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EU-voorstel: mededeling van de Commissie aan het Europees parlement, de Raad, het Europees Economisch en Sociaal Comité en het Comité van de Regio's – bestrijding van online-desinformatie: een Europese benadering COM(2018)236¹

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BRIEF VAN DE EUROCOMMISSARIS VOOR INTERNE MARKT, DE HEER T. BRETON

Aan de voorzitters van de vaste commissies voor Justitie en Veiligheid, voor Economische Zaken en Klimaat/Landbouw, Natuur en Voedselkwaliteit en voor Binnenlandse Zaken en de Hoge Colleges van Staat/Algemene Zaken en Huis van de Koning van de Eerste Kamer der Staten-Generaal

Brussel, 22 juni 2020

I would like to thank you for your letter of 2 April 2020 to Vice President Sefcovič setting out further questions from the PVV parliamentary party on the topic of tackling online disinformation, in follow up to the Opinions of the Eerste Kamer of 16 July 2018, 13 March 2019, and 28 October 2019. These Opinions contained questions on the same topic to which the Commission provided responses, respectively, in its letters of 21 January 2019, 25 July 2019 and 5 February 2020. Vice President Sefcovič has asked me to respond to your letter on his behalf.

The Commission appreciates the interest in this matter shown by the Members of the PVV parliamentary party. It would like to refer you to the attached annex, which provides further clarifications on the questions and comments presented in your letter of 2 April 2020. The Commission hopes that this reply addresses the questions and concerns raised by the Members of the PVV parliamentary party and looks forward to continuing our political dialogue in the future.

Yours faithfully,

Thierry Breton

¹ Zie dossier E180014 op www.europapoort.nl.

ANNEX

The Commission is pleased to offer the following further clarifications on the questions and issues raised by the members of the PVV parliamentary party in the letter of 2 April 2020:

I. «The members of the PVV parliamentary party note that the European Commission, in its reply (of 5 February 2020), has not dealt with two parts of the questions they raised (in the Opinion of 28 October 2019). This concerns the following two quotations from the letter to the European Commission:

In answering the questions put by the members of the PVV parliamentary party, the European Commission merely refers in the last paragraph of its letter of 25 July 2019 to the answers it gave in a previous letter. These members would now kindly request that specific answers be given to specific questions.

In its letter of 25 July 2019, the European Commission states that no communication was received from GeenStijl at EUvsDisinfo. What is meant here explicitly by «communication»? Does only feed-back submitted through the EUvsDisinfo website count for this purpose? Whatever the case, the true situation had become widely known as a result of the considerable publicity and the political/public debate before EUvsDisinfo took action. Can the European Commission indicate why EUvsDisinfo and/or the European institution(s) having (political) responsibility for it did not adopt a proactive approach and take steps to amend and retract their incorrect statements about GeenStijl? Can it provide a detailed timeline of what steps were taken by whom or by what organisation and at what time in this case, before the statements were removed and rectified?»

Response:

There is a clear and clearly visible mechanism for signaling errors and giving feedback on the website of EUvsDisinfo. GeenStijl, the media outlet concerned, opted to challenge the designations through legal proceedings. EUvsDisinfo undertook a detailed review of the articles in question, after which it permanently removed them from its database and published a prominent retraction on its website² ¹ and social media accounts³ on 8 March 2018. See also the relevant portions of the Commission's letter of 21 January 2019.

The media outlet in question withdrew the court case that it had launched. The case is therefore now closed.

II. «In its answer about the Sounding Board, the European Commission states as follows: «Sector representativeness was the main criterion when selecting these associations in order to fulfil the necessary advisory function.» Can the European Commission indicate specifically how and by what yardsticks and criteria the extent of the representativeness of the relevant sector were assessed? What were the specific reasons for selecting the listed organisations? Were other organisations dropped in this selection procedure and, if so, what organisations and on what grounds?

Response:

² <https://euvsdisinfo.eu/removal-of-three-cases-further-to-complaints-by-dutch-media/>.

³ See Twitter: <https://twitter.com/EUvsDisinfo/status/971744738884931584>; and Facebook: <https://www.facebook.com/EUvsDisinfo/posts/1687230944656543>.

The Sounding Board was established in view of ensuring broad representation from relevant stakeholder groups, comprising fact-checkers, academia, media and civil society organisations, taking into account the criteria of inclusiveness, expertise and efficiency. The organisations selected to participate in the Sounding Board were those judged by the Commission to have memberships with wide geographic and sector coverage and to be capable of providing focused technical expertise in real time on the domains covered by the Code of Practice. Accordingly, associations with wide memberships from the media sector and civil society, rather than individuals or individual companies in these sectors, were selected to serve on the Sounding Board. Also, as previously noted, in light of the compressed deadlines foreseen for the convening of the Multistakeholder Forum and the delivery of the Code of Practice, a number of associations that had served as members of the High Level Expert Group on Fake News and Online Disinformation were selected to serve on the Sounding Board, as the Commission considered that they would be well versed and up-to-speed on the scoping of the phenomenon of disinformation sought by the Commission and on the objectives and purposes to be served by the Code of Practice. No organisations were «dropped» from consideration.

III. «The European Commission also states as follows: «The Commission selected the representatives of the academic world based on three criteria: gender balance, geographic coverage and technical expertise.» Can the European Commission explain why «gender balance» would be substantively relevant to the advice to be given?»

Response:

The use of gender balance as a criterion in selecting representatives from academia for the Sounding Board is in keeping with the Commission's policy towards ensuring non discrimination and equal opportunity in employment and a pro-active approach to creating a diverse environment and an inclusive culture in the workplace, both at the Commission and in society at large.⁴³ More specifically, it is the Commission's view that the technical expertise provided by a gender-balanced panel of academics in relation to the Code of Practice is likely to be more closely attuned to the experience and needs of society at large than expertise afforded by a panel skewed towards only one gender.

IV. «In its answer, the European Commission states as follows: «Fact-checkers need to operate on the basis of high standards. The International Fact-Checking Network, in particular, has set out a Code of Principles, which contains such standards.» Among the organisations that fund this Code of Principles of the International Fact-Checking Network (IFCN) are the Open Society Foundations of political activist George Soros.

Can the European Commission indicate how it can possibly assert that the code sets «high standards» for independence if the network is funded by a political-activist organisation? Can the European Commission also indicate to what extent there is a connection and/or cooperation between the IFCN and the EU Action Plan against Disinformation? To what extent is the policy pursued by the EU determined by the IFCN standards?»

Response:

The Commission notes that the website of the Poynter Institute indicates that the Institute receives donations from a variety of sources that support

⁴ See, e.g., Commission Communication, A better workplace for all: from equal opportunities towards diversity and inclusion 19 July 2017 C(2017) 5300 final at: <https://ec.europa.eu/info/sites/info/files/communication-equal-opportunities-diversity-inclusion-2017.pdf>.

the Institute's various initiatives in the field of journalism, including the IFCN. The website lists more than 20 of the Institute's larger-scale institutional donors in recent funding cycles, including sources with a variety of missions and possible perspectives (e.g., the Charles Koch Foundation). In addition, the IFCN's Code of Principles expressly requires its fact-checking organisations that are signatories to the Code must meet a series of criteria regarding nonpartisanship and fairness. These include a prohibition against participation by fact-checking organisations that are affiliated with any party, political or political group, or which advocate for or against any policy position on any issue, except for advocacy in favour of transparency and fairness in public debate. In its various communications on disinformation, the Commission has referred to IFCN as an organisation that has articulated transparent and neutral standards for fact-checkers, without having endorsed the IFCN as such.

There is no specific connection and/or cooperation between the IFCN and the Action Plan against Disinformation. The Action Plan notes the importance of independent fact checkers and researchers in exposing disinformation, furthering understanding of the phenomenon, and raising public awareness, and to this end it calls upon the Member States, with the Commission's support, to create teams of multi-disciplinary, independent fact-checkers.

V. «In the annexe to a letter to Parliament about policy efforts to protect democracy from disinformation, the Dutch government states: «In addition, the Code of Practice has not been signed by all internet services that place political advertisements and may be a source by which disinformation is disseminated. For example, internet services such as Snapchat, Reddit, 4Chan and Tiktok have not signed up to the Code of Practice. However, the products and/or services, technical capacities and liability arrangements under EU law differ for every internet service. New signatories do not therefore have to endorse all commitments in the Code. In view of the importance of transparency on these platforms and the desire to give members of the public more resources online to be able to gauge the worth of information, the government believes it would be opportune to be able to enforce transparency on these platforms and intends to explore how this could implemented in the coming period. In the next few months I would therefore like to discuss with the European Commission and other Member States how this could be arranged.

«In its answer, the European Commission states that the Code of Practice is established along independent, self-regulatory lines and that the Commission's role is merely that of facilitator. Can the European Commission indicate how this position relates to the Dutch government's view that it should be possible to enforce the transparency of the platforms? Can the European Commission indicate whether it is in discussion with the Dutch government about this and how this relates to the Commission's role of «mere facilitator» and the self-regulatory nature of the Code?»

Response:

The Commission would like to thank the members of the PVV parliamentary party for referring it to the annex to the Dutch government's letter concerning necessary lines of action to protect democracy against disinformation, which it has read with great interest.

To date, the Commission has not been in discussions with the Dutch government on the issue cited, namely, the possibility of mandating and enforcing transparency and disclosure requirements around online political advertising that would apply to all actors that serve such

advertising in the EU, and not just those that are presently signatories to the Code of Practice.

As the members of the PVV parliamentary party note, the Code of Practice is a self regulatory instrument and the Commission's role to date has been limited to fostering industry's development and uptake of the Code and to monitoring the signatories' implementation of their commitments under the Code. As foreseen in the Action Plan against Disinformation, the Commission is presently carrying out a comprehensive assessment of the Code. In addition, as announced in Commission President von der Leyen's Political Guidelines, the Commission will put forward a European Democracy Action Plan that will include legislative proposals to ensure greater transparency on paid political advertising. The Commission expects to present its assessment and articulation of next steps for the Code of Practice by the summer of 2020 and to present the Democracy Action Plan during the fourth quarter of 2020.

In this context, the Commission looks forward to exchanging views with the Dutch government on possible transparency and disclosure requirements with respect to paid online political advertising for actors that provide such advertising services in the EU.