

## **Carsten Müller MP—supplementary written evidence (FEO0112)**

### **House of Lords Communications and Digital Committee inquiry into Freedom of Expression Online**

**Submitted in relation to the oral evidence session on Tuesday 16 March 2021 with members of Germany's Bundestag to discuss their country's laws (NetzDG) designed to reduce the availability of illegal online content**

#### *Question 1*

*Please could you explain how the NetzDG law seeks to safeguard freedom of expression and whether you feel these safeguards have been effective?*

The Network Enforcement Act (NetzDG), applicable since 2017, is an important component in combating hate crime on the Internet. The regulations prevent criminal content in social networks, to provide social networks with a user-friendly process for fulfilling their responsibility to remove known punishable content. NetzDG makes it easier for users to take action when they want offensive posts removed. Anyone threatened or insulted on the net must have the ability to report it to social networks simply and without complication. The law has resulted in a significant number of this punishable content being deleted by the providers following their review

We do not tolerate, hatespeech intimidating people and driving them out of social networks. We are strengthening the rights of the users of social network. Social networks and the world wide web are not a legal vacuum without laws or prosecution. Criminal acts remain consequences – offline and online. Free speech and freedom of expression are protected by consistent prosecution of criminal contents.

#### *Question 2*

*(a) Why does NetzDG not penalise platforms for wrongly deleting content? Does this threaten freedom of expression?*

*(b) Why does NetzDG take a systemic view of social media companies' compliance rather than examining individual cases? Does this give those companies too much power?*

a) It is not intended to penalise wrongly deleting content, we penalise not deleting criminal content according to the German Criminal Code. Our goal is to get criminal content out of the networks very quickly, because sharing a content, criminal content too, is simple.

Our regulation to protect freedom of expression.

b) The Network Enforcement Act is about the quick deletion of criminal content that clearly, obviously violates - special, in the act defined - law.

A case-by-case assessment by the courts is still possible at any time, but it is time-consuming. Legal recourse is – of course - not excluded at any time.

The goal of the NetzDG is a quick intervention: "removes or blocks access to content that is manifestly unlawful within 24 hours of receiving the complaint. Freedom of expression is not threatening. All the time, we had never observed an overregulation.

*c) Authoritarian regimes have cited NetzDG as precedent to justify online censorship. Why do you think that is? Does it concern you?*

*No. Our act based on the law, is rooted in law. Anyone can take legal action against regulations at any time.*

*d) Are fines enough to change social media companies' behaviour? Are other tools necessary, such as criminal liability for directors?*

Fines are not everything, but the NetzDG is a clear signal that we see the responsibility with the providers. They have to do more, than enforcing their community standards. Our criminal code or British Codes are to be observed. Networks are able to program diversified regulations into their algorithms and handle the illegal content. That is why our fines are high and clear - up to 50 million euros for systemic failure. Our act is working well. We are developing the law further and taking latest findings in order to make it better and more targeted - most recently our amending the Network Enforcement Act.

### *Question 3*

*Are there any other international examples of regulation from which the UK should learn?*

I am sure, United Kingdom could learn from our experiences. In 2017 numerous critics spoke of the end of freedom of expression and the massive deletion through social networks. None of that happened, the choir fell silent and the NetzDG is working. Our regulation has been a source of inspiration, a template, for other regulations, for example French regulators and not least for the draft of the EU's Digital Services Act.

### *Question 4*

*What is your view of the EU's proposed Digital Services Act? How well does it protect freedom of expression?*

First of all we have to wait for discussions in EU Parliament, European Council and the national parliaments. It takes two or three years. I am sure, the DSA does it well. Many rules of the Network Enforcement Act can be found in the draft of the DSA. We are continuing the law and bringing our experience in the DSA-discussions.

In the end, Europe has the chance to become a pioneer in the field of digital regulation once again, as we have already done with data protection. We know that many regions, such as the USA and Australia, are paying close attention to Europe and we have already received a lot of positive feedback on the draft.

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