

European Media Policy



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Social Media/Tech Industry

Tougher EU Approach To Hate Speech

Since 2016 the EU Commission has put more and more pressure on social media companies to tackle the spread of illegal content online, especially hate speech and terrorist propaganda. So far it has refrained from proposing legislation and encouraged voluntary measures by issuing codes of conduct, guidelines and the like. But now the Commission is taking a tougher approach.

On March 1 it presented a [Recommendation](#) calling for more efficient and faster removal of all forms of illegal content ranging from hate speech, child sexual abuse material and copyright infringements.

More specific and tougher demands are made on terrorist content online. All companies should remove such content within one hour from its referral, says the Commission.

While the Recommendation is not a piece of binding legislation, the Commission argues that it can hold up in courts and carries more legal weight than its previous measures, [explains the news service Euractiv](#).

When presenting the Recommendation, however, Andrus Ansip, the Vice-President for the Digital Single Market added that he does not want to change the EU's eCommerce directive, an 18-year-old law guaranteeing that online platforms are not legally responsible for what their users post.

But the Commission has lately faced increasing pressure from EU member states to crack down on tech giants. Germany has led these calls. In January, a new German law went into effect that slaps social media firms with fines of up to €50 million if they do not quickly remove illegal posts.

The EU Commission will now monitor actions taken in response to the Recommendation and determine whether additional steps – “including, if necessary, legislation ” – are required.

EDiMA, an association that represents big platforms like Facebook, Google, Twitter and Amazon, said it was “dismayed” by the announcement because companies have been meeting the Commission's demands over the last two years to remove more illegal posts.

Civil liberties groups are not very happy either. They argue that the Recommendation may encourage social media firms to over-zealously remove users' posts in order to meet the strict deadline, [reports Euractiv](#).

Big Tech's Responsibility To Monitor Speech?

Policymakers' increasing demands on internet platforms to police content online is criticised by many observers.

“By outsourcing the monitoring of speech to tech companies, politicians are doing both Big Tech and their citizens a disservice”, [writes Politico's tech correspondent Marc Scott](#)

Facebook, Google and Twitter may have more technical prowess and manpower dedicated to dealing with the problem, but these companies should not be the ones having to decide what can be allowed through digital safety nets.

“In this new era of global online censorship, tough calls will have to be made between free speech and online safety, and elected officials, not opaque tech companies, must be the ones to judge what content crosses the line. If you’re going to censor the web, you better make sure those doing so are accountable to voters”, says Scott.

Similar thoughts are expressed in a recently adopted [Recommendation of the Council of Europe’s Committee of Ministers on the roles and responsibilities of internet intermediaries](#).

Here it is pointed out that “States have the ultimate obligation to protect human rights and fundamental freedoms in the digital environment.”

All regulatory frameworks, including self- or co-regulatory approaches, “should include effective oversight mechanisms to comply with that obligation and be accompanied by appropriate redress opportunities.”

Furthermore, any demand or request by State authorities addressed to internet intermediaries to access, collect or intercept the personal data of their users, “including for criminal justice purposes, or any other measure which interferes with the right to privacy”, shall be prescribed by law, and be used only when it is necessary and proportionate in a democratic society.

The Council Recommendation was warmly welcomed by the organisation European Digital Rights (EDRI), which called it “a major milestone towards understanding the obligations of states and of internet companies when it comes to upholding human rights online.”

EU Proposal On Tax For Tech Giants Pending

EU member states have become increasingly fed up with the tech giants earning billions of euros from their citizens without paying their fair share in taxes. In recent months the European Commission has been working on this issue intensely and in the second half of March it is expected to publish a proposal on the subject.

A draft of the proposal, [seen by Reuters](#), shows that the Commission wants to tax large digital companies’ revenues at a common rate of between 1 and 5 percent based on where their users are located rather than where they are headquartered.

Firms selling user-targeted online ads, such as Google, or providing advertisement space on the internet, such as Facebook, Twitter or Instagram, would be subject to the tax. Digital marketplaces such as Amazon and gig economy giants such as Airbnb and Uber also fall under the scope of the draft proposal, the Commission document said.

Online media, streaming services like Netflix, online gaming, cloud computing or IT services would however be exempt from the tax.

The draft plan resembles a French proposal on an equalization tax that was supported by several big EU states, such as Germany, Spain and Italy. But it would most likely face opposition from low-tax countries like Ireland and Luxembourg that fear becoming less attractive to multinational firms.

To conciliate these differences may be tricky, especially as all member states must agree unanimously on any legal change to EU tax law.

The OECD's secretary-general Ángel Gurría will probably not be very happy about the pending EU proposal. He and many others believe that a more international approach is needed.

"Let's move together. Let's progress in the OECD context as the G20 decided to do... Don't jump the gun and don't do anything short-term that would block us from applying long-term solutions", Gurría said in an [interview](#) in January, announcing that in April the OECD will unveil its first conclusions on how to tax internet companies.

In February Pierre Moscovici, the EU Commissioner responsible for economic and financial affairs, [repeated his commitment](#) to working with the OECD on an international solution. But he said this may take a long time to negotiate and described his EU proposal as a "simple stopgap measure at EU-level" to calm member states' growing concerns about international tech companies' tax payments.

The final version of the Commission tax proposal is expected to be published on 21 March.

Media - general

Fake News: Elections In Danger?

Fake news and disinformation continues to be a hot topic in media policy discussions. In recent months much of the debate has focused on reports of Russian meddling in elections in the United States as well as in EU member states such as France, Germany, Spain and, most recently, in Italy where [the issue of fake news itself became an election campaign theme](#).

With this in mind an array of measures are being taken in Sweden to fight potential disinformation offensives in connection with the general election there in September. Both the government and the media are participating in various pre-emptive actions.

In January the issue was debated in the European Parliament. MEPs from all political families engaged for two hours in a veritable verbal sparring match on the influence of Russian disinformation, [reports the news service Euractiv](#).

Pro-European parties stated their wish to see truth triumph, to which the Eurosceptic lawmakers' answer was that there was no concrete evidence of disinformation from Russia.

Many MEPs regretted the EU's limited response and called for measures to improve media literacy, raise awareness, promote independent and investigative

journalism, and revise the EU audiovisual directive so as to mandate national regulators to enforce zero tolerance of hate speech.

They also stressed the need to improve the transparency of media ownership and funding of political parties and their campaigns.

The European Commission has set up [a group of experts on fake news](#), which will give it advice on how to tackle this phenomenon. The group gathered for the first time on January 15th.

In November last year the EU Commission launched a consultation on fake news and online disinformation (closed 23 February). The results of the consultation will “help assess the effectiveness of current actions by market players and other stakeholders, the need for scaling them up and introducing new actions to address different types of fake news”, explains the Commission.

Some are critical of the “crusade” against social media and fake news online. “Fake news is not an Internet creation; it has existed since ancient times. Already in the 13th century BC, Ramses the Great spread lies and propaganda portraying the Battle of Kadesh as a stunning victory for the Egyptians, [points out William Echikson](#), head of the Digital Forum at the Centre for European Policy Studies.

Media Freedom: Will EU Countries Live Up To Parliament’s Demands?

The European Parliament is working on a report on media pluralism and media freedom in the EU. In the Civil Liberties Committee’s [draft report](#) MEPs make several demands on the Member States. For example:

They should “create and maintain, in law and in practice, a safe and secure environment for journalists and other media actors, enabling them to perform their work in full independence and without undue interference – such as the threat of violence, harassment, financial, economic and political pressure...”.

Bulgaria, which took over the rotating Presidency of the EU Council on 1 January, may be a bit embarrassed by this report. For media freedom has much deteriorated in Bulgaria since the country joined the EU. Since then it has tumbled down in the annual Reporters without Borders press freedom ranking from sharing the 35th place with France in 2006 to 109th out of 180 countries in 2017.

“Bulgaria is ranked lower in the World Press freedom Index than any other European Union member. This is due to an environment dominated by corruption and collusion between media, politicians, and oligarchs,” [explains](#) Reporters without Borders

Recently there have been reports of threats, physical aggression and “visible political pressure” on journalists in Bulgaria, [according to the news service Euractiv](#). Some observers say there is a correlation between this deterioration and Bulgaria’s desire to improve its image as the bloc’s poorest and most corrupt country.

Nor does media freedom seem optimal in other EU countries such as Hungary and Poland. Also an embarrassment to the EU are the recent murders of investigative journalists Daphne Caruana Galicia in Malta and the Slovak Ján Kuciak.

These killings have been much condemned, not least by the European Parliament President Antonio Tajani, himself a former journalist, who after the latest murder said:

“It is not acceptable for a journalist in the European Union to be killed today for doing his job. How can we condemn those who intimidate and imprison journalists around the world, if we fail to guarantee that our press work safely themselves?”

Council of Europe Guidelines To Help States Promote Media Pluralism

The Council of Europe in Strasbourg wants to help its 47 member states – including, among others, Bulgaria, Hungary, Poland and Russia – promote media pluralism and transparency of media ownership.

Therefore the Council recently issued guidelines for the states in the form of a [Recommendation](#) which lays down the essential conditions to be fulfilled in order to enhance media pluralism.

States are encouraged to develop strategies for increasing the sustainability of a variety of media ranging from public service media, local, minority, community and cross-border media. They should also support quality independent and investigative journalism, “whilst fully respecting the editorial and operational autonomy of the media”.

Furthermore, the recommendation provides guidelines on how to assure visibility of a diversity of content across a number of platforms and help to expose it to the widest possible audience through media literacy programmes.

The guidelines also encourage states to develop regulatory frameworks to promote transparency of media ownership.

Let’s hope Council member states feel inclined to listen to all this encouragement.

Audiovisual

Public Broadcasting: 71% Want to Keep Licence Fee in Switzerland

In a national vote on 4 March the Swiss voted overwhelmingly in favour of retaining the licence fee. Public broadcasters – not only in Switzerland – must have breathed a sigh of relief.

In late 2015 the so-called No Billag initiative was filed in Switzerland, calling for the abolition of the TV and radio licence fee.

71% of the national vote in March was in favour of continuing to pay the licence fee. The No Billag initiative was rejected across all of Switzerland's linguistic regions.

Had it succeeded, the initiative would have led to the closure of SRG SSR – the Swiss public media company that provides multimedia services in all regions and national languages – and left Switzerland as the only European country without a public service broadcaster, [explains the European Broadcasting Union \(EBU\)](#)

Supporters of public service media in other parts of Europe are probably very pleased, since the need for a public service licence fee is often questioned not only by commercial competitors these days.

Sweden Can't Ban UK-based Broadcasters' Alcohol Ads

A recent [decision](#) by the European Commission probably didn't spawn throngs of new EU supporters in Sweden, a country with a long history of temperance advocacy and many laws, rules and regulations about alcohol, albeit less restrictive today than in more high-principled times.

In January the EU Commission decided, on the basis of the Audiovisual Media Services Directive (AVMSD), that Sweden's intention to impose its ban on alcohol advertising on two broadcasters which are based in the UK and broadcasting in Sweden is not compatible with EU law. (The two broadcasters are the Swedish Modern Times Group operating the TV3 channels in the Nordic countries and the American-owned Discovery channel.)

The Commission explains that AVMSD is based on the principle of the country of origin, according to which broadcasters are subject solely to the rules of the Member State where they are established, including when they broadcast to other EU countries. The directive does not prohibit alcohol advertising, but allows Member States to apply stricter rules, including a full ban, on broadcasters under their jurisdiction. Such a ban exists in Sweden.

In order to impose such a ban on the UK broadcasters, Sweden should have demonstrated, under the specific procedure contained in Article 4 of the directive, that the broadcasters in question established themselves in the UK in order to circumvent such rules. The burden of proof lies with the Member State and the Commission found that in this case Sweden failed to prove circumvention on the part of the two broadcasters.

This is the first time that the EU executive has decided on the application of Article 4 of the AVMSD. "The decision highlights the importance of the principle of the country of origin as a pillar of the internal market in the audiovisual media sector", explains the Commission.

Its proposal for a revision of the AVMSD maintains the country of origin principle as the cornerstone of the Directive and the main elements of the Article 4 procedure. The Commission's proposal is currently being negotiated by the Council and the European Parliament in so-called trilogue meetings with the EU Commission acting as a mediator.

Report on Advertising Rules in the AVMSD Revision

Those interested in learning more about the advertising rules in the Audiovisual Media Services Directive (AVMSD) should read a report published in November last year by the European Audiovisual Observatory, which is part of the Council of Europe.

Among other things, the [report](#) provides an analysis of the advertising rules in the current AVMSD and what changes we can expect in the revision of the directive.

European Film Production Up By 47% in 10 Years

- More than 18 000 films were produced in Europe between 2007 and 2016.
- Overall production volume in Europe grew by 47%, from 1,444 feature films in 2007 to 2,124 in 2016.
- Majority European co-productions accounted for 20.4% of the overall production volume in Europe over this period.
- The volume of feature documentary production almost doubled over this period, reaching 698 films in 2016.
- The production of feature fiction also rose significantly, by 33%.

These are some of the findings presented in a report recently published by the European Audiovisual Observatory. [Read more](#)

Internet

5G a Threat to EU Net Neutrality Rules?

In December the US Federal Communications Commission (FCC) voted to repeal its 2015 net neutrality rules. Now providers will be allowed to speed up some websites – and block or slow down others – so long as they disclose it to the public, [explains the Washington Post](#).

One of the FCC's arguments for repealing the rules is that it will encourage companies to invest more in 5G. Could this be a threat to EU net neutrality too?

Soon after the US decision the EU Commission and Members of the European Parliament [reaffirmed](#) that net neutrality is "a core value for the European Union, and one that we will continue to implement for the good of all Internet users".

Johannes Gunzl, the new chair of BEREC, the umbrella group of telecoms regulators from EU countries, however has a more nuanced view. In spring 2019 the Commission will publish a report assessing the effects of EU net neutrality rules across the union and could then propose changes to the legislation based on those results, [he points out](#).

Mr. Gungle does not think there will be an overhaul of the whole regime, but maybe some minor adjustments. "For instance when it comes to 5G maybe there is a little bit to fine-tune in the rules", he said.

The latter sounds alarming. Telecom companies have warned that "restrictive" net neutrality rules could threaten the development of 5G mobile networks in Europe, which is an important goal of the current [overhaul of the EU telecom rules](#). The industry has been urged to contribute billions in investments to develop these networks.

BEREC is now collecting evidence to analyse whether net neutrality is a hurdle to 5G development, as telecom firms have warned. The regulators' group will send the Commission its findings by next year

In a recent [interview](#) Andrus Ansip, the EU Commissioner in charge of digital single market policies, said that Europe must switch “immediately” to fast 5G mobile networks, pointing out that the EU trailed behind the United States and Asian countries in introducing 4G networks, and cannot afford to make the same mistake with 5G.

EU telecom ministers seem keen on 5G too. At their Council meeting in December the ministers endorsed a [“5G roadmap”](#) confirming their “readiness to position Europe as the global lead market for 5G”.

The Americans have similar aspirations. Recently the US telecoms regulator Ajit Pai said that he wants the United States to be the leader of 5G, as it was of 4G. “That produced tremendous benefits for the American economy,” [he explained](#).

How To Regulate Content Without Breaking Up World-Wide-Web?

One of the hot topic of discussion at the international Internet Governance Forum (IGF) last December was the increasingly relevant – and tricky – issue of jurisdiction.

In recent months governments from Berlin to Washington to Beijing have been pushing hard to reaffirm their dominance over the borderless internet, imposing their own rules on hate (and free) speech, privacy and net neutrality. Will such state interventions eventually undermine the inherently global nature of the world-wide web? And what can we do to prevent it?

Such issues were discussed on 26-28 February at an international [conference](#) in Ottawa, Canada. Organised by the [Internet & Jurisdiction Policy Network](#) the meeting gathered more than 200 lawmakers, academics, corporate executives and members of civil society from numerous parts of the world.

Many stakeholders call for international rules. “We need a new generation of laws to govern a new generation of tech,” said Brad Smith, chief legal officer at Microsoft . “The only way to reconcile the tension between national sovereignty issues is to move faster towards international regulation.”

Several participants at the Ottawa meeting however said that they did not aim to create a one-size-fits-all approach to online content, which would be impossible because of countries’ diverging stances on free speech and what constitutes illegal material, [reported Politico](#).

Instead, they want to figure out how national governments can extend their own laws over such digital material within their borders, while respecting the rights of other countries that hold different views on regulating the same content.

Not an easy task one would think. Read the conference’s [Policy Option Documents](#) laying out “key elements to help the development of policy standards and operational solutions, in order to preserve the cross-border nature of the Internet, protect human rights, fight abuses, and enable the global digital economy”.

EU at IGF 2017: Protection of Fundamental Freedoms a Must

EU policymakers attended the 2017 meeting of the international Internet Governance Forum (IGF), which took place in Geneva on 18-21 December. After the meeting Mariya Gabriel, the EU Commissioner for the Digital Economy and Society, and seven key members of the European Parliament issued [a declaration](#) of what they had been arguing strongly for in the discussions. For example:

- The necessity to develop digital skills and competences;
- The protection of fundamental freedoms and human rights both online and offline, including the right of users to control their personal data.
- Increased privacy and security of devices and software; there is no place for cryptographic “backdoors” in a secure and trustworthy Internet;
- The need to find solutions related to cybersecurity and cybercrimes;
- the need for human accountability for decisions that are the results of algorithms;
- the need to work with partners in other regions to maximise the development potential of the Internet

Among the hot topics discussed at the IGF this year were artificial intelligence, cybersecurity, data protection, digital trade and fake news.

More generally, fewer governments participate in the IGF and less companies come. Civil society is the dominant player, [reports the news service Intellectual Property Watch \(IPW\)](#).

One reason for the big elephants to stay away is the fact that the IGF cannot take decisions, something which has been hammered into its mandate: it is a multi-stakeholder dialogue. At the same time “equal footing” between government delegations and the civil society crowd seemed really weird to some governments, writes IPW.

Copyright

Copyright Reform Proceeding At Sluggish Pace

Reforming EU copyright rules appears to be complicated. The Parliament’s leading Legal Affairs Committee was scheduled to vote on its report in January but will probably not do so until late March at the earliest.

Views on [the Commission’s proposal](#) seem to differ considerably, both within the European Parliament and among the Member States. Especially controversial are two issues: article 13 on automated upload filters to be used by internet platforms to monitor their sites for copyright infringements and the proposal to add a publisher’s right that would require online search engines to pay news outlets when they share parts of their copyrighted work.

During a workshop on the copyright directive in December, Parliament’s Legal Committee heard the views of academics on the proposed creation of a new right for press publishers and on the aspects related to fair remuneration in contracts of authors and publishers.

Ban on Geo-Blocking of Music Streaming and eBooks in 2020?

In February the European Parliament and the EU Council approved [a new law on e-commerce](#) which requires websites to sell their goods throughout the EU regardless of the country the buyer resides in. It does not apply to online cultural content like music streaming and ebooks, but could do so in two years.

MEPs unsuccessfully tried to expand the ban on geo-blocking to such content but came up against fierce opposition from member states – particularly France, Italy, Spain and the UK – as well as music streaming services, ebook sellers and video game producers.

However, a revision clause was included in the text which will allow the lawmakers to reassess the possibility of extending the geo-blocking ban to cultural goods in 2020, following the European elections in 2019.

By then the political forces in the EU Parliament may have changed and the UK will have lost its voting right because of Brexit, [points out the news service Euractiv](#).

On the French side, the defence of the territoriality principle is a cause for war but President Emmanuel Macron's call for a "European Netflix" could bring about a shift of positions.

"Macron wants a European Netflix. But if our cultural companies are not allowed to sell goods across borders, this will never happen", says Andrus Ansip, the EU Commissioner responsible for the digital single market, who strongly opposes territoriality and hopes that in two years time the scope of the law may be expanded to online services such as video games, music, and e-books.

Privacy / Data Protection

GDPR:

High Time To Learn About New Data Protection Rules

Soon – on May 25 – the EU's General Data Protection Regulation (GDPR) will enter into force, marking the biggest overhaul of personal data privacy rules since the birth of the internet. But many governments and businesses (especially smaller ones) are still not prepared for this important change. And among EU citizens few seem to be aware of – or even care about - the new rules and what they will mean for them.

This worries the European Commission. That's why it published a [guidance on GDPR](#) at the end of January. It also launched a new online tool dedicated to small and medium-sized enterprises (SMEs).

Since the adoption of the GDPR in May 2016 preparations have been progressing at various speeds across Member States. In January, only two of them had already adopted the relevant national legislation.

"Member States should speed up the adoption of national legislation and make sure these measures are in line with the Regulation. They should also ensure they

equip their national authorities with the necessary financial and human resources to guarantee their independence and efficiency,” stresses the Commission.

For its part, the EU Commission is dedicating EUR 1.7 million to fund data protection authorities and to train data protection professionals. A further EUR 2 million is available to support national authorities in reaching out to businesses, in particular SMEs.

It has also launched a new [online tool](#) to help citizens, businesses, in particular SMEs, and others to comply and benefit from the new data protection rules.

Furthermore, the Commission will engage in events organized across the Member States to help stakeholders in their preparation efforts and inform citizens about the impact of the Regulation. [More info and links](#)

Roughly three out of five Europeans don't even know that there's at least one national government agency in each member country dedicated solely to protecting their privacy rights, according to EU statistics. When a company mishandles our digital information, most of us shrug, make sure we aren't hit financially, and move on with our daily lives, [concludes Politico](#).

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The Newsletter provides an up-date on policy developments at the European level. We concentrate on news from the European Union – current issues and trends in media policy, new proposals for legislation, debates in the European Parliament, recently taken or impending policy decisions and reactions among those concerned, new support programmes, EU studies in the field etc. There will also be some coverage of policy developments in the Council of Europe and at the international level. The newsletter is published three times a year.