a risk on focusing on one at the expense of the other and losing the fundamental aim of creating a single market in this area, which has not really functioned as a single market so far.

Evelyne Gebhardt: It is clear that there are many opportunities in that area and we have to take them on board, but at the same time we have to ensure that it is done well. You have to focus on making the creativity and innovation the best in the world—why not?—but at the same time ensure that the economic and social points of view are linked together and

embedded, and we are not playing one against the other. That is the problem we sometimes have in politics.

Q75 Lord Green of Hurstpierpoint: Some of the issues you have described arise from the nature of the business, not from the fact that it is online. Uber and its employment issues would still be there if they used a telephone exchange to make bookings, whereas the Posted Workers Directive is fundamentally challenged by online business, where you are sitting in one country and trading with another. That is really an observation rather than a question. It seems to me that we need to carefully keep separate in our minds issues that arise specifically because of an online business model and those more generally posed by a particular business proposition as a way of getting round employment law.

Evelyne Gebhardt: I raised that because we had a discussion yesterday in my committee with Madame Bieńkowska about these things. It was very interesting that she did not see that problem. With Uber we have workers working within a country. It is clear; you book by telephone or internet, but there are other forms of platform where the service is in one country and those working for the platform come from countries all over the European Union, but their workplace is their own country. They are located in their own country but working in another country via the internet. That is one of the loopholes. What is happening to the rights of a person who works in that way? How are they defined for social security? What happens if they have an accident at work, and so on? Those are the questions we have to tackle, because it is not certain that the worker has security in his own country or in the other one, which shows that it is absolutely necessary to have a European answer, and not take the risk of separate ones where people do not know their rights.

Lord Mawson: I am going to push you a bit on this point. My experience from working for many years in housing estates is that the equality agenda sounds fine, but it often creates poverty in local communities. We found that embracing the diversity agenda and opening it up to get people into jobs created opportunities that they would never have if you push the logic you are suggesting. Is it not true that what Google and some of these platforms are doing is opening up a whole world to all sorts of people that these systematic ways of thinking never did? They sound fine at 60,000 feet, but in reality on poor housing estates in the east end of London they do not deliver the necessary opportunities. Is that not the fundamental problem with the whole logic of this conversation—that these platforms are opening up a far more diverse world and it is moving at speed?

Evelyne Gebhardt: I said that we had to take these questions on board; I did not say how to do it, because at the moment I do not know how we should do it. We have to be as disruptive as the enterprises are, and we have to find a way to create social security for those people. I know that many young people want to work in another way, and we have to take that on board. We have to define new forms of working practice and how to tackle these matters, not in the old-fashioned way. That is not the right way to do it because it is not appropriate. We have to find new ways of defining working conditions for people in the new digital area.

Clare Moody: To follow up Evelyne's point, the point I was making earlier was also about the dangers of embedding disadvantage. The people in this room will be fine with a lot of what we are talking about—we will all be fine, thank you very much. We will all benefit from the digital single market, platforms and all these elements. What we have to guard against is that we do not start to disadvantage, or that we do not exaggerate that difference in

experience of the benefits of the digital world. It is not just gender and ethnicity, although that is a big part, and we should be more aware of it; it is also to do with what you are talking about—people living in housing estates who perhaps feel more and more excluded from the world we are discussing in this room.

Lord Mawson: Is not the problem that the world we are talking about is now bypassing what is happening in this room? That is part of the problem but it is also part of the opportunity. It is bypassing all this stuff and going right to the citizen, and those citizens on housing estates, some of whom I know, are absolutely taking opportunities from all that. The challenge for all of us is how you make sense of that diverse world where a thousand flowers have to be allowed to bloom, and not impose an old-fashioned view—what I call a 1970s world view—that no longer works.

Evelyne Gebhardt: I do not think we want to hold old-fashioned discussions in that way, because it is not the right way. It might be for Uber, as it is in California. That could be old fashioned because taxi driving is an old-fashioned way of working. Umbrella is another one. In services in other forms of platform there are new ways of working—new methods such as click working and other forms—that need new answers. Many people can work at home. That is good; it is fine. If I have little children I am happy about that as a mother, but young people do not think about what will happen when they are 60, 70 or 80 years old. What about money? Do they have the same opportunities? I heard of a case in Germany where a man, married with two children, was working on these kinds of things and earning a lot of money. He had a big house, a big car and so on. Then he had an accident and died. His wife and children are now taking money from the social system because there was absolutely no insurance. He did not think about how to ensure that his family was well cared for if he had an accident. Those are the sorts of things we have to think about. We know that people do not think far ahead when they are young. I know how it was with me. It is normal for all people. We have to think about how to manage it so there is an appropriate answer. As I said, I do not have it at this time, but we have to think about how to ensure that in the end there is a good way.

Q76 Baroness Donaghy: Why did the Commission dedicate a digital single market strategy initiative specifically to online platforms? Do you know what the driver for it was? Was it industry groups, consumers, political parties or Member States?

Evelyne Gebhardt: It was all of them, including the European Parliament. In my committee we have had a working group since 2011 asking the European Commission to take steps, because even with e-commerce and so on we saw many opportunities and questions arising. We have to tackle these things. In 2015 the new European Commission came up with something. The old one did not produce anything in that area. It is good but we have to see what is happening. We are making a data protection law. It may be a good answer to the new opportunities we are working on, but not if it is managed in the old way for data protection. Those are the things we have to tackle, and people have asked for that. The trade unions pressed us hard on that, as did e-commerce businesses because they see the problems with parcel delivery and other matters, so it was a necessity.

Clare Moody: There is also a huge issue with enabling cross-border trading in a digital market. This is absolutely a valid competence of the European Union, particularly the ability of small businesses to trade across borders. There is not an issue for a lot of big companies; they have cross-border supply chains, let alone markets, whereas, without that single

market, there are barriers for smaller companies to the opportunities that arise from the digital world, and it is the EU's job to help break them down.

Q77 Lord Green of Hurstpierpoint: I suspect I know part of the answer to this question. The European Parliament passed a rather strongly worded resolution about Google earlier this year. Why did you single out Google, and what did unbundling actually mean?

Evelyne Gebhardt: We had a problem with the former Commission on how Google was working in the world, defining a monopoly where a search engine places its own services at the top, instead of the best ones. The old Commission was not really working on that, so we decided to ask the new Commission to do something. Now we have Madame Vestager it is very much better. We did not want it to be passed over.

Why unbundling? We did not say that we wanted unbundling; we asked in the resolution whether that could be an answer to the problem, and whether we could have a separation between the platform itself and the services proposed by Google and others on these platforms to ensure there is not a mismatch with the monopolistic position.

Lord Green of Hurstpierpoint: Would it be honest to say that the fact that Google is American has increased suspicion of them? A related question is whether you would apply whatever remedies you think are appropriate for Google to a company like Allegro, which dominates the search engine environment in eastern Europe.

Evelyne Gebhardt: Google is one case, but we have a clear definition of non-discrimination. If we have an answer for one it is an answer for all. If at the end we say there should be unbundling—we are not saying it at this time; it is only a proposal to see if it is possible and practicable—clearly it would then apply to others.

Lord Green of Hurstpierpoint: The fact of the existence of Allegro is interesting to us. If we are absolutely honest, we learnt about them only yesterday, but they dominate at least the Polish market and to some extent other eastern European markets, in the same way as Google dominates in western Europe. It begs an interesting question about natural monopolies which I think we may want to get to grips with. Is it the case that Google's position is there for keeps, or is it pending—challengeable by other platforms? The reciprocal question applies in the case of Allegro. In other words, to what extent has the winner really taken all and kept it?

Evelyne Gebhardt: I am not sure I understood the question.

Lord Green of Hurstpierpoint: To what extent does the fact that Google has a 95% monopoly in western Europe mean it will always have a 95% monopoly in western Europe, and vice versa for Allegro, which I understand has a 95% monopoly in Poland?

Evelyne Gebhardt: We do not want monopolies in either one case or the other. We have to find ways to ensure that other search platforms that exist, which have many problems, have the right to get under way. The first point for us is about the use of the monopolies that they draw from these platforms. It is not just that there is a monopoly in western Europe and another one in eastern Europe; there are monopolies all over the world. Facebook has a new search platform in India, Africa and other places, where they propose free internet for people, but that internet is only about Facebook or only about Google, so they are making a worldwide monopoly. We see that. We are analysing it, because we need to see the end point of such an evolution.

Q78 Lord Mawson: Can you stop the logic of where this is going? Is the way to try to stop it through regulation or is it by investing in innovation, creating far more diverse cultures and environments in Europe where young people and a whole range of things can thrive? To what extent do you think the Commission is concerned about a small number of the most dominant platforms rather than online platforms in general? Is it focusing just on the very large successful ones, which sounds like what this conversation is about?

Clare Moody MEP: That touches on the question that has just been asked. Currently, we are seeing a tendency to monopolies in this area. I do not think any of us would think that is necessarily a healthy outcome. Just before the question, you made a point about investment in research and innovation. I wholeheartedly subscribe to that, and part of the Commission's thinking in its proposals on the DSM is that we are investing in future technology and that area of the economy as a whole, but the outcome we are dealing with right now is exactly that: we have not just an existing monopoly but one that potentially is embedding advantage and building on its existing position. Evelyne made that point about the resolution earlier in the year. It is building in an advantage to itself, if you like, in the rankings within that search engine. The question is whether that is now sucking the life out of competition in this particular field of platforms.

Evelyne Gebhardt: It is important to have innovation and creativity in this area. We have to help the start-up companies. If you have monopolies, the start-ups and new creative employers do not have the opportunity to make it work. We want competition, innovation and creativity because that is the best way forward. If we have monopolies many things will be cut. I have spoken to many people in start-ups who say, "If you search for us you will not find us on the first page". How many people go to the second or tenth page? Nobody. We have to ensure that start-ups have the same opportunities in search engines.

Lord Mawson: You could say that the EU is a monopoly. This is about diversity; there is a narrative emerging about the modern world that we are all trying to come to terms with. The logic of it, whether we like it or not, is that certain cities like London will attract certain sorts of people. Platforms will become bigger and certain bureaucracies in certain parts of the world will become bigger and ever-more encompassing. The challenge for all of us is how to open up the kinds of diversity that begin to challenge that environment. That is the big challenge, because it flies in the face of the internal logic of a lot of what is going on.

Evelyne Gebhardt: It is a big challenge, but we have to deal with it. We cannot let them do what they want because in the end we will no longer have innovation. That is not what I want. I want young people with new ideas to have the opportunity not only to define those ideas and take them further, but also, at least sometimes, to grow bigger. They have to have the opportunity. They have to do crowd funding, but if they are not at the front of the search engine, they will not get the money they need. If they have a service to propose, they will not find people to take the service if it is not on the first page. We do not want search engines saying they are there to help, but then saying that the best opportunities are their own opportunities.

Q79 The Chairman: We are reaching the end of our time. Can I ask you something about the politics, both institutional and party political? We have described the problems. For example, does the Socialist group in the European Parliament have a clear, coherent idea of what the next steps are? Do the other groups? Are there differences between Member States in their approach to this? What is the political environment in which attitudes to

platforms and intervention and regulation are operating, and is the Commission responding to that?

Evelyne Gebhardt: In our work, we have a big opportunity to have a big majority of people in the European Parliament from the main political groups, but not all. There are some on the right wing who do not want to work with us. That is okay. People from all parts of the European Union are bringing their own thinking. Clare is bringing the British way; I am bringing the German one. We discuss things and see where we have the same viewpoint and where there are differences. We tackle them and find a new European way. What we cannot do is say that the British view or the German view has to be the response to these questions. We have to find a common European way to go further. That is difficult and it takes time, but it works and in many cases we have good responses.

Clare Moody MEP: Absolutely; we have good working together. There is not a prescriptive, "Right, the Parliament takes this position", or indeed that, singularly, the S&D has reached a position. Evelyne is coming at it from the internal market committee's point of view; I am looking at it from the industry, trade, research and energy committee's point of view. We are not pursuing a single platform, to use that word in a different context.

There is perhaps more consensus within the political groups than we have necessarily reached at this point, but that is because of where we are in the legislative process and the fact that, although we are discussing platforms here, the whole area is so vast that there is no single debate going on as yet. Come back in a few months and ask us where we have got to on that.

The Chairman: A few months? You are doing well if you have a few months. We have a few weeks for some tweaking or steering work to feed into the Commission's process. We are intending to produce a report by March, which is tough going.

Q80 Baroness Donaghy: I have a question about the consultation document that the Commission produced. What is your assessment of that document? Do you think it will provide evidence to inform a decision about how to proceed?

The Chairman: If I can generalise, do you think the Commission is doing enough?

Clare Moody: To my mind, there are two drawbacks to the document. I mentioned one earlier; I do not think it focused enough on the social and employment consequences of a digital single market. That is not denying the benefits, but we have to recognise that this is happening in a wider societal context. The other is that it was very consumer-to-business focused; it did not look at the wider business-to-business area or at the person-to-person context. It was very much one business model. I saw those two areas as potential gaps in the direction of the Commission's consultation.

Evelyne Gebhardt: I cannot say much more. I have to apologise because at a quarter to 10 there are votes in my committee and I have to be there.

The Chairman: We understand that. Are there any last words?

Clare Moody: No. I am very much looking forward to any help that comes from your investigation, which I am sure will also help feed into our way of thinking.

The Chairman: Thank you both very much indeed. It has been very useful indeed.