

## ONLINE SERVICES AS A NEW FORM OF INFORMATION INTERMEDIARIES

Reporters Without Frontiers (RWF) published the policy report "Regulation 2.0". It contains recommendations for the public supervision of social media platforms services. Specifically, it suggests how legislators could combat hate and false news on the Internet and control the influence of algorithmic systems without restricting freedom of the press and expression.

The key idea behind the RWF' proposals is that social networks like Facebook, search engines like Google or microblogging services like Twitter no longer fit into the established distinction between traditional media and mere transmitters of (mostly technical) information, and therefore need to adopt to a new form of regulation. Legacy media produce journalistic content and decide which relevance they attribute to a topic. So-called intermediaries, such as telecommunication network operators or Internet service providers, provide the technical infrastructure and relay technical signals without assessing information itself.

Social networks, search engines and related services are in between these two poles: they also provide their own infrastructure and usually do not create content on their own, but assess information according to relevance criteria. On the one hand, to regulate them as media is too far-reaching, on the other hand, to consider them as pure intermediaries, however, is too limited.

### Information intermediaries have special responsibility

The German Network Enforcement Act (NetzGesetz) threatens heavy fines for operators of social networks, if they do not delete illegal contents within shortest time. Thus, it creates the incentive to take down in case of doubt, legal content from the network in order to avoid fines. The first transparency reports suggest that such an "Overblocking", ie the deletion of legally permissible content, actually takes place. The services rely on their community standards - a kind of digital house law, in which they themselves decide what users are allowed to share and what not. They consider themselves as purely private companies.

### Independent supervision has to monitor deletion practices of platforms

The platforms ignore the importance of their roles as an essential part of modern public. RWFs proposes to establish independent oversight bodies to oversee companies' deletion procedures. Again, the state should insist that there must be such bodies, but governments should prefer co-regulation. In addition to operators, judicial representatives and prosecutors, they would also include "lawyers of users" and civil society actors. Their main task would be to monitor the private operators' practices as a whole, ie beyond individual case decisions, and to develop guidelines for dealing with content that is reported as illegal. In addition, they could act as an arbitration board if users object to a deletion decision. Disputes would then not have to be heard directly in

court, but would be removed from the intransparent extinguishing procedures of companies. As an "Ultima Ratio", users could go to court against such decisions and take the ordinary legal action.

In principle, journalists and users must be allowed to say, on the basis of basic information services, everything that is covered by their fundamental rights to freedom of the press and expression. This is especially true in the field of political speech, which is central to democratic societies. In order to curb fraud, spam messages or pornography, providers could also delete what is formally legally permissible - as long as this proceeds according to clear procedures.

### Stronger user rights in algorithms

When it comes to regulating automated decision-making processes (so-called algorithms) by which information is structured and weighted in social networks, search engines, etc., international approaches are preferable. Only they will live up to the global nature of the technology.

Instead, RWF proposes a three-step process to regulate algorithms that platform services such select and display. Firstly, independent research needs to be strengthened because the functioning of algorithms systems and their impact on opinion-making is still poorly understood. Providers could be required to provide the science with data. Secondly, with in-depth knowledge of algorithms systems, criteria would have to be defined on how these systems should be designed, designed and controlled in order to protect the interests of society. For example, RWF suggests obliging funders to post political ads and tag social bots.

Third, compliance with these criteria should be verified by independent bodies. In Germany, for example, this could be done by the state media authorities. They would also need access to data of the operators.

Basic assumption in this area is that the government should not patronize users. The governments simply have to create the framework for users to be able to move autonomously and sufficiently informed, for example, in social networks. Amongst other things, RWF argues that the media sets its own standards for its work. Using such "trust seals" users could recognize as reputable classified media and can be mainly their contributions displayed, so that the influence of false news decreases. With the Journalism Trust Initiative, RWF has initiated an international process in which media and journalist organizations work on common standards

Compiled by SCM (2019)

Full report (2018): <http://ogy.de/7v2b>

Short report: <http://ogy.de/ue8a>