

European Media Policy



A newsletter from Nordicom

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Tech Regulation

Renewed calls to regulate Big Tech after Capitol Hill riots

The calls to reign in the power of Big Tech grew louder in January after supporters of former President Donald Trump stormed the US Capitol, followed by Twitter and Facebook blocking the former president's accounts.

Although Trump was hardly a big favourite of EU policymakers, criticism in Europe focused mainly on the tech companies, their role in inciting violence and their "censorship" behaviour. A few quotes:

"We cannot leave it to American Big Tech companies to decide how we do and do not discuss, what can and cannot be said in a democratic discourse. We need a stricter regulatory approach", said Manfred Weber, chairman of the centre-right EPP, the biggest political group in the EU Parliament. (Politico Brussels Playbook, 11 January)

The issue came up again in February in a plenary debate in Parliament. [Regulate social media platforms to defend democracy, MEPs said](#), criticising the vast power of social media platforms and their worrying impact on politics and freedom of speech.

Citing various decisions taken by the platforms to censor content or accounts, a large majority said that such decisions must lie with democratically accountable authorities, and not with private companies, in order to safeguard freedom of speech. Several EU Commissioners expressed similar thoughts.

"These last few days have made it more obvious than ever that we cannot just stand by idly and rely on these platforms' good will or artful interpretation of the law. We need to set the rules of the game and organize the digital space with clear rights, obligations and safeguards", wrote Internal Market Commissioner Thierry Breton, pointing to the Digital Services Act (DSA) and the Digital Markets Act (DMA) recently proposed by the Commission. ([Thierry Breton: Capitol Hill — the 9/11 moment of social media](#))

Others toughen their stand too

Following the events in Washington in January, policymakers in other parts of the world toughened their stand on Big Tech too.

Earlier, lawmakers in the United States had already called for a reform of Section 230 of the Communications Decency Act, a law that protects large tech platforms from liability over the content posted by their users.

In early February, three US Senate democrats, led by Amy Klobuchar – the new chair of the Senate Judiciary Committee’s Antitrust Subcommittee – [unveiled a new bill](#), the SAFE TECH Act, that could force tech giants like Facebook and Google to be held more accountable for harmful content that leads to real-world violence.

In the UK, too, there are moves in this direction. In March, the Financial Times reported that Britain’s competition regulator is set to begin an antitrust investigation into Facebook in the next few months, after similar actions towards Google and Apple early this year.

Even in China, regulators have begun going after Internet giants. Beijing has vowed to strengthen oversight of its Big Tech firms, which rank among the world’s largest and most valuable, citing concerns that they have built market power that stifles competition, misused consumer data and violated consumer rights, writes Reuters (24 March).

EU lawmakers dig into new digital rulebook

Just before Christmas last year, the EU Commission presented its ambitious new rulebook for digital platforms consisting of the [Digital Services Act \(DSA\)](#) and the [Digital Markets Act \(DMA\)](#). In recent months, the European Parliament and the EU member states – as well as a myriad of lobbyists – have begun delving into the proposals. Some have already issued some comments.

In the EU Council – where member states’ governments are represented – the Internal Market Working Party is in charge of the DSA, and the Competition Working Party of the DMA. Both files fall under the Competitiveness Council, which will meet next on 27–28 May, when a progress report is expected.

One point of disagreement between the member states could be that some seem to prefer tackling harmful content in the DSA, while others would rather have it limited to illegal content.

In the European Parliament, the Internal Market Committee (IMCO) is in charge of the legislation. Rapporteur for the DSA is Danish MEP Christel Schaldemose from the Socialists and Democrats (S&D) political group. Heading the DMA file is German MEP Andreas Schwab from the centre-right European People’s Party (EPP), the largest political group in the Parliament.

The EPP has released a [position paper on the DSA](#), which states that “legal takedowns” should focus only on illegal content, and a co-regulatory approach should be developed for harmful content, including disinformation. On liability, EPP wants there to be more transparency on the identity of users online.

The S&D group has honed in on targeted advertising. The group recently adopted a unified position against online personalised advertising, as part of their [Ads Zuck campaign](#), in a bid to rally support for their call to ban the practice outright.

The EU's data protections watchdog, the European Data Protection Supervisor (EDPS), agrees with them. The EU should prohibit targeted advertising as part of new rules for Big Tech platforms, he said in his [Opinion on the Digital Services Act](#) released in February.

EU–US alliance to regulate tech – a good idea?

The EU is keen to cooperate with the US on tech policy. Whether it is such a good idea remains to be seen.

Already in December last year, the EU proposed [a plan for future cooperation with the US](#) in various fields, among them a “joint EU–US tech agenda”. After Joe Biden's inauguration as US president in January, the Commission President Ursula von der Leyen [proposed setting up an EU–US Common Technology Council](#) as a first step to draw up a template for global digital regulation that others around the world could follow.

American business groups seem to have similar thoughts. Soon after von der Leyen's speech, the US Chamber of Commerce, the leading American business lobby, issued a recommendation urging Washington to partner with like-minded governments and the tech industry to set global tech standards.

The main aim of such policy cooperation – at least from the American side – seems to be to recruit allies in the advancing tech war with the Chinese.

The Center for European Policy Analysis (CEPA), a think-tank headquartered in Washington, DC, has some concrete advice. “The United States and the EU should develop a shared strategic vision for innovation and governance of digital society and a joint plan of action to address the threat posed by China's growing techno-authoritarian influence”, suggest the authors in the report, [A Transatlantic Effort to Take on China Starts with Technology](#)

At the moment, the EU and the US find themselves on different trajectories, and they admit citing a number of disagreements. But this transatlantic tech policy divide must be overcome, urge the authors, recommending various accommodations.

More from the European than from the American side, it seems, judging from suggestions like, “The EU, for its part, should solicit U.S. input on broad regulatory packages, such as the DSA and DMA, prior to implementation”.

Blindspots in the platform policy debate?

Uncovering blindspots in the policy debate on platform power is the intriguing title of a recent report by an expert group supporting the EU Commission's work on the online platform economy. Its findings may be of interest to others too.

The objective of the [expert group's report on platform power](#) is to uncover elements that deserve more attention, both in relation to the application of current legal regimes and with regard to the development of future regulatory frameworks. A few excerpts:

The platform economy has given rise to new sources and types of power that challenge basic concepts upon which existing regulatory frameworks are built. Digital platforms are affecting and transforming basic social structures and institutions to an increasing degree. More awareness needs to be created about the societal and infrastructural aspects of platform power.

The rise of platforms as new intermediaries implies a shift in “opinion power”, traditionally understood as the media’s capacity to influence public will formation. In light of the rising influence that platforms exert on the public discourse, they should therefore be regarded as “political actors in their own right”.

Regulatory strategies aiming to restrict platform power and make it more accountable tend to produce paradoxical, power-enhancing outcomes. By requiring platforms to enforce media laws, current legislative approaches “quite literally establish platform governance, by making platforms the primary governors of online communication”, write the experts.

Big Tech top spenders on lobbying in Brussels

Silicon Valley firms are visibly worried about EU policy developments. In the last decade, there has been a meteoric rise in lobby expenditure by Big Tech companies in Brussels, says a recently published [report on the lobbying efforts of Big Tech since 2014](#).

Published by Transparency International EU – which works to prevent corruption and promote integrity, transparency and accountability in EU institutions, policies and legislation – the report, *Deep Pockets, Open Doors*, reveals that three of the top ten corporate spenders in Brussels are tech companies.

Google takes the top spot with a declared expenditure of EUR 5,750,000 per year. And Big Tech companies are not only among the top spenders, they also consistently top the charts in terms of access to the European Commission.

They meet many members of the European Parliament too. Here, Google is again on top, followed by Facebook, Microsoft, Apple and Amazon. The main subjects lobbied on are the Digital Services Act, Artificial Intelligence and e-evidence.

Big Tech also deploys the resources of large sector associations, think-tanks and consultancies in Brussels in order to amplify their voice on the policy scene. Amazon, Apple, Facebook, Google, and Microsoft declare being members of a total of 66 such organisations.

The companies can also use their own platforms as part of their lobbying efforts, point out the researchers. For instance, in the battle over the EU copyright directive, Google was called out for mobilising YouTube creators in its battle against tighter copyright restrictions.

Google to contribute to EU fund to fight fake news

Amid criticism that tech giants are not doing enough to debunk online disinformation, Google recently announced that the company will contribute EUR 25 million to a newly set up European fund to combat fake news.

The [European Media and Information Fund](#), launched in March by the European University Institute and the Portuguese Calouste Gulbenkian Foundation, will mobilise financial resources in support of media literacy and fact-checking initiatives, as well as research projects on online disinformation. The fund will also provide individual grants for young scholars and policymakers studying digital and media literacy and online disinformation

The fund has a duration of five years. [The European Digital Media Observatory](#), which is a European Commission project set up last year and whose members include fact-checkers and academic researchers, will act as an advisor to the fund and evaluate and select the projects.

EU tech policymakers members of cool club

Some may think European tech policymakers are a bunch of dinosaurs that don't have hands-on knowledge of the social media they are talking about – not so, some even follow the latest trends like using Clubhouse, reported Politico in February ([All the cool politicians are on Clubhouse](#))

Clubhouse is a social media app based on ephemeral audio chats that was launched last March and has since gained 2 million users.

Among its users are EU Commission officials, such as Prabhat Agarwal, who has led the work on Europe's content moderation proposals; Paul Nemitz, one of the architects of its data protection rules; and Werner Stengg, adviser to Europe's digital czar Margrethe Vestager.

The app has also attracted members of the European Parliament such as Andreas Schwab (EPP), rapporteur for the Digital Markets Act (DMA); Tiemo Wölken (S&D), who wrote an important report on the Digital Services Act (DSA); and Danish MEP Karen Melchior (Renew), much involved in digital issues.

The app has, however, caught the eye of European data protection authorities. In February, the Italian data protection authority ordered Clubhouse to provide evidence that it complies with the EU's data protection rules, and Hamburg's regulator has accused Clubhouse of violating them.

Clubhouse is already proving to be a hotbed for misinformation. Researchers for the Stanford Internet Observatory Cyber Policy Center have found [vulnerabilities](#) in its infrastructure that could give Chinese authorities access to Clubhouse data, prompting the company to pledge it would improve security.

Freedom of Speech / Media Freedom

Terrorist content online: MEPs urged to reject regulation

Many journalist and human rights groups are very concerned about the proposed EU regulation on terrorist content online. On 28 April, the European Parliament will vote on the final text, which was adopted in March by the EU Council after a provisional agreement between the two institutions in December last year.

Recently, more than 60 organisations – among them the European Federation of Journalists (EFJ), Reporters Without Borders (RSF) and European Digital Rights (EDRi) – sent an [open letter to the Parliament urging the MEPs to reject the regulation](#), “as it poses serious threats to fundamental rights and freedoms, in particular freedom of expression and opinion, freedom of access to information, the right to privacy and the rule of law”.

The signatories are particularly concerned about the one-hour deadline to remove or block access to content of a terrorist nature after receiving a removal order.

While the intention is laudable, the organisations fear that the short deadline imposed will strongly encourage platforms to deploy automated content moderation tools. which could ultimately result in the removal of legal content like news content.

The text in its current form also provides for such content removal orders to be ordered by “competent authorities”. However, “only courts or independent administrative authorities subject to judicial review should have the power to issue deletion orders”, says the letter.

What seems to worry the associations the most is the lack of safeguards. “The measures introduced by the proposed regulation will be easily manipulated for political censorship by unscrupulous governments. The first victims of these abuses will be journalists, artists, whistleblowers, political opponents, and marginalised religious communities, especially

Muslims”, Chloé Berthélémy, policy advisor at European Digital Rights (EDRI), told EURACTIV France.

Media worried about e-Evidence regulation

Negotiators from the EU Council, Parliament and Commission are currently trying to hammer out an agreement on the so-called e-Evidence regulation, which aims to facilitate cross-border gathering of electronic evidence in criminal investigations. Publishers and journalists are very concerned about this legislation.

In February, a number of media organisations – among them the European Broadcasting Union (EBU), the European Federation of Journalists (EFJ), the European Newspaper Publishers’ Association (ENPA) and the European Publishers Council (EPC) – issued a [joint statement calling on decision-makers to protect media freedom and fundamental rights](#) and ensure they are treated amongst the priorities in the talks on the e-evidence proposal.

The organisations support procedural changes introduced by the European Parliament. Maintaining these safeguards in the final compromise is “of utmost importance to preserve media freedom and its building blocks such as editorial secrecy and the protection of sources”.

Furthermore, it must be ensured that all journalistic activities are covered. “Media freedom should not be sacrificed for faster and more efficient cross-border criminal investigation”, stress the media organisations.

Hot debate on media freedom in EU Parliament

You can’t take for granted that everyone shares your views on subjects like media freedom, was a lesson learned when listening to [a heated debate in the European Parliament on 10 March](#).

The discussion showed not only growing concerns about media freedom in Europe, but also political divisions and divergent views on what – and where – the problem lies.

The debate was organised in the wake of concerns raised after opposition-leaning Klubradio in Hungary was taken off the air, a new levy on media advertising revenue was proposed in Poland and criticised as disproportionately targeting independent outlets, as well as emerging reports of political interference in Slovenian media (Slovenia will take over the rotating EU Council presidency in July 2021).

Many MEPs were clearly worried about the situation, some saying things like: “We cannot stand by and watch while media freedom crumbles. If they don’t share EU values they shouldn’t get any EU money”.

Others spoke of “censorship of the politically correct” when member states “express ideas other than the Brussels mainstream”, dismissing the debate as politically biased and lacking in information regarding the situation in the member states concerned.

Many MEPs of liberal left-wing and Green groups also pointed out that there are problems with media freedom in other EU countries too.

EU Commission Vice President Vera Jourová – who is responsible for these kinds of issues – seems to share this view. During the debate, she stressed that “one has to be vigilant in all member states [...] this trend is almost everywhere”. (Politico 14 March)

Jourová said she would meet with fellow Commissioners to discuss how to better finance media outlets, ensure reporters are protected and use competition policy to address mergers that limit media plurality.

But she noted that Brussels’ ability to do something is constricted, which she would like to change. “I want us to identify how we can widen and strengthen the toolbox that the Commission has – from financial support to regulation and enforcement actions”, the Commissioner declared. ([Jourová calls for more tools to boost media freedom](#))

EU condemns China’s “harassment” of foreign journalists

On 2 April, the EU condemned the “harassment” of foreign journalists in China after a BBC correspondent left the country in the face of legal threats and pressure from authorities.

“This is the latest case of foreign correspondents being driven out of China as a result of continuous harassment and obstruction to their work, coming on top of the expulsion of at least 18 correspondents last year”, a spokesperson for EU foreign policy chief Josep Borrell said in a [statement on the departure of BBC’s China correspondent](#).

The EU has repeatedly expressed its concerns to the Chinese authorities at the undue working restrictions imposed on foreign journalists and reported related harassment.

“The European Union will continue to stand up for the role of independent and reliable media all around the world. The EU is committed, in compliance with international human rights law, to safeguarding media freedom and pluralism, as well as protecting the right to freedom of expression online and offline, including freedom to hold opinions and to receive and impart information without interference”, says the statement.

The EU calls upon China to “abide by its obligations under national and international law and ensure the freedom of speech and press, as enshrined in the PRC’s Constitution and the Universal declaration of human rights”.

EU Recommendation on safety of journalists underway

Later this year, the EU Commission will adopt a recommendation to the member states on the safety of journalists. On 23–25 March, the Commission launched a dialogue with a wide range of stakeholders within the framework of the [European News Media Forum](#), to gather input for the recommendation.

The Forum was attended by journalists and their associations, news media companies, representatives of media councils, as well as representatives of the member states and their regulatory authorities.

“Media freedom cannot be taken for granted, we must actively defend it, particularly with the increased risk of online attacks in the digital age. We must ensure that journalists can play their crucial role in our democracies by guaranteeing that they work in complete safety”, [said EU Internal Market Commissioner Thierry Breton](#).

The recommendation will seek to ensure better and targeted implementation of a number of requirements set out in the Council of Europe’s Recommendation on the protection of journalism and safety of journalists and other media actors

Considering the growing digital threats that media professionals face, the EU recommendation will also address the online dimension of journalists’ safety. Recognising the fact that female journalists are particularly exposed to attacks, it will pay specific attention to gender-based threats, says the Commission.

Media - general

Publishers up in arms after Facebook–Australia dispute

Not long after the storming of the US Capitol, Big Tech again caused a political uproar when Facebook “unfriended” Australia in February. After blocking news feeds in the country in a surprise escalation of a dispute with the Australian government over a law to require it to share revenue from news, Facebook faced a lot of backlash from publishers and politicians.

The dispute centred on a planned Australian law that would require Facebook and Google to reach deals to pay news outlets whose links drive traffic to their platforms, or agree on a price through arbitration.

Though the measure was limited to Australia, European publishers, along with British and Canadian politicians, described it as an attempt to put pressure on governments that might consider similar measures, reported Reuters.

EU countries are not facing the same situation as Australia because of new copyright rules that protect publishers in Europe, [a spokesman for the EU Commission told Reuters \(18 February\)](#).

Under the EU's new rules – which need to be transposed into national law by 7 June this year – online platforms will have to sign licensing agreements with musicians, performers, authors, news publishers and journalists to use their work

After a week-long blackout, Facebook restored Australian news pages after wringing concessions from the government over the proposed law, including government discretion to release the tech giants from arbitration if they can prove a “significant contribution” to the domestic news industry.

The revised code also allows the tech companies a longer period to cut media deals before the state intervenes, explained Reuters (23 February).

Soon thereafter, Australia's Parliament passed the new law, which countries such as Britain and Canada are looking to replicate. There are calls for similar rules in the EU too.

[Europe's press publishers & Microsoft call for Australian-style arbitration mechanism in Europe](#) to be implemented in EU or national law to ensure tech gatekeepers remunerate press publishers fairly for use of content, states a press release from the European Newspapers Publishers' Association (ENPA).

For although press publishers have the new neighbouring right in the EU copyright directive, they “might not have the economic strength to negotiate fair and balanced agreements with these gatekeeper tech companies, who might otherwise threaten to walk away from negotiations or exit markets entirely”, point out the publishers.

Australian-type rules only useful to big publishers?

Although many were relieved when the war between Facebook and Australia was over, some misgivings about the new media law – with the concessions made to Facebook – have been voiced.

“Retaining unilateral control over which publishers they do cash deals with as well as control over if and how news appears on Facebook surely looks more attractive to Menlo Park than the alternative”, said Rasmus Nielsen, head of the Reuters Institute for the Study of Journalism, referring to Facebook headquarters. (Reuters, 23 February)

Any deals that Facebook strikes are likely to benefit the bottom line of News Corp and a few other big Australian publishers, added Nielsen, but whether smaller outlets win such deals remains to be seen.

The search-engine giant Google – also affected by the Australian legislation – did not join Facebook’s black-out, instead concentrating on cutting deals with publishers.

On 17 February, the Rupert Murdoch–controlled media company News Corp, which owns two-thirds of Australia’s major city newspapers, struck a global news deal with Google.

The companies will develop a subscription platform, share advertising revenue through Google’s ad technology services, build out audio journalism and develop video journalism by YouTube, explained Reuters (17 February).

The European Publishers’ Council (EPC) – representing leading European media groups –welcomed the News Corp–Google deal. Others were not entirely happy.

The International Federation of Journalists (IFJ) and its Australian affiliate, the Media, Entertainment & Arts Alliance (MEAA), welcomed the outcome, but said they “remain concerned at the failure of the code to support smaller media organisations and freelancers”. ([Australia: Facebook re-friends Australian news but doubts remain](#))

Similar reactions came from the News Media Alliance, the news industry’s largest trade organisation in the US, where smaller publishers in particular have lost ad revenue to the platforms.

“The big national publishers already have some leverage”, said David Chavern, who leads the alliance, “[but] how can a smaller publisher get a deal? Really only if there’s some collective action or system – otherwise you’re left with platforms getting to pick winners and losers”.

The News Media Alliance is planning to reintroduce to Congress a bill that would allow publishers to collectively negotiate with Facebook and Google without violating antitrust laws, reported Reuters. ([News Corp signs news partnership deal with Google](#))

e-Privacy: Concern about new rules

On 10 February, after four years of heated debate among member states and intense lobbying by Big Tech, European telecom operators and press publishers, the EU Council finally managed to [agree on its position on the new e-Privacy rules](#).

But all member states were not happy. Germany and Austria abstained from voting and Berlin’s data protection authority called for “significant changes” to the text.

The agreement meant that negotiations with the European Parliament on the final text could begin. The plans are expected to be fiercely contested, so buckle up for a bumpy ride.

The draft e-Privacy regulation will repeal the existing e-Privacy directive and complement the GDPR. The overall objective is to afford online communications the same privacy protections as those given to traditional telecom communications.

As a main rule, electronic communications data will be confidential. Any interference, including listening to, monitoring and processing of data by anyone other than the end-user will be prohibited, except when permitted by the e-Privacy regulation.

Permitted processing is, for example, cases where the service provider is bound by EU or a member state's law for the prosecution of criminal offences or prevention of threats to public security. Metadata may be processed, for instance, to protect users' vital interests, including for monitoring epidemics and their spread.

Many are critical of the Council's text, among them Ulrich Kelber, Germany's data protection chief. Appealing to the EU Parliament and Commission, he asked them to "demand a rise in data protection standards during trilogue negotiations", highlighting, in particular, his concern over the revisions made to points regarding data retention.

The EU Parliament's lead negotiator, MEP Birgit Sippel, believes the Council's text does not protect privacy enough either.

Media organisations are unhappy with the text for other reasons. The European Newspaper Publishers' Association (ENPA) and the European Magazine Media Association (EMMA) [say they are strongly concerned that pending trilogue negotiations pose a threat](#) to the sustainability and viability of professional online journalism.

It must be "unequivocally ensured" that the access to publishers' content can be made conditional to the users' consent. Also, the obligation for software providers to directly implement users' consent must be upheld and "under absolutely no circumstances the Regulation should invest internet access software as an unavoidable intermediary for users' consent", are some of their demands.

New EU action plan promotes media literacy

Young people should be given more support for media literacy, allowing them to avoid the pitfalls of disinformation across the online world, wrote EU Commissioner Mariya Gabriel in Euractiv in February. ([Safer Internet Day: Let's deliver on digital literacy](#))

In the article, Gabriel – serving as Commissioner for Innovation, Research, Culture, Education and Youth – points to the Commission's new [Digital Education Action Plan \(2021-2027\)](#). This plan promotes, among other things, digital literacy, with a view towards tackling disinformation, and puts education and training at the heart of this effort.

As part of the action plan, journalists, broadcasters, technology companies, civil society, public authorities, as well as young people and families will be brought together to work and help young people to critically engage with online media together.

Digital Tax

Sabre-rattling before OECD deadline

Negotiators from almost 140 countries have set a self-imposed deadline of 30 June this year to reach a global deal, brokered by the OECD, on how to tax the digital world. In recent months, the EU and the US have been engaged in some sabre-rattling.

Earlier this year, EU finance ministers cheered up when the incoming Biden Administration said they would drop the so-called Safe Harbor position, which stipulated that large tech firms would only have to abide by the new levy on a voluntary basis.

Speaking to MEPs on 23 March, the EU Commission's Executive Vice-President Margrethe Vestager said the Commission very much welcomed the change in the US position and is "optimistic that the new US administration is really serious about reaching an agreement".

The Commission would prefer an international agreement at the OECD. However, the recent good news from the US will not hinder the EU's plans to come forward with their own proposal for the digital levy, Vestager said. ([Commission on track for digital levy proposal by June](#))

"We intend to table the proposal by June this year, with the aim to make the levy operational from 2023 onwards", she said.

Good luck to her; previous attempts to introduce a bloc-wide digital services tax faltered in 2019, following opposition from Ireland, Finland and Sweden, among others, to a planned 3 per cent levy on companies earning EUR 750 million in revenue.

After 2019's failure to introduce a single EU digital tax framework, some member states have pursued their own efforts in the field, including France, Spain, Italy and Austria.

The US has not been pleased about these digital services taxes, maintaining they are discriminatory against American companies, and has threatened with retaliatory tariffs against these governments.

Three days after Vestager's speech, US Trade Representative (USTR) Katherine Tai said she was maintaining the threat of US tariffs on goods from countries like France, Austria, Britain, Italy and Spain in retaliation for their digital services taxes. (Reuters, 26 March)

Tai also said that the USTR was terminating tariff investigations against, among others, the Czech Republic and the EU, because these jurisdictions have not adopted or implemented digital services taxes that were previously under consideration. But if they do adopt a digital services tax, USTR may open a new tariff probe, she warned.

This kind of brinkmanship may well continue until the OECD deadline in June.

Google to raise ad fees to offset digital taxes

What a potential global tax on digital services would imply for Big Tech remains to be seen. But, whatever the tax rate, they will probably just pass on the cost to their customers, as Google recently did in France and Spain.

Both countries imposed a tax of 3 per cent on revenues from certain services provided by digital companies with a global turnover of EUR 750 million or more.

In an e-mail to French and Spanish advertisers in March, Google announced a 3 per cent increase in advertising rates on its platform from May, reported Euractiv (11 March)

“In France and Spain, these fees are intended to cover part of the costs of complying with the digital services tax regulations in force in these countries”, said the e-mail.

Given Google's market share in advertising, the extra cost imposed on its customers will not be negligible, comments Euractiv. And Google is not the first company to want to pass on the tax cost to customers.

Since October 2019, Amazon has implemented a 3 per cent increase in the rates applied to sellers on its platform in France. Then, in September 2020, it was Apple's turn to increase fees charged to developers who use its platform to sell apps.

Among those disappointed by this development are surely journalists. In January, the International Federation of Journalists (IFJ) and its Spanish affiliates welcomed the new tax on digital giants in Spain and called on the government to [use revenues from Google Tax to support journalism](#).

Artificial Intelligence

Ban on facial recognition?

On 21 April, the EU Commission is expected to launch its much-anticipated proposal for the regulation of artificial intelligence (AI) in Europe. Many have lobbied for a ban on facial recognition technologies, increasingly used for surveillance purposes.

Among those critical of such AI uses are not only civil society groups, but also international institutions, such as the Council of Europe.

In January, the Council published a set of guidelines addressed to governments, legislators and businesses, calling for [strict rules to avoid the significant risks to privacy and data protection posed by the increasing use of facial recognition technologies](#). Furthermore, certain applications of facial recognition should be banned altogether to avoid discrimination.

UNESCO, too, is preparing a [Recommendation on the Ethics of Artificial Intelligence](#).

Gabriela Ramos, who is leading this work, recently criticised the “light touch” approach taken by countries like the US, and said some technologies, such as facial and emotion recognition, should be outright banned (Politico AI: Decoded 10 March).

Various civil society organisations have similar thoughts. In January, Amnesty International launched a worldwide [campaign to ban the use of facial recognition systems](#).

A month later, a coalition of digital and human rights organisations led by European Digital Rights (EDRI) launched a [European Citizens Initiative for a ban on biometric mass surveillance practices](#), aiming to garner enough support to press the Commission into adopting a firmer stance against the use of biometric surveillance technologies.

In early March, [a cross-party letter from 116 MEPs](#) called on EU Commission President Ursula von der Leyen and several other Commissioners to tackle the risks for fundamental rights as part of upcoming legislation on AI.

“An ambitious, rights-respecting EU proposal on AI should also include the possibility to ban or prohibit applications of AI that are incompatible with fundamental rights”, said the MEPs.

In a written response to the MEPs letter, von der Leyen recently assured EU lawmakers that the executive would take their concerns into account when drafting upcoming legislation.

“We envisage mandatory rules applicable to all AI systems that pose a high risk to the rights or safety of people. In the case of applications that would be simply incompatible with fundamental rights, we may need to go further”, said the Commission president.

The EU’s attempts to regulate AI could, however, meet with future challenges resulting from an agreement on e-Commerce at the level of the World Trade Organization (WTO), points out a report published by the Federation of German Consumer Organisations. ([AI Regulation in the European Union and Trade Law](#))

“The EU’s possibility to adopt rules that, for example, mandate external audits of AI systems will be confined to the policy space that is allowed under trade law”, the study notes.

Report on AI in the audiovisual sector

What does artificial intelligence (AI) mean for film and television production, advertising and the personalisation of content via algorithms? And what of the darker issues of auto-generated "fake news", the threat to media diversity and pluralism or data protection?

These are some of the issues discussed in a report published by the European Audiovisual Observatory. ([Artificial intelligence in the audiovisual sector](#))

One chapter focuses on the implications of AI for freedom of expression in the field of journalism and news media, examining the legal and ethical challenges in this field.

The second part of the report focuses on specific fields of media law and policy where AI may have a profound impact in the future, for example, copyright issues surrounding machine-produced content and implications of AI for the world of advertising.

The final chapter explores possible approaches for a sustainable regulatory framework for audiovisual industries in Europe.

European Media Policy

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The Newsletter provides an update 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.