European Media Policy

A Newsletter from NORDICOM

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Disinformation

European elements:
Frenzy over disinformation

With potentially game-changing EU Parliament elections in May 2019 and many European countries due to hold national elections next year too, fears about the spread of disinformation and election meddling – not least through malicious use of social media – reached frenzied levels in recent months.

When Steve Bannon, President Trump's controversial former White House advisor, in July announced that he was setting up a foundation in Europe to lead a right-wing populist revolt across the continent starting with the EU Parliament elections next spring, the frenzy didn't exactly cool down.

The non-profit will be a central source of polling, advice on messaging, data targeting, and think-tank research, explained Bannon.

Feeling the pressure to formulate a strategy to fight disinformation in April the EU Commission told tech firms to draft a "code of practice" or face regulatory action over their failure to do enough to remove misleading or illegal content.

In September a group of tech giants, including Google and Facebook, agreed on such a code of practice. The code contains commitments to disrupt advertising revenues from companies that spread disinformation, tackle fake accounts and online bots, make political advertising more transparent, allow users to report instances of disinformation more easily, and provide better frameworks to monitor the spread of disinformation.

These plans have been heavily criticised by a multistakeholder forum on disinformation convened by the EU Commission, reports the news service Euractiv.

The group says that the code includes "no common approach, no meaningful commitments, no measurable objectives or KPIs, no compliance or enforcement tools and hence no possibility to monitor the implementation process".

At a high-level fact-checking conference in September the EU Parliament President Antonio Tajani said that if the results of the code of practice were not satisfactory, then regulatory measures should be considered. Other MEPs were less keen on the idea of regulation in the field of disinformation. "The risk we are running is that we would turn into a sort of thought police," said French MEP Isabelle Thomas.

The EU member states seem to expect the Commission to solve the problem. At the EU summit on 18 October the heads of government called for measures to: "protect the Union's democratic systems and combat disinformation, including in the context of the upcoming European elections".

The government leaders pointed to actions proposed by the Commission, such as protection against cybersecurity incidents and unlawful data manipulation, and

fighting disinformation campaigns. These measures "deserve rapid examination and operational follow-up", they stressed.

In October the EU Parliament brought up the matter in a resolution calling for measures against election manipulation. To prevent electoral meddling via social media MEPs proposed, for example, banning profiling for electoral purposes, including use of online behaviour that may reveal political preferences.

By the end of this year the EU Commission will assess the implementation of the tech companies' code of practice and present an action plan for a coordinated EU response.

One of the factors the Commission perhaps should look into is the economic dimension of disinformation, as was hinted at during the recent Internet Governance Forum 2018 in Paris. "Information disorders issues are also considered an economic issue. The 'clicks economy', for instance, encourages the dissemination of this type of content", it says in one of the Forum's outcome messages.

Blaming fake news, leaders curb online dissent

A recent study of internet freedom in 65 countries around the globe shows one of the potential perils of fighting disinformation.

In the past year, at least 17 countries approved or proposed laws that would restrict online media in the name of fighting "fake news" and online manipulation, says the American organisation Freedom House in its Freedom on the Net 2018 report

"Like 'terrorism', the term 'fake news' has been co-opted by authoritarian leaders to justify crackdowns on dissent. Deliberately falsified or misleading content is a genuine problem, but some governments are using it as a pretext to consolidate their control over information".

Governments in for example China, Iran, and Russia all took steps to silence independent voices, essentially arguing that only the state can be trusted to separate truth from fiction.

"Even democracies are at risk, as the fervor over 'fake news' threatens to propel overreaching restrictions on freedom of expression and the outsourcing of key censorship decisions to ill-equipped and often opaque tech companies", writes Freedom House's research manager Adrian Shahbaz.

CoE report on how to combat "information disorder"

Concern about the implications of disinformation campaigns designed specifically to sow mistrust and confusion and to sharpen existing sociocultural divisions is growing. But efforts to better understand today's challenge of this "information pollution" on a global scale are only just beginning, says the Council of Europe, the continent's leading human rights organisation.

Therefore the Council has issued a report on "Information Disorder: Toward an interdisciplinary framework for research and policy making", an attempt to

comprehensively examine information disorder and to outline ways to address it.

Lengthy fact-checking and debunking of false information may come too late, says the report. "There is an urgent need to understand the most effective formats for sparking curiosity and scepticism amongst audiences about the information they consume and the sources from which that information comes."

The report provides a round-up of related research, reports and practical initiatives connected to the topic as well as thirty-five recommendations for governments, technology companies, media organisations and civil society.

Aware of the close correlation between the "information disorder" phenomenon and the issue of quality journalism, as well as with digital and media literacy, the Council of Europe has tasked its Steering Committee on Media and Information Society (CDMSI) to carry out further research and standard-setting in the relevant fields.

Big Tech

Techlash:
Regulators and critics come down hard on tech giants

Following massive data breaches as well as revelations of dubious business practices, the Silicon Valley tech giants now seem to have lost their glamour, or rather what remained of it after earlier accusations of allowing foreign interference in the U.S. presidential election and contributing to the growth of hate speech and disinformation on the internet.

During the past spring and early summer Facebook in particular, was under fire from both American and European lawmakers who demanded answers about the company's involvement in the Cambridge Analytica data breach scandal and pressed for remedies to ensure the privacy of Facebook's users.

Soon thereafter it was Google's turn. In July the EU Commission slapped Google with €4.34 billion fine for breaching EU antitrust rules. Since 2011, Google has imposed illegal restrictions on Android device manufacturers and mobile network operators to cement its dominant position in general internet search, declared the Commission.

"These practices have denied rivals the chance to innovate and compete on the merits. They have denied European consumers the benefits of effective competition in the important mobile sphere. This is illegal under EU antitrust rule," explained Commissioner Margrethe Vestager.

Not long thereafter Google employees revealed that the company was planning to launch a censored version of its search engine in China. The project – code-named Dragonfly – would comply with the country's strict censorship laws, they said.

Human rights groups were appalled. Adding to their outrage was the fact that Google in 2010 publicly exited the search market in China announcing that it had "decided we are no longer willing to continue censoring our results on Google.cn".

Some critics don't find Google's change of heart surprising. They point out that governments have increasingly pressured ICT companies to police their platforms censoring content ranging from hate speech and extremist material to discussion of politically sensitive issues.

"All of this has resulted in a normalization of information controls… Resisting no longer makes any business sense when the laws and policies of your country of origin and other active markets begin to resemble those of the country from which you withdrew," conclude the authors of the piece.

Then, in October, the Wall Street Journal revealed that Google had exposed the private data of hundreds of thousands of users of the Google+ social network and then opted not to disclose the issue this past spring, in part because of fears that doing so would draw regulatory scrutiny and cause reputational damage.

Just before these revelations Facebook, too, got into trouble again following a new major data breach. Hackers had discovered a security flaw that allowed them to take over up to 50 million user accounts, reported the company.

The EU's Justice Commissioner Věra Jourová wasn't very happy to hear about this and put pressure on Facebook to disclose whether EU users were affected by the breach and how their personal data was impacted.

Now it remains to be seen how hard the European Commission will come down on Facebook if EU users have suffered from this massive data breach. Under the union's new data protection rules (GDPR) companies could face a fine of up to €20 million or 4% of global annual revenue for the preceding financial year, whichever figure is higher.

In the case of Facebook, this fine could amount to $1.63 billion, if calculated on the basis of the second metric, reckons the news service Euractiv.

Big tech + content — a marriage made in heaven?

Lately there have been a number of media mergers between big content distributors and content producers, for example the American telecommunications giant AT&T's recent deal for Time Warner. Some of the tech giants are also creating their own streaming platforms. These are trends that policymakers might want to keep an eye on.

Technology companies' expansion into television and film is prompting a reshaping of the traditional media industry, the Financial Times pointed out in an editorial on the subject in September.

The rush to consolidate has two big goals: bringing together content with distribution – and the sheer pursuit of scale, explains the newspaper. The reason for this is mainly Netflix, which in just a few years has become one of the biggest commissioners of TV, and increasingly film, content.

But Netflix is not alone. Amazon's streaming service is on its heels and Google and Facebook have their own streaming platforms.

Apple, too, seems to have jumped on the bandwagon. The company is spending billions making its own TV shows for distribution via the Apple TV, iPhone and iPad. Apple is also reported to be planning to offer movies two to three weeks

after cinema release, in a move that could threaten cinema chains, [writes the journal Macworld](#).

EU Competition Commissioner Vestager could be keeping an eye on these moves. Net neutrality buffs should perhaps also prick up their ears.

"Media pundits used to rail against cross-ownership of newspapers, radio stations, or television stations. When infrastructure companies also produce content, net neutrality – the idea that all data on the internet should be treated equally – is at risk," writes Philip N. Howard in his book *Pax Technica.*

Calls for regulating the tech industry

There seems to be a growing transatlantic consensus on the need to regulate the tech industry. Even some of the tech giants themselves are calling for it – which might be a reason to be wary.

All the recent privacy scandals and data breaches have outraged not only European policymakers. In the United States criticism of the tech industry has been growing too. The U.S. Commerce Department has sought comments on how to set nationwide data privacy rules in the wake of tough new requirements adopted by the European Union and California, [reports Reuters.](#)

In fact California's new Consumer Privacy Act (CPA) seems much inspired by the EU's data protection regulation, GDPR; it governs not just information that people share directly with companies, but also personal data held by commercial data-brokers.

Even some of the tech leaders themselves seem keen on regulation. At the recent International Conference of Data Protection and Privacy Commissioners in Brussels top executives from Facebook, Google and Apple heaped praise on Europe's GDPR rules.

Tim Cook, the head of Apple, went even further. He said that humanity is living amid a "data industrial complex" in which "our own information is being weaponised against us with military efficiency" and called for a "comprehensive federal privacy law in the US".

This earned Cook a standing ovation from the audience in the EU Parliament where he spoke. Little did the listeners probably think of what could have motivated his pronouncements, like wanting to remind the world that Apple, as opposed to Big Bad Wolf Facebook, only sells hardware and not people's personal data. This fact of course also makes Apple less vulnerable to privacy regulation than its rival tech giants.

[In an interesting piece](#) describing the tech industry's 180-degree turn from demanding self-regulation to embracing legislation, *Politico's* Marc Scott concludes: "Now, lobbyists and tech executives are fanning out from Brussels to Washington with a new message — that rules for the digital sector are a good thing, if only the industry players themselves can play a crucial role in shaping what those rules are and how they work."

This was confirmed at the Internet Governance Forum (IGF) meeting in Paris 12-14 November. "The best way to ensure that any regulation is smart and works for people is by governments, regulators and businesses working together to learn

from each other and explore ideas," Nick Clegg, the former British deputy prime minister who recently moved up to become head of Facebook's global affairs, told NBC news.

At the meeting Facebook announced that the company will allow French regulators to "embed" inside the company to examine how it combats online hate speech. France's President Emmanuel Macron was obviously dazzled by this generous gesture. "I'm delighted by this very innovative experimental approach," he said.

Says a lot about who is calling the shots these days...

EU plans to tax Big Tech fizzling out?

Although lately being pushed hard by France the EU proposal to make big tech firms pay a levy on their earnings in Europe still meets resistance, not least from Nordic countries.

The proposal would require tech firms with total annual revenues of €750 million or above and yearly EU taxable revenues of €50 million to pay a 3% levy on revenues where such money is generated, rather than where the companies are domiciled for tax purposes. The tax would cover online advertising, web-based intermediation services and the sale of data.

Member states such as Sweden, Denmark, Finland, Ireland and the Czech Republic are critical of these plans for various reasons. Often referred to is, for example, that similar plans are being discussed in the more global organisation OECD and that the EU measures may breach international treaty obligations.

There are also concerns over how the new tax could affect their own countries' large digital companies and worries about potential U.S. retaliation. (In October American authorities criticised the EU's plans describing them as 'discriminatory against US companies'.)

Discussions at the OECD to find a global agreement on digital tax measures have slowed over the past few months, prompting member states like Spain, Italy and the UK to embark on their own plans, reports Euractiv.

The EU Commission – always wary of fragmentation within the union – is probably not very happy about this development.

Lately the German finance minister Olaf Scholz has come out in support of the EU digital tax plans, after he had previously taken an ambivalent stance on the proposal.

In December the European finance ministers will meet again to discuss the EU tax proposal but chances that they will reach a unanimous agreement, which is required in tax matters, look rather slim.

EU Copyright reform

High drama in the European Parliament

European Members of Parliament engaged in the highly controversial reform of EU copyright rules didn't have much of a summer holiday this year. Nor did the authors, publishers, artists, online platforms and internet rights campaigners who worked madly to make their views heard.

The artists were probably delighted by the high drama of the proceedings. First, on 20 June, the contentious copyright reform bill was passed with a narrow majority by the EU Parliament's Legal Affairs Committee (JURI). But in a last-minute request, German Green MEP Julia Reda demanded a special vote before the full chamber to decide whether the committee's decision would survive.

This sparked a continuation of the fierce debate that had raged for many months, mainly over two issues: Article 11 on the creation of a new so-called neighbouring right for online publishers and Article 13 requiring Internet platforms to monitor users' uploads for copyright infringements.

All the major political groups in Parliament were divided over the reform.

Then, on 5 July, a thin majority of MEPs blocked the controversial bill from moving on to the next phase of negotiations in a dramatic vote at a plenary meeting. Instead they decided to continue the debate and discuss amendments to be put to a vote during a later plenary session.

Two months later, on 12 September, the Parliament voted in favour of the bill – this time with amended versions of Articles 11 and 13 – drawing cheers of jubilation and howls of disapproval from MEPs. The final vote was 438 in favor, 226 against, with 39 abstentions.

Copyright war:
Publishers, authors, and artists the winners - so far

In the European Parliament's press release about its position on the copyright reform the Parliament highlights some of the important changes it made to the EU Commission's original proposal:

The Parliament has toughened the Commission's proposed plans to make online platforms and aggregators liable for copyright infringements. This would also apply to snippets, where only a small part of a news publisher's text is displayed. In practice, this liability requires these parties to pay right holders for copyrighted material that they make available.

The EU Parliament's text also specifically requires that journalists themselves, and not just their publishing houses, benefit from remuneration stemming from this liability requirement.

 "…in an attempt to encourage start-ups and innovation", the text now exempts small platforms from the directive. The text also includes provisions to protect freedom of expression. For example, merely sharing hyperlinks to articles, together with "individual words" to describe them, will be free of copyright constraints.

Furthermore, any action taken by platforms to check that uploads do not breach copyright rules must be designed in such a way as to avoid catching "non-infringing works". The platforms will also be required to establish rapid redress systems (operated by the platform's staff, not algorithms) through which complaints can be lodged when an upload is wrongly taken down.

The Parliament's text also specifies that uploading to online encyclopaedias such as Wikipedia, or open source software platforms, such as GitHub, will automatically be excluded from the requirement to comply with copyright rules.

Moreover, the text strengthens the negotiating rights of authors and performers, by enabling them to claim additional remuneration from the party exploiting their rights when the remuneration originally agreed is "disproportionately" low compared to the benefits derived, explains the Parliament.

All in all, it seems that authors, artists and the content industry were the main victors in this battle over copyright. Perhaps the growing criticism of the Silicon Valley giants, coupled with the age-old European quest to defend its culture against "American imperialism", have something to do with it, as well as – of course – the wish to boost the cultural industries in Europe.

The battle, however, is not yet over. Now that the Parliament has adopted its position negotiations with the EU Council can be launched. The final vote is expected to take place in January 2019 or somewhat later.

Lobbying spurt before final vote

The final text of the revised copyright directive is currently being negotiated in so-called trilogue talks between the EU Parliament, the Commission and the Council (representing the member states). Hence, in a last spurt, the different stakeholders have rushed to push their priorities.

Publishers and journalists were of course delighted with the EU Parliament's final text. The new publishers' right (Article 11) "will help the sustainability of the European press sector", glowed the European Publishers' Council (EPC). "A major step forward in protecting author's rights", cheered the European Federation of Journalists (EFJ).

The EFJ however seems wary of possible amendments to some of their most cherished provisions. In October the journalists' federation called on the EU institutions to "ensure that a fair and proportionate share of the new revenue will trickle down to authors (Article -14) and strong transparency measures will be put in place to ensure this is enforced (Articles 14 to 16)."

Similar appeals have been made by the wider Author's Group, which also includes composers, songwriters, film/TV directors and screenwriters.

Tech companies are naturally not very happy with Article 13 which requires Internet platforms to monitor users' uploads for copyright infringements.

In October YouTube CEO Susan Wojcicki urged YouTubers to use the hashtag "#SaveYourInternet" in social-media posts to express opposition to the EU directive .YouTube has also set up a website with its perspective on the law, reports the entertainment trade magazine Variety.

Internet rights advocates were not overjoyed with the text adopted by the EU Parliament either. The vote "brought the EU much closer to a system of universal mass censorship and surveillance, in the name of defending copyright", commented the European Digital Rights organisation (EDRi).

EDRi demands that the trilogues at least safeguard against dominant players creating licensing agreements that exclude everyone else and that news sites be permitted to opt out of requiring a license for inbound links. A clear definition of "noncommercial, personal linking" should also be established.

Julia Reda, the German MEP who led the opposition to Articles 11 and 13 in the Parliament, has committed to publishing all of the negotiating documents from the "secret" trilogues as they take place. Reda will surely also do her utmost to convince the Council to amend some of the Parliament's proposals.

EDRi thinks it is possible that the Council will decide to review its position. The organisation points out that the Italian government has expressed its intention of moving away from the text previously agreed by the Council since the new government doesn't support some aspects of it, namely the upload filters. Also, several other member states were hardly enthusiastic about the proposal to start with, says the digital rights organisation.

Media - general

Public broadcasters in the doghouse

In recent months public broadcasters in several European countries have faced or been threatened with budget cuts and restrictions coupled with new demands on their programming. A sign of the times?

In September – following a political decision to cut the budget of the public radio and television organisation Danmarks Radio (DR) by 20% – the Danish government concluded a new public service contract with the broadcaster bringing about major changes.

The number of TV channels will be reduced from six to three and the number of radio channels from eight to five, 375-400 jobs will disappear and the administration will be much slimmed down. In programming major cuts will be made in the area of sports, entertainment, life style and non-Danish fiction.

The contract also contains new requirements on content. For example, the programmes should show that Danish society "has its roots in Christianity". Furthermore, DR is given an explicit mission to "spread Danish culture and the Danish cultural heritage".

Similar changes are happening elsewhere in Europe too. Recently the Swiss Government granted a new licence to the Swiss Broadcasting Corporation SRG for the 2019-2022 period. The licence imposes more stringent requirements concerning the public service provided by the broadcaster, reports the European Audiovisual Observatory's IRIS newsletter.

Among its new obligations SRG must spend at least half of its licence fee income on news services and invest "adequate" resources in culture and education. The

new licence also regulates sports reporting and demands in-house productions that reflect the Swiss identity ('Swissness').

In Austria – which holds the current EU Presidency – brutal cuts in the public service media also seem to be in the making.

The European Broadcasting Union (EBU) is naturally worried about these developments. In September it voiced its concern over the new public service contract in Denmark, saying that it "will dramatically restrict the organization's scope and range of programming and remit", and rejected "political attempts to drastically narrow and alter the accepted broad remit of public service media."

Policymakers are not alone in wanting to narrow the public service remit. For many years now commercial broadcasters have complained about unfair competition from publicly funded media, particularly in the more "commercial" areas of entertainment and sports and demanded that public service media concentrate on their duty to provide more "serious" programming and to serving minority groups.

Such views are sometimes expressed by ordinary people too. The growing distrust of the established media probably doesn't help public service broadcasters much either. (More on this below)

Growing distrust of established media – a class issue?

Across the Western world there is a growing trend of distrust – if not downright hostility – against established, "politically correct" media (and their journalists) among certain groups. Who are these people and why do they feel this way are questions the media – and policymakers – perhaps ought to think more about.

A recent article in the Financial Times provides a good introduction to this subject. It describes the enormously popular Tichys Einblick, a highly opinionated, right-leaning news website in Germany, and examines what lies behind its popularity.

In Germany, uncritical coverage of Angela Merkel's "open-doors" refugee policy much contributed to the growing distrust of traditional media, say media scholars. And now "the suspicions that one is being manipulated by the public broadcasters and supposedly all powerful journalists have moved from the right wing fringes to the middle of society".

When the news magazine Der Spiegel recently asked for readers' opinions of its journalism many of the replies were highly critical, implying that "you media people live in a liberal bubble" and saying things like "it's easier for you to talk to the head of the IMF in Washington than with people down the pub somewhere in east Germany."

The fact that German journalists tend to have a left-liberal-green background – which is not the case with the population at large – probably contributes to this resentment.

Political party allegiance may however be too narrow an explanation. A recent study on media trust in eight European countries shows that those who hold populist views value and trust the news media less compared to people on the left-right scale. This is true across all countries, with the largest gap in Sweden,

where 74 per cent of non-populists compared to 49 per cent of people with populist leanings say they trust the news media.

Class background may have something to do with this. Another study, recently published by Nordicom, points out that economic inequality has increased dramatically in Sweden during the last thirty years and that Swedes now live under very diverse conditions with different worldviews and "tastes" with regard to news.

Attitudes to the media are closely related to class, concludes the author Johan Lindell, remarking that one of the reasons why working class people are suspicious of journalists is that the worldview conveyed in the Swedish media belongs to the domain of the middle class.

Connected to this is probably the growing gap between people's lifestyles and values in the big cities – where many journalists live – and small town/rural areas.

Psychological profile and strategic considerations could be factors too. Take, for example, the U.S. President. He does not have a working class background, nor a lack of education and lives in Washington and New York City, not exactly the backwoods. Yet he calls (certain) media and journalists the "enemy of the people".

Green light for reduced VAT rates for electronic publications

On 2 October a sigh of relief could be heard throughout the publishing world when EU finance ministers finally – after two years of debate - agreed to allow willing member states to apply reduced VAT rates for electronic books and digital press, as has long been the case for print publications.

Under the current VAT rules electronically supplied services are taxed at the standard VAT rate, i.e. minimum 15%, whereas for physical publications – books, newspapers and periodicals – member states have the option of applying a 'reduced' VAT rate, i.e. minimum 5%. Some have been authorised to apply 'super-reduced' VAT rates (below 5%) or even 'zero' rates.

Super-reduced and zero rates on electronic publications will only be allowed for member states that currently apply them to 'physical' publications.

On 6 November the Council formally adopted the directive. The new rates will be applied temporarily until a new 'definitive' VAT system proposed by the EU Commission last autumn is approved. The new system would give member states greater flexibility to set VAT rates.

Angela Mills Wade, Executive Director of the European Publishers Council, welcomed the decision saying: "VAT rates will now match the reality of how press publications are consumed across the web and on mobile. This development is essential to incentivise further investment in technological innovations in the press sector".

EU warns Romania and Bulgaria to uphold media freedom

On 13 November the EU Commission published reports on Bulgaria's and Romania's progress in overcoming deficiencies in the areas of judicial reform, the fight against corruption and the like. In his presentation of the reports Commission Vice-President Frans Timmermans warned both countries to uphold media freedom.

"This is not only important to effectively pursue the necessary reforms…, it is also the bedrock of any well-governed democracy. We need the media to be able to work free from pressure. This is essential in any European democracy", he said, adding that the Commission would return to this subject before the end of this term, reports Euractiv.

The media situation in Bulgaria and Romania has deteriorated since they joined the EU. In Romania the country's Social Democratic government has come under fire recently for various judicial reforms that critics say would jeopardize Romania's rule of law.

It also seems that the Romanian authorities misuse EU legislation to require journalists to reveal their sources. Recently the RISE Project, an award-winning investigative journalism outlet in Romania, was ordered by the Romanian Data Protection Authority to reveal its sources under the threat of a fine of up to €20 million based on the European Union's General Data Protection Regulation (GDPR) directive.

Digital policy often decided in opaque trade fora

At a recent session at the World Trade Organization's Public Forum speakers remarked on the role of regional trade agreements in norm-setting, reports the newsletter Intellectual Property Watch.

Michael Geist from the University of Ottawa Faculty of Law, pointed out that one of the most notable aspects of the recently signed Canada-Mexico-United States trade agreement is the inclusion of a digital trade chapter and the increasing overlap around issues that pertain to data and privacy, data localisation, restriction on data transfers, net neutrality, and safe harbours for internet platforms.

This, he said, raises some real concerns because some provisions have been established without much public debate or a full understanding of the broader implications of those agreements.

Already in 2016 a group representing internet users, consumers, innovative businesses, cultural institutions, and scholars concerned about this issue signed the Brussels Declaration on Trade and the Internet, which points out:

"Modern trade agreements are negotiated in closed, opaque and unaccountable fora, that lack democratic safeguards and are vulnerable to undue influence…the secrecy prevents negotiators from having access to all points of view and excludes many stakeholders with demonstrable expertise that would be valuable to the negotiators. This is particularly notable in relation to issues that have impacts on the online and digital environment, which have been increasingly subsumed into trade agreements over the past two decades."

In the declaration the signatories therefore demand that any international rulemaking process that affects the online and digital environment "adhere to human rights and good governance obligations to actively disseminate information, promote public participation and provide access to justice in governmental decision-making."

The EU has recently signed or is currently involved in negotiations on trade agreements with numerous countries and regions around the world, for example Canada, Japan, Indonesia, Australia, New Zealand, Vietnam, Singapore, and the South American Trade bloc Mercosur. Many of these agreements will no doubt cover digital issues. How are decisions on these matters made?

EU at the IGF:
Important to invest in digital literacy

Among the most pressing challenges for the internet in the coming years is the need to boost digital literacy, said EU Commissioner for Digital Economy and Society Mariya Gabriel and five Members of the European Parliament in a common declaration signed at the Internet Governance Forum (IGF) 2018 meeting in Paris in mid-November.

They say it would be impossible to rebuild trust in the technology and create an open and inclusive internet without the "necessary investment in promoting digital literacy as well as the development of digital skills and competences for users" so that they can benefit from technological innovation while being fully aware of the challenges and risks involved.

"The increased transparency and accountability of the technology must go hand in hand with increased individuals' awareness and empowerment regarding the powerful effects, as well as possible distortions, that their own use of the internet can have", explain the EU lawmakers.

They also called for a "more empowered" Internet Governance Forum "that can do more than discuss emerging issues but also seek to agree on shared principles and policy standards" in order to stop fragmentation and polarisation.

Telecoms / infrastructure

Telecoms reform approved:
Europe soon ready for all-digital future?

The swift and extensive roll-out of 5G and other next generation technologies throughout Europe and stronger consumer protection are some of the benefits promised to follow from a comprehensive set of new EU rules for the electronic communications sector.

On 14 November the European Parliament confirmed the provisional agreement reached with the Council of Ministers in June on the European Electronic Communications Code (EECC).

To promote investment, in particular in 5G, member states will give operators regulatory predictability over a period of at least 20 years regarding spectrum licencing for wireless broadband. Member states will also have to make available new frequency bands for 5G that will allow faster internet connections and increased connectivity throughout Europe.

The Council says that the new telecoms directive will also give consumers a higher level of protection for electronic communications services across Europe. For example, by making it easier to switch between providers.

Furthermore, "affordable and adequate" internet access will be included in the list of universal services that must be available to all consumers, irrespective of their location or income. People with disabilities should have equal internet access.

Following Council's final approval, probably stamped before the end of 2018, member states will have two years to adopt national legislation to implement the directive. [More info and links to texts.](#)

In Pax Technica, an interesting book on new technology and policy issues, the author Philip N. Howard points out: "Decisions about how to set up and govern information infrastructure have a path-setting impact on how scientists, public policy makers, and interested stakeholders communicate to their publics and arrive at decisions." And he adds:

"More than ever, technology, including technical expertise, means political power. Political clout now comes from owning or regulating mobile-phone networks, controlling the broadcast spectrum, and having the expertise to turn off access to both".

The latter is a formidable power indeed considering one of the ["messages"](#) of the recent international Internet Governance Forum in Paris (IGF-2018): "Internet access is – and will be – the first and foremost condition for human development tomorrow."

Free flow of data gets go-ahead

In June EU negotiators reached an agreement to allow non-personal data to move freely across the bloc and ban national laws that require companies to store data within a country's borders. Important sources of non-personal data include the rapidly expanding Internet of Things, artificial intelligence and machine learning.

The negotiations took less than one week of meetings – a very short time by EU standards. This must mean that hardly anybody was against it and lobbying probably minimal. Tech companies in particular should be delighted.

The new rules will boost Europe's economy by generating an estimated growth of up to 4% GDP by 2020, estimates the EU Commission, which has promoted the new rules as a way to make data storage easier and cheaper, explains the news service Euractiv.

The Regulation on free flow of non-personal data has no impact on the application of the General Data Protection Regulation (GDPR) as it does not cover personal data, underlines the Commission.

However, the two Regulations will function together to enable the free flow of any data – personal and non-personal. In the case of a mixed dataset, the GDPR provision guaranteeing free flow of personal data will apply to the personal data part of the set, and the free flow of non-personal data principle will apply to the non-personal part, explains the Commission.

The EU Council points out that the reform will remove any restrictions imposed by member states' public authorities on the geographical location for storing or processing of non-personal data, "unless such restrictions are justified on grounds of public security".

What's more, EU member states' authorities will continue to have access to data even when it is stored or processed in another country. "This may be necessary for example for the purposes of regulatory or supervisory control.", explains the Council.   More on the new Regulation

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