



This project has received funding from the European Union's Horizon 2020 research and innovation programme under grant agreement No 101004488

EU regulation and path dependency: What does this mean for platform regulation?

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Overview: From AV regulation to platform regulation

- Starting point: liberalisation and privatization of audiovisual market vs. weaknesses of the European AV production and distribution industries
- Response:
 - framework rules in the TV Directive, including a quota for European programmes
 - funding programmes for the development of new AV technologies
 - support programme for the European film industry MEDIA
- 1994: Bangemann-Report: “Information Society” (without Internet)
- 1996: Internet started to appear in EU documents
- First pillars of European platform law: eCommerce Directive (2000) and InfoSoc Directive (2001)
- In the focus: the narrative of regaining European sovereignty – democratic purposes??



Milestones of media regulation

- AV Media-specific Regulations
 - Audiovisual Media Services Directive
 - SatCab Directive
 - Public Service Broadcasting: Amsterdam Protocol
 - Media funding: MEDIA
 - Green Paper on Pluralism and Media Concentration
- Digital networked media specific – platform regulation
 - InfoSoc Directive
 - DSMD Digital Single Market Directive
 - P2B Regulation
 - E-Commerce Directive / DSA/DMA
- General: GDPR



Context: The current media convergent developments

- Media regulation since long: broadcasting regulation
- Media convergence: convergent markets, actors, productions, contents, uses
- Media: factor of stabilisation or destabilisation of social order (Altmeyden et al.)
- Pfetsch et al. (2018): Communication in digitalised public spheres = dissonant public spheres.
- Media regulation between safeguarding democratic publics and competition policy



What should a modern media law look like ?

Normative objectives:

- Relevance to democracy
- Ensuring a high-quality integrative media offer
- Stakeholder governance / participation
- Containment of the commercial context
- Data security
- Diversity (inclusion/social cohesion etc.)
- Protection against hate, disinformation and any harm



Revision of the AVMSD

- Rules for linear and non-linear audiovisual media services further aligned
- Changes in quantitative advertising rules
- **Focus on economic policy orientations**
- **Central issue: How to fix rules of conduct for online platforms?**
- Video sharing platforms: Ban on inflammatory, violent and terrorist content Mandatory deletion after reporting.
- Establishment of efficient and transparent mechanisms for reporting offensive content
- Special data protection for children and young people
- Stricter rules possible in member states
- Co-regulation to be strengthened more than before

→ Not enough!!



DSA and DMA

Digital Services Act (DSA)

- good conditions for the provision of innovative digital services in the single market and to contribute to online safety.
- stronger action against illegal content, to create opportunities for users to object,
- Social media giants like Facebook would thus have to watch out.

Digital Markets Act (DMA)

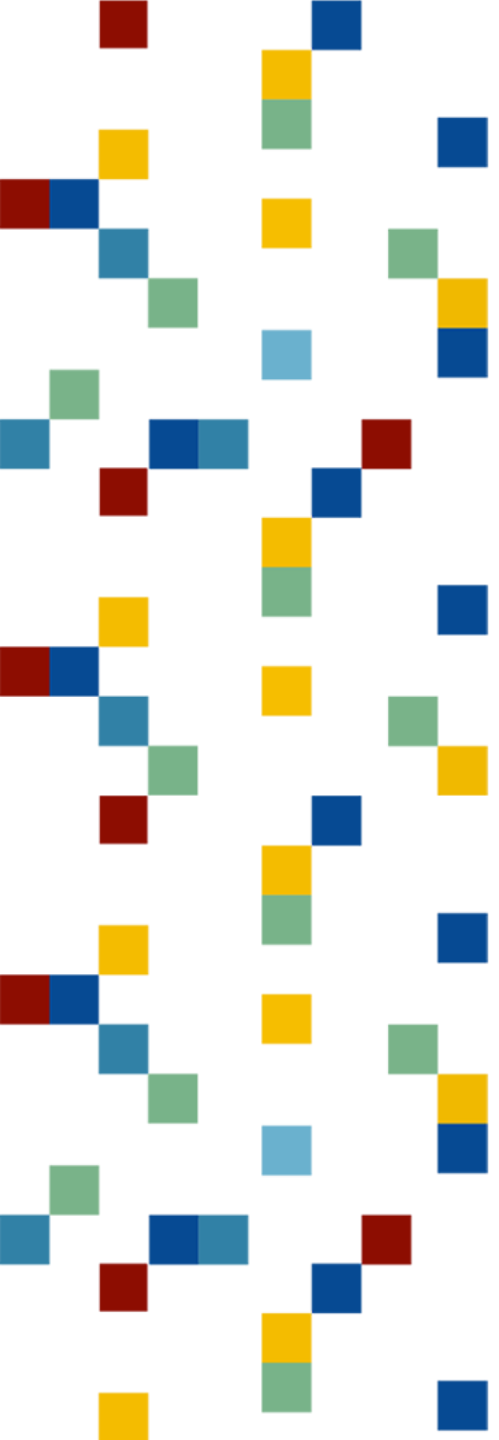
- aimed at the large online platforms that dominate the market.
- establish a higher level of competition in the European digital markets.
- intentional or negligent violations by gatekeepers can be punished with a fine of 10% of the worldwide annual turnover.
- data from different online services of a company may no longer be combined.
- to extensive obligations as gatekeepers



Conclusion

- no offensive shaping of media regulation
- kept in the realm of competition regulation
- lacking balancing with strong orientation to democratic prerogatives
- strong effort to regain European sovereignty





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