

A NEW MODEL FOR MEDIA REGULATION

Debates have missed some major components of the proposed new regulatory frameworks with regard to their co-regulative nature: what should the cooperative element actually entail? More precisely: what is the role of the state and of its agencies within the new regulatory value chain? Who defines public interest and how to represent it? Which standards apply and what procedures are to be followed by “designated authorities”, namely national regulators, while requiring online intermediaries to account for their actions?

It seems inevitable at this point to consider and rethink whether regulators are in a position to exercise control and what prerequisites meet the expectations of citizens, industry and policymakers. In other words: what does it take for regulators to rebuild trust and ensure our freedoms are safeguarded, our rights are enforced, and our interests are advocated?

As a minimum, online media should account for, in a transparent manner, on whose request, on what judgement and in what process they are acting – and regulators need to scrutinise those actions. Moreover, regulators should undertake impact assessments of self-regulatory actions and focus on the wider societal and policy implications. Under redesigned accountability mechanisms, a possible new regulatory value chain should entail, as a minimum, regulatory scrutiny of the appropriateness of measures undertaken by online platforms, for both legal aspects and policy dimensions, as follows.

– possibly within established networks such as the European Regulators Group for Audiovisual Media Services (ERGA) or the European Platform of Regulatory Authorities (EPRA) – it seems necessary to develop tools to monitor online platforms, particularly for algorithmic accountability.

The results of such regulatory interventions should be made available in regular monitoring reports, with full transparency and subject to open public debate.

Policy dimensions

- Editorial decisions made by online platforms should be monitored by national regulators and juxtaposed with ethical and professional standards
- Regulators should assess the wider societal impact of self-regulatory actions undertaken by platforms within a national context and actively pursue a dialogue with stakeholders in evaluating the results of such an assessment.

Democratic control over online platforms necessitates that users participate in such control, questioning and challenging self-regulatory decisions undertaken by their providers. Regulators are essential in empowering users to enjoy their rights and providing contextualisation and support for their actions. Regular and open debates and dialogue generated by regulators involving representatives of users’ groups and other stakeholders could offer meaningful opportunities for such efforts.



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Legal aspects

- Regulators need to check under which international standards and which jurisdiction platforms are acting when they delete, or refuse illegal content
- Within the boundaries of national legislation, regulators need to set rules on certain “duties of explanation” for decisions made by automated or artificially intelligent algorithmic systems operated by platforms
- Based on the multinational cooperation of regulators

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