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# The political economy of online platform governance

Charilaos Papaevangelou

► **To cite this version:**

Charilaos Papaevangelou. The political economy of online platform governance. Library and information sciences. Université Paul Sabatier - Toulouse III, 2023. English. NNT : 2023TOU30388 . tel-04650861

**HAL Id: tel-04650861**

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# THÈSE

En vue de l'obtention du  
**DOCTORAT DE L'UNIVERSITÉ DE TOULOUSE**  
Délivré par l'Université Toulouse 3 - Paul Sabatier

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Présentée et soutenue par  
**Charilaos PAPAEVANGELOU**

Le 23 mai 2023

**L'économie politique de la gouvernance des plateformes  
numériques**

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Ecole doctorale : **ALLPHA - Arts, Lettres, Langues, Philosophie, Communication**

Spécialité : **Sciences de l'information et de la communication**

Unité de recherche :

**LERASS - Laboratoire d'Etudes et de Recherches Appliquées en Sciences  
Sociales**

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## Acknowledgments

Completing this dissertation would not have been possible without the continuous support and understanding of so many people, whom I would like to thank here. First of all, I would like to express my enormous and deep gratitude to Nikos Smyrnaio, who believed in me from the first time we met and helped me explore the richness of critically studying social and political phenomena. Nikos invited me to collaborate on several publications, mentored me, assisted me to find my own voice, while showing that a different academia, away from exploitation, is possible. For all of these, I am forever in his debt. I would also like to thank Franck Bousquet, whose meticulous and inquisitive mind aided in expanding the scope of the theoretical framework and improving the overall coherence of my thesis.

I would also like to thank my dear friends from JOLT and LERASS. First, I wish to thank a person whom I am lucky to call a friend, Catherine Quiroga Cortés, whose generosity, kindness, and intelligence are extremely rare; her help has been instrumental in finishing this. I am also grateful to Ludovica Tua and Jules Dilé, with whom we spent some of the most memorable moments during this project and who made me feel welcome, as well as Panos Tsimpoukis, a special person whom I was fortunate to meet before leaving Toulouse.

Moreover, I would like to thank Giulander Carpes da Silva, whom I always looked up to him and who helped me out with so many things, whether it was about French bureaucracy or research. I am also thankful to Gabriela Sanseverino, who was very supportive and understanding of the emotional distress aggravated by the pandemic, as well as Sophie Chauvet, with whom we had plenty of thought-provoking discussions; these lockdown chats we held were life-saving. Additionally, I want to thank the personnel of the University of Toulouse, namely Patricia Huc, Dominique Gardes, and the people who made JOLT a success, especially Edward Casey.

Also, I am grateful to the friends I met in various academic conferences for making them a bit less scary and for providing me with exquisite feedback and ideas: Simran Agarwal, Naomi Appelman, Jill Toh, Paddy Leerssen, Robert Gorwa, and Mathias Felipe de Lima Santos. I also wish to thank Eileen Culloty and Jane Suiter for the excellent collaboration during my virtual secondment at FUJO. I am especially thankful to Sonja Solomun and Taylor Owen for letting me work with the Centre for Media, Tech, and Democracy on a passionate project. I would also like to thank Isabel Macdonald, Adelina Petit-Vouriot, Helen Hayes, Phaedra de Saint-

Rome, and Beata Skazinetsky. I am also indebted to the many - anonymous and eponymous - journal and conference reviewers for the vital feedback they provided me with.

Last but not least, I am eternally grateful to my friends, my parents, and my brother for having put up with me throughout this journey for the last four years. Elpida, I simply could not have done this without you; thank you for listening to my early morning rants and for being there. Nefeli, Christos, Dimitris, and Artemis: your attentiveness to my cries for help and support were invaluable to see this through. Dimitris, Sergios, Harry, and Manolis: your friend is a doctor, cheers.

This research project was funded by the European Union's Horizon 2020 research and innovation program under the Marie Skłodowska Curie grant agreement No 765140.

*We shall not cease from exploration  
And the end of all our exploring  
Will be to arrive where we started  
And know the place for the first time.*

T.S. Eliot: Four Quartets (Little Gidding)



## List of Abbreviations

Artificial Intelligence	AI
Agence France-Presse	AFP
Alliance Presse d'Information Générale	APIG
Application Programming Interface	API
Autorité de la Concurrence	ADLC
Centre on Regulation in Europe	CERRE
Chief Executive Officer	CEO
Code of Conduct	CoC
Code of Practice on Disinformation	CoPD
Committee on Culture and Education	CULT
Committee on Industry, Research and Energy	ITRE
Committee on Legal Affairs	JURI
Conseil Supérieur de l'Audiovisuel	CSA
Critical Discourse Analysis	CDA
Descending Hierarchical Classification	DHC
Digital Markets Act	DMA
Digital News Initiative	DNI
Digital Services Act	DSA
Digital Services Tax	DST
Digital Single Market	DSM
Directorate-General for Communications Networks, Content and Technology	DG CONNECT
e-Commerce Directive	ECD
Electronic Frontier Foundation	EFF
Europe, Middle East and Africa	EMEA
European Broadcasting Union	EBU
European Commission	EUCOM
European Federation of Journalists	EFJ
European Media Freedom Act	EMFA
European Parliament	EP
European People's Party	EPP
European Platform of Regulatory Authorities	EPRA
European Regulators' Group for Audiovisual Media Services	ERGA
European Union	EU
Facebook Oversight Board	FOB
Federal Bureau of Investigation	FBI
Federal Communications Commission	FCC
Fund for Digital Innovation in the Press	FINP
Global Internet Forum to Counter Terrorism	GIFCT
Google News Initiative	GNI
Google News Showcase	GNS

Google, Amazon, Facebook, Apple, Microsoft	GAFAM
Internal Market and Consumer Protection Committee	IMCO
Internet Governance Forum	IGF
Internet Service Providers	ISPs
Journalism Emergency Relief Fund	JERF
Machine Learning	ML
Member of the European Parliament	MEP
News Media Europe	NME
Organisation for Economic Cooperation and Development	OECD
Public Service Media	PSM
Specific Words Analysis	SWA
Syndicat des éditeurs de la presse magazine	SEPM
Text Segments	TSs
United Kingdom	UK
United Nations	UN
United States	US
Very Large Online Platforms	VLOPs
Very Large Online Search Engines	VLOSEs
Vice-President	VP

## 1. Introduction

The task of authoring a dissertation is a daring task in and of itself; it is even more so writing about a subject so elusive and ever shifting as the capitalist forces that regulate and govern our modern way of living and communicating online. First, it is worth mentioning that this project was carried out as part of the JOLT European Training Network (ETN)<sup>1</sup>, while I conducted my research in the multidisciplinary Laboratory for Applied Social Sciences in France<sup>2</sup>. As such, the constant exchange with international colleagues from different institutions and my own involvement and interaction with French academia and colleagues decisively shaped this project's identity – and mine.

This research project was conceived as a way of understanding the reaction to what has come to be colloquially known as “techlash” (‘Techlash’, n.d.), which had significant consequences in our capacity to deliberate online using privately-owned channels of communication. Techlash is used to refer to a series of events that swayed the public discourse and opinion concerning the harms caused or facilitated by these enterprises. This became increasingly prominent after a series of unprecedented incidents, like the Cambridge Analytica scandal (J. C. Wong, 2019) or the live streaming of Christchurch Mosque shootings in New Zealand (Lapowsky, 2019). So, this thesis was imagined as a way of better appreciating the burgeoning societal and political demand for private technological companies to better regulate and govern their online spaces.

My interest and aspiration were not only what the regulatory response of powerful stakeholders like the state were but also how these had been developed, by whom and with whose interests in mind. In the following pages, we will go through the principal research objective alongside the overarching research questions, the research's background, the main methodological approaches, and the dissertation's outline.

This thesis explores the political economy of platform regulation and governance, by enquiring into the spaces where platform companies interact and negotiate with other stakeholders to shape how the infrastructures and services provided by online intermediaries are governed (Gillespie, 2018a; Helberger et al., 2018a; Klonick, 2018). This research project adopts a critical analytical lens to scrutinise the political-economic developments and sociotechnical constructs that have created an unprecedented convergence of power into the

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<sup>1</sup> JOLT. (n.d.). JOLT: Harnessing Digital and Data Technology for Journalism. Retrieved 27 March 2023, from <http://joltetn.eu/>

<sup>2</sup> Lerass. (n.d.). Lerass: Laboratoire d'Études et de Recherches Appliquées en Sciences Sociales. Retrieved 27 March 2023, from <https://www.lerass.com/>

hands of a few, mostly American and increasingly Chinese, technological companies (Bilić et al., 2021; Smyrniotis, 2018).

Specifically, it wishes to contribute to the multifaceted endeavour of studying platform governance through the prism of power relations and, in so doing, to unearth the processes behind the outcomes (Carr, 2015). In other words, we propose to shift our attention from solely studying what kinds of regulatory frameworks have been developed in recent years and what their impact has been, but also how they were formulated and who had access to their deliberations. The case studies comprising this dissertation provide novel insights into these processes, enabling further theorisation of the field based on empirical evidence, which is crucial in the context of the emerging regulatory framework in the EU and beyond.

In this thesis, the political economy of online platforms' regulation is understood as that large field of public and private deliberation with extensions to what constitutes the public sphere, which itself extends to both the online and the offline world (Salikov, 2018). As a result, by studying the topic's political economy, not only can we infer the processes behind policies and interactions but also their impact on society. Therefore, in this regard, the critical political economy aspect refers to enquiring into the power relations taking place within the structure of platform governance (Bilić et al., 2021).

Online platforms have become the amalgam of informational convergence, so too scholars engaging with them ought to have their mind and eyes wide open. Certainly, it would be impossible and counterproductive to attempt to cover every facet of platforms. As a result, we must also be selective and delineate our field of enquiry very carefully to avoid ending up in a situation, wherein by trying to say something about everything, we say in fact nothing. Thus, studying platform regulation in today's world necessitates adopting an interdisciplinary approach, allowing us to employ and combine different methodologies and theories from divergent, yet well-specified themes of research.

As Bernard Miège, an influential French communication theorist, has noted, this allows us to apprehend information and communication "in their most striking manifestations" (2004, p. 228). This is exactly what this dissertation sought to achieve, to apprehend the processes that produce the edifice of platform governance and to explore their implications on our capacity to deliberate in and through privately-owned public spaces. It does so by homing in on some "striking manifestations" of these processes and consequences, studying them as empirical case studies, to infer, to a certain degree, generalisable conclusions that allow us to better synthesise and theorise about platform power.

Finally, this thesis adopts an interdisciplinary theoretical approach to offer a holistic understanding of the modern governance landscape of platforms, drawing theories from:

critical media studies, as well as information and communication studies (Ott & Mack, 2019; Smyrnaioi, 2018); journalism studies; regulation and governance studies, as well as platform governance studies; and, critical law studies, including works from the emerging sub-field of legal political economy (Bloch-Wehba, 2019; J. E. Cohen, 2019a; Kapczynski, 2020)<sup>3</sup>. Overall, this dissertation touches upon study the following interrelated topics: the epistemology of platform governance, the governance of online content, and the governance of our digital public spaces; by extension, these three topics serve as the foundation for the three large parts that structure this thesis.

## 1.1. Research Background and Objective

### 1.1.1. The Three Years that Changed Everything: From a Pandemic to a War

This research project started in 2019, exactly six months before the Covid-19 pandemic's outbreak, a turn of events with tectonic changes in our lives and whose impact we have yet to fully grasp. It also began about three years before a new war broke out in our continent, Europe, with Russia illegally invading the sovereign country of Ukraine; another dramatic event whose impact we have yet to fully conceive. Both devastating developments expedited the process of producing regulatory measures that would force online platforms' hands in order to become more responsible in policing content hosted on their services. Mis- and dis-information regarding the novel virus played an important role in intensifying calls to do something about the "infodemic" (Siapera, 2022; WHO, 2020): for instance, US President, Joe Biden, claimed that "[social media] are killing people" in an hyperbolised attempt to blame platforms for the circulation of untruthful information regarding Covid-19 vaccines (Kanno-Youngs & Kang, 2021).

The unlawful Russian invasion of Ukraine, along with its misleading propaganda and supporting "disinformation warfare" (Zannettou et al., 2019), highlighted the geopolitical role that online platforms play (Van Dijck, 2022, pp. 94–95), a quality which had traditionally been more closely studied by internet governance scholars, who have engaged in a more timely manner with such issues (Bradshaw & DeNardis, 2022; O'Hara & Hall, 2018). Also, the invasion fuelled up the calls from the political world and civil society organisations demanding platforms to act: for example, Meta almost immediately announced that the company's platforms (Facebook, WhatsApp, and Instagram) would "deplatform" RT and Sputnik across the EU, i.e., remove or block their accounts from their services (Rogers, 2020, p. 214) and, essentially, "[deplatformise]" them, i.e., hinder their access to crucial infrastructures provided by platforms (van Dijck & Lin, 2022, p. 60).

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<sup>3</sup> The authors cited here serve only as indications of the fields mentioned.

Meanwhile, the Council of the European Union (EU) filed a regulatory amendment on 2 March 2022, prohibiting the distribution of any content from these channels (Papaevangelou & Smyrniatos, 2022b). It was one of the clearest examples of state and private actors' collaboration, with platforms effectively becoming an extension of state power. This demonstrated why monolithic companies, like the "Big Five American companies (GAFAM)"<sup>4</sup> in the western world (van Dijck & Lin, 2022, p. 64), may be in fact convenient to state power due to their centralised structure. Put simply, it became apparent why it is easier to regulate informational flows, if these flow through a few channels. This resonates with what prominent internet scholar Laura DeNardis wrote in 2012 regarding the broader internet governance: "internet architecture can be a direct proxy for battles over content" while "political and economic battles [have moved] into the realm of infrastructure and, in particular, technologies of internet governance" (DeNardis, 2012, p. 721).

At the same time, another implication became evident with these two unprecedented developments: platforms were eager to offer their services to the state, fulfilling their "solutionist" role, a concept coined by technology researcher Evgeny Morozov:

*"[Solutionism] holds that because there is no alternative (or time or funding), the best we can do is to apply digital plasters to the damage. Solutionists deploy technology to avoid politics; they advocate 'post-ideological' measures that keep the wheels of global capitalism turning"*  
(Morozov, 2020)

In other words, in lieu of concrete state investment in public infrastructures and services, governments rely on, mainly for-profit, private actors to substitute their, often deliberate, inertia without considering the trade-offs. For instance, Zoom was – and still is – one of the software solutions that allowed us to easily communicate with family, continue working or simply stay connected with friends during lockdowns, which were some of the hardest periods of the pandemic. However, beyond the data privacy risks that the company failed to deal with in the first months of the pandemic and which persist (Cox, 2020), governments quickly adopted such solutions even for educational purposes, essentially, "platformising" classrooms and turning them into sites for data extraction, as some have suggested (Bullich, 2018; Grandinetti, 2022).

Furthermore, two other dramatic yet transformative incidents occurred in 2020 and 2021: the murder of George Floyd by a police officer in Minneapolis, Minnesota, and the attack in the Capitol of the United States (US). The murder of George Floyd led to massive protests

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<sup>4</sup> Google (Alphabet), Amazon, Facebook (Meta), Apple, Amazon.

around the world “under the banner of the Black Lives Matter movement” (Hernández & Mueller, 2020), which utilised social media and, especially Twitter, as an amplifier (Wirtschafter, 2021) to exemplify that systemic racism and racial inequality in the US – and the world – were in fact not ghosts of the past, but very much alive, constituting a harsh reality for Black people and, generally, people of colour; the fact that it took place during a global pandemic did not stop the movement from growing: in fact, as some have argued, the interconnectedness of society and social life made these events inextricably related one to another (J. L. Davis & Love, 2022).

The invasion of Capitol on 6 January 2021 by protesters, who refused the validity of the 2020 US Presidential election claiming that Donald Trump had in fact won, is a pivotal case in modern US history. This was not the first time that social media had instated special rules regarding content moderation to deal with electoral processes and, as leaked documents showed, Facebook was actually preparing ahead of the election to deal with mis- and dis-information, specifically related to its outcome (Mac & Frenkel, 2021). However, as it turned out, not only were they unable to stop a barrage of false information from flooding the platform, but Facebook researchers also found that the “platform’s recommendation tools repeatedly pushed users to extremist groups” (Guardian Staff, 2021).

### 1.1.2. Principal Theoretical Concepts

In the following paragraphs, we will briefly look at some of the fundamental concepts used throughout this dissertation. These will be reviewed and elaborated later in the respective chapters of the dissertation. But it is crucial to introduce them here to give readers an understanding of how they are defined in this project and the thesis' overarching theoretical framework.

First and foremost, the rise and consolidation of online platforms, from Facebook to Uber, has undoubtedly transformed our lives and our societies. Scholars have proposed various names to describe this development: platform society (van Dijck et al., 2018), platform capitalism (Srnicek, 2017), informational capitalism (J. E. Cohen, 2019a), surveillance capitalism (Zuboff, 2019) or data colonialism (Couldry & Mejias, 2019a) to name just a few. Certainly, as Science, Technology, and Society scholar Lee Vinsel has acutely noted, many critics of contemporary capitalism and its supporting technology, including academics, have embraced what he calls a “criti-hype” approach to discussing “emerging technologies,” that is “criticism that both feeds and feeds on hype” created by private technological companies themselves (2021).

As a result, we wish to avoid falling into that same pitfall, which risks perpetuating a deterministic approach to studying digital technologies and online platforms, as well as almost mystifying the power that these private actors hold. One of the most evident examples of this, in recent years, was the “liberal rationale” that overestimated – perhaps less naively than we originally thought – the role of social media in the election of Donald Trump in 2016 (Lenoir, 2022); in fact, a recently published article called for scepticism regarding the impact of Russian’s interference in the 2016 US Presidential election regarding voting behaviour (Eady et al., 2023).

Regardless, online private platforms have indeed become ubiquitous and have expanded their services to a myriad different instance, creating centralised networks of data at an unprecedented scale. Critical media researchers refer to this phenomenon as “platformisation” (Helmond, 2015; Nieborg & Poell, 2018) to discuss “the penetration of online infrastructures, economic processes, and governmental frameworks of online platforms in different societal sectors and spheres of life” (Poell et al., 2019, pp. 5–6). In that sense, platformisation builds upon the mediating aspect of infomediaries (Siapera, 2013) and, even, goes beyond it by highlighting their ‘pervasive’ and, sometimes, ‘invasive’ sides, which permeate the relationships they create or facilitate.

So, what exactly is a platform? It can be perplexing to provide a concrete definition precisely due to platforms' ubiquity: are they technology enterprises, communication services, advertising intermediaries or media companies? In essence, they can be all those things as they enable, like the film's title, everything (to happen), everywhere, all at once. However, if we were to uncritically adopt this approach to defining a platform, we would risk further emboldening a platform-deterministic narrative of corporate power and, thus, limiting our capacity to challenge platform power (Caplan et al., 2020; Helberger, 2020). To this end, as mentioned earlier, we adopt an interdisciplinary and critical approach, even reflecting on the very metaphor of platform, to ensure that we cover most of the concept's nuances and challenges; this will be ironed out in Chapter 3.

### 1.1.3. Are we in a Critical Juncture?

The incidents and events mentioned in the introductory paragraphs comprise some of the most transformative experiences in the years I have been conducting my doctoral research. Observed from a bird’s eye-view, we could argue that they created - or at least accelerated - some institutional changes on many levels. While it is not yet clear how many of these changes have been effective or will survive the test of time, they opened new possibilities regarding



policymaking, governance and, certainly, research, which is particularly relevant to social scientists studying their impact.

We would be remiss, though, not to reflect on our own biases: for instance, we might have been generalising theories based on case studies in the Western or Northern part of the world, which may not be applicable or speak to experiences lived by people from the majority world; indeed, this is one of the limitations of the present dissertation, which contains case studies from the EU. The same can be argued for experiences stemming from patriarchal and privileged paradigms, excluding vulnerable or marginalised groups. Hence the burgeoning wave of critical voices calling for a reconceptualisation of Western centric “hegemonic epistemologies and ontologies” (Mutsvairo et al., 2021), as well as for “radical approaches” to platform governance<sup>5</sup>, aiming to make its scope more inclusive.

The profound changes brought about by the aforementioned developments hint that we find ourselves to be at, what historical institutionalists call, a “critical juncture,” i.e., a point in time when often exogenous shocks, “such as the invention of a new technology or an economic crisis” (Bannerman & Haggart, 2015, p. 8), destabilise a system, like platform governance, and make it more prone to change. We ought, though, to be mindful here and avoid over-simplifying the multifaceted reasons that bring about changes in a system. As some scholars have noted, critical junctures are not to be thought of as unique opportunities that are created due to unpredicted phenomena, but as situations that unfold gradually and which are built on and mediated by precedent institutional paths (Bannerman & Haggart, 2015, p. 8).

For instance, Meese and Hurcombe, in discussing Australia’s New Media Bargaining Code (NMBC), which obliges Facebook and Google to negotiate with publishers on a fee for using their news content hosted or have an external arbitrator set a price, argue that the Australian regulator who came up with this bill “realised that a critical juncture was afoot” and “took advantage [...] to push through reforms that favoured established publishers” (Meese & Hurcombe, 2022, p. 162). In other words, the authors contend that the timing that the regulator chose to open an enquiry in digital platforms’ market power was “auspicious” due to “the ‘techlash’ [being] well underway and an international critical juncture forming around the question of platform regulation” (Meese & Hurcombe, 2022, p. 161). Put simply, as the public discourse was changing regarding platforms’ power and role in society, Australian policymakers saw an opening to satisfy some demands of national established media players and partake in the global discussion regarding regulation (Meese & Hurcombe, 2022, p. 165).

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<sup>5</sup> <https://digitalpolicy.ie/ucd-centre-for-digital-policy-is-co-organising-a-workshop-on-radical-approaches-to-platform-governance>.

Similarly, the previous decade saw numerous unprecedented incidents that gradually built a wave of critique against platform companies, which grew in size and momentum during, approximately, the last six years. This created a critical juncture regarding platform regulation, which explains why so many countries began drafting laws with the aim of reining in platforms or, at least, changing some parts of the ‘platform industry’; at times, regulatory proposals and research felt like were born more out of a sense of urgency, a sense of “something must be done,” rather than out of a sophisticated strategy to tackle real problems. We neither wish to pinpoint this juncture to specific incidents nor insinuate the existence of direct causation – those that were cited earlier are indicative. Yet, they are inscribed in a larger historical process of institutional change with immense transformative power (Streeck & Thelen, 2005). At any rate, by adopting a historical institutionalist approach, we can identify the historical processes that permitted the development of certain regulatory frameworks and, thus, understand the underlying political stakes.

Furthermore, platforms significantly upped their political game in recent years; not only by embracing calls for regulation, but also by partnering with numerous industry stakeholders and, thus, making themselves indispensable to the systems they partake in, mostly thanks to their infrastructural capacities (Plantin & Punathambekar, 2019). For instance, Anne Helmond et al. have clearly demonstrated how Facebook progressively became a “platform-as-infrastructure,” that is how it “gained infrastructural properties over time by accumulating external dependencies through computational and organisational platform integrations” by analysing the platform’s partnerships since launch (Helmond et al., 2019, p. 141).

Finally, beyond the technical aspect of infrastructures, as we will see later, platforms started further embedding themselves into systems of governance to present themselves as being part of the solution and not the problem. Consider, for instance, how TikTok employs several NATO staffers (Macleod, 2022) or how a former Deputy Prime Minister of the UK became Meta’s President of Global Affairs<sup>6</sup>. Thus, platforms have presented themselves as an indispensable element to tackling phenomena that require real and meaningful action, like disinformation and abusive content online.

#### 1.1.4. Research Questions

In recent years, simultaneous to the burgeoning techlash, platforms have also become more resilient to change by a) emerging as the *de facto* infrastructure for many users, government agencies or small and medium-sized enterprises, b) attempting to capture networks of power relations (e.g., political figures or trade associations), c) spending large sums of money into

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<sup>6</sup> <https://about.facebook.com/media-gallery/executives/nick-clegg/>.

lobbying activities – especially in the US and the EU, d) mobilising their opinion and platform power to fend off or shape – to the best of their abilities - regulation to their own taste (Helberger, 2020; Nielsen & Ganter, 2022), and e) following “old-school” abusive labour practices, like union busting (Tiku et al., 2022), cease and desist letters to researchers<sup>7</sup>, firing inquisitive workers (Simonite, 2021), etc.

While this dissertation is not tackling all these points, they are important to mention here as a way of emphasising the fact that platforms are indeed becoming resilient to change, in the sense that they are better equipped than ever to defend their interests, not only against government regulation but also against other companies and platform governance stakeholders. The principal contribution of this research project is, thus, bifold: on the one hand, it contributes to the pressing demand to study platform governance in a more radical and political approach, and, on the other hand, it provides empirical insights into the often-unnoticed power relations that shape platform regulation and governance.

Overall, these are the overarching research questions that this dissertation set out to investigate:

- RQ1: What is platform governance, and how can it help us to enquire into platform power?
  - SUBRQ1.1: How did the ‘platform model’ become so dominant, and what is it? (Chapter 3)
  - SUBRQ1.2: Who are the stakeholders comprising platform governance? (Chapter 4)
  - SUBRQ1.3: How can we reconceptualise platform governance so that it is more inclusive? (Chapters 4, 6)
- RQ2: What is the platform governance status quo within the context of the EU?
  - SUBRQ2.1: What regulatory initiatives were produced by EU regulators in recent years in the EU, by whom, and to what ends? (Chapter 5)
  - SUBRQ2.2: How inclusive and impactful are the European Commission's Public Consultations, and what did EU participants have to say about the proposed content regulations? (Chapter 6)
- RQ3: How have platforms, and the regulation thereof, influenced news media organisations and journalists?
  - SUBRQ3.1: How are news media organisations dependent on platforms and what are the implications? (Chapter 7)

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<sup>7</sup> <https://www.article19.org/resources/open-letter-facebook-withdraw-cess-desist-to-nyu/>.

- SUBRQ3.2: What is the role of news industry stakeholders in platform governance? (Chapters 7 & 8)
- SUBRQ3.3: How did European policymakers and relevant stakeholders attempt to level the playing field between news media organisations and online platforms through regulation? (Chapters 7 & 8)

## 1.2. Dissertation's Outline

### 1.2.1. Introduction and Conclusion

This dissertation consists of three large parts, a general introduction, and a general conclusion. The introduction, as is already evident, works on many levels. It not only introduces the overarching themes and objectives of this thesis, but it also contains the principal methodology followed, which is detailed in Chapter 2. Moreover, the introduction also serves to present the theoretical concepts and methods used in all three parts, which will be further expounded on in the respective parts. In typical fashion, the general conclusion serves as a summary of all parts, containing the most important findings and conclusions, as well as a reflection on the dissertation's limitations and an outlook on future research.

Subsequently, in Chapter 2, I mainly discuss and reflect on the theory of methods used and only briefly touch upon the practical application and implementation in this instance, which is done in the respective chapters. In the last sub-chapter (2.1.2), I introduce the case studies that were developed using the above and which, essentially, constitute the empirical part of my dissertation. The decision to structure the dissertation in three large parts was, primarily, based on two reasons: on the one hand, to facilitate readership, in the sense that a reader can choose to read one specific part of the thesis without having necessarily to read the other parts except for the introduction; on the other hand, to facilitate the convergence of different methods, theories, and empirical findings. It ought to be mentioned, though, that there may be an overlap among the parts, primarily, due to their thematic and theoretical relatedness, but they retain their distinctiveness.

The first part presents a historical overview of the rise of platforms along with the construct of platform governance. It serves as the historical backbone for this thesis and is built upon an extensive literature review of various academic fields. The second part introduces the European status quo as regards platform regulation, especially related to online content, and homes in on how political powerhouses, France and Germany, have shaped platform regulation and how they have affected European-wide regulatory action; this part effectively provides the context to this thesis and introduces a case study which, on the one hand, operationalises a different way of studying platform governance and, on the other hand, provides novel insight into public discourse regarding platform regulation. The third and final part pertains to an issue

that, up until recently, was not studied in relation to platform governance: the relationship between platforms and news media organisations; this is the part containing the most empirical work conducted for this dissertation.

Parts of this dissertation have led to publications in peer-reviewed journals or other scholarly venues, like edited volumes. This was done organically, while I was progressing with my doctoral research, to share my findings with peers and receive feedback that I could then integrate into my dissertation. I decided to first try and publish my work as chapters or articles and then integrate them into my thesis because I found the process to be exceptionally helpful as a means of synthesising my work and thoughts, which can be particularly challenging when writing a doctoral dissertation. This was an enriching process that allowed me to learn the benefits of peer-review, as well as to build a portfolio of publications while pursuing my PhD. In other words, the research for my dissertation was what allowed me to author articles, either alone or in collaboration with colleagues.

### 1.2.2. First Part: The rise of platforms and platform governance

The first part serves as an introduction to the concept of platforms, as well as the politics that enabled the platform model's dominance, and consists of two chapters. The first commences from the concept of the "Californian ideology" (Barbrook & Cameron, 1996) that permeated the early years of the commercialisation of the internet. The second chapter focuses on an extensive critical literature review regarding platform governance, providing helpful definitions for many theoretical concepts that are fundamental to this dissertation, like regulation and governance.

In addition, the first part concludes by providing a critique of the way that we have been studying platform governance, namely by suggesting to both expand our framing of traditional stakeholders, like state actors, private actors, and non-governmental actors, to account for more nuanced and complex structural arrangements, covering overlooked stakeholders like news media or lobbying groups. This aspires to make our approach more political and inclusive by studying not only stakeholders who participate in current deliberations but also by looking at who are excluded.

Specifically, a more useful way of studying platform governance would be to break free from the more rigid traditional categories of stakeholders and reconceptualise the system as a dynamic field where power is constantly contested and negotiated amongst partakers. Seen this way, we can imagine stakeholders clustering with others in unprecedented formulations for specific situations based on mutual interests; these clusters might be limited in time and scope but allow us to understand the power dynamics and political-economic stakes that are at

play at a given time (Papaevangelou, 2021). Certainly, this should not be limited to expanding one's scope regarding governance stakeholders, but challenge researchers to critically reflect on their own work and epistemological biases. This is in line with recent, urgent calls to radicalise our approach to researching platform governance, e.g., by adopting decolonial frameworks or by studying labour movements in platform companies. In any case, this thesis aspires to add another layer of political nuance to studying platform governance.

### 1.2.3. Second Part: European platform governance and content regulation

The second part homes in on a specific facet of platform regulation and governance, namely the governance of online content, which is understood as user-generated information that appears in various forms online and specifically on social media and search engine platforms. Subsequently, content governance is defined in this thesis as the ways in which stakeholders negotiate the rules and norms of what user-generated content can appear on platforms, how it can be moderated and by whom. In other words, this part explores the change in public and political discourse regarding the need for regulation of online platforms because of unprecedented situations that took place online and which had real-life impact, like disinformation campaigns or the live streaming of terrorist attacks.

This part consists of two chapters. The first revolves around how the EU has spearheaded platform regulation in recent years and looks at how France and Germany, two political frontrunners, whose position was further strengthened in the post-Brexit EU, have attempted to establish regulations related to online content deemed illegal or problematic. Specifically, I briefly look at France's attempt to regulate online mis- and disinformation, as well as hate speech through its 2018 law "Loi relative à la lutte contre la manipulation de l'information"<sup>8</sup> and its 2019 "Loi contre les contenus haineux sur Internet"<sup>9</sup> respectively; the latter was largely struck down as unconstitutional by France's Constitutional Council (Untersinger & Piquard, 2020). Additionally, I also make a brief reference to one of the most important pieces of legislation in modern online content governance, that of Germany's "Netzwerkdurchsetzungsgesetz"<sup>10</sup> or "NetzDG," a law passed by the German Bundestag in June 2017, demanding platforms, like Facebook and Twitter, to remove harmful or "fake" content within 24 hours (Bundestag, 2017).

What is more, this second part also examines the latest regulatory interventions passed or proposed by the European Commission, like the DSA, which are likely to act as the new legal standards for social media in the West and beyond, in the same way that the General Data

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<sup>8</sup> Law against the manipulation of information, in English.

<sup>9</sup> Law against hate speech online, in English.

<sup>10</sup> Network Enforcement Act, in English

Protection Regulation became the golden standard for platform companies to handle users' data across the world (Bradford, 2020). So, having an overview of the EU's regulatory landscape allows us to contextualise legal, social, and political developments and, thus, better appreciate the interrelatedness of the various cornerstones of society.

Finally, the second chapter is, effectively, an attempt to operationalise the different epistemological approach to studying platform governance that is outlined in Chapter 4. It aims to contribute to expanding the epistemological scope of platform governance to include citizens' input as stakeholders. Specifically, I present the dissertation's first case study, where I analyse what EU citizens replied to public consultations held by the European Commission regarding three key online content regulatory texts. In so doing, we demonstrate how we can expand our scope of enquiry to include often overlooked stakeholders, like citizens or users, and understand what they have to say and if authorities and other governance stakeholders consider their opinion.

#### 1.2.4. Third Part: Regulating the relationship between platforms and publishers

The third and final part is centred around another facet of platform governance, that of the relation between news media organisations and online platforms. This is an undertheorised space, especially in relation to platform governance, that surfaces how power is negotiated in modern processes to shape how our digital public spheres are governed and by whom. Moreover, as news media organisations have developed a strong asymmetrical dependency on dominant platform companies, asymmetrical power relations have also been developed, with the former often found at a disadvantageous position to negotiate fairer treatment (Nielsen & Ganter, 2022; Schiffrin, 2014, 2021).

Specifically, two phenomena underpin this dynamic of dependency: the phenomenon of platformisation of cultural production (Bullich & Schmitt, 2019; Poell et al., 2022a), that is how the production and distribution of news has become increasingly "dependent on the tools, advertising revenue, and data and *governance standards* of GAFAM platforms" (Nieborg & Poell, 2018, p. 4278), as well as the phenomenon of infrastructuralisation of platforms, that is how digital platforms have essentially become infrastructures for many of our socioeconomic exchanges. As a result, many governments around the globe, especially in the developed world, have been passing legislation aiming to remedy that asymmetry. Consequently, this part provides novel empirical insights on how the increasing demand for, and the possibility of regulation has impacted the relationship between news media and platforms.

More precisely, four case studies are presented in this part. Case Study #2 discusses the concept of funding intermediaries, which are stakeholders that facilitate or assist major

platforms' funding for journalism activities; the case study draws on data gathered by Google (Google News Initiative or GNI) and Facebook (Facebook Journalism Project or FJP) that cover a period of three years of funding projects across the globe. Case Study #3 presents the aftermath of the adoption of a new framework for copyright by the EU and, particularly, how it gave way to a round of long negotiations between French publishers and dominant technological platforms; the case study draws on data from a document analysis of relevant policy texts, as well as from semi-structured interviews.

Case Study #4 sheds light on a little-known story that broke in Greece in early 2021 regarding a barrage of opaque content moderation decisions by Facebook, which affected more than a dozen of Greek reporters and journalists covering a controversial political topic; this case study draws on data collected from news reports and Facebook, while also serving as empirical evidence for the next case study and the complex issue of moderating editorial content on social media platforms. Specifically, the fifth and final case study tackles the negotiations concerning a privileged treatment of news content by social media's content moderation systems, which took place during the drafting process of the DSA, among lobbyists of the European news industry, regulators, governments, civil society organisations and, of course, platforms.

Therefore, these two case studies address a part of the relationship between platforms and news media organisations, that of content governance and editorial autonomy. They do so from two perspectives: one that concerns the practical difficulties and the risks concerning editorial autonomy that journalists may face due their dependency on platforms, and another that concerns how this situation - along with lobbying - has given rise to novel regulatory interventions to address these issues.

## 2. Methodology

### 2.1. Mixed-Methods and Case Studies

Before presenting the types of analyses followed in this dissertation, it is crucial to discuss and reflect on the two larger methodological underpinning decisions: the case studies and the mixed-methods approach. As mentioned earlier, this thesis consists of three large parts, with each containing chapters that touch upon specific aspects of what we would broadly call the political economy of platforms' governance and regulation. The gamut of topics raised in these chapters varies significantly, thus requiring a flexible and holistic approach to do it justice. Moreover, the diversity of data, both ontologically and epistemologically, also makes it impossible to approach the issue in a siloed, unidimensional way. The research design was,



thus, from the very beginning crafted in such fashion that could accommodate all these variables.

Likewise, the methodology was designed to allow for a certain elasticity in answering the overarching research questions, as well as in zooming in on certain topics in a more nuanced way. So, I believe that my methodological design accounts for both a distant and a close reading of the objects enquired in this dissertation. This is akin to what John Creswell and Vicki Piano Clark call a “pragmatist worldview,” which “enables researchers to adopt a pluralistic stance of gathering all types of data to best answer the research questions” (2017, p. 93) and, as such, the design of research questions “guide methodological choices and decisions” (Charmaz et al., 2018, p. 752).

Additionally, this dissertation follows a multi-layered structure, which will be expounded on in the last section of this introduction in detail, combining multiple case studies to offer a holistic understanding of the equally multi-faceted object of enquiry, that is the governance of platforms. Consequently, a mixed-methods approach was preferred as the optimal way to proceed. This refers to the collection, enquiry and analysis of qualitative and quantitative data through a combination of different methodological approaches “for the broad purpose of breadth and depth of understanding and corroboration” (Johnson et al., 2007, p. 123).

The principal methodology of this research project is situated within the domain of qualitative research - albeit in a way that sometimes may resemble quantitative methods due to the use of computationally assisted qualitative analysis software, like IRaMuTeQ (Ratinaud, 2009) which will be explained in the next section. Qualitative methods are widely preferred by researchers who are studying institutional processes of a given field and, largely, the political-economic implications of a regulatory development. More specifically, case studies are often best suited to delve into a particular story and examine it through a close reading, paying respect to its nuances and its unique socio-political context (Denzin & Lincoln, 2018, p. 557). In addition, as a “case study [is] useful in a mixed or multimethod research design because it makes possible a micro versus macro perspective” (Schwandt & Gates, 2018, p. 603). Hence, by structuring this dissertation on case studies, the overarching object of enquiry on many levels is probed.

What is more, as Denzin and Lincoln argue, for a case study to be coherent, especially one from which we can draw larger and generalizable conclusions, it ought to rely on “interviewing, observing, and document analysis” (Denzin & Lincoln, 2018, p. 59). Consequently, each case study in this dissertation is built by combining various theoretical concepts, by taking into consideration the different institutional settings and historical

developments that enabled it, and by combining varying methods. As a result, the empirical part of this thesis is structured around case studies, with each one of them requiring unique planning. For example, a chapter discussing citizens' participation in European platform governance uses a different dataset and methodological approach from another chapter; therefore, there will be an explanation of the methodology used in each chapter's introduction. We hope that this combination of methods serves as a way of triangulating our data and our methodology itself (Flick, 2018, p. 779).

The notion of triangulation is of utmost importance when engaging with either mixed-methods and case studies, which are often developed together, as it is well suited to “develop an enhanced description and analysis of a case or multiple cases through the use of both quantitative and qualitative data” (Creswell and Clark, 2017, p. 182). Denzin was the first to define triangulation as “the combination of methodologies in the study of the same phenomenon” (Denzin, 2017, p. 219; Johnson et al., 2007, p. 114). Johnson et al.'s systematic literature review to define mixed methods is an illuminating piece, where they present mixed methods as an enabler of a spectrum of possibilities between quantitative and qualitative methods (2007). They infer that “mixed methods research is an intellectual and practical synthesis based on qualitative and quantitative research [and that] it is the third methodological or research paradigm (along with qualitative and quantitative research)” (2007, p. 129).

However, Flick suggests that triangulation and mixed methods should be considered as “distinct approaches with different agendas” (2018, p. 791) as far as “mixed methods research is limited to combining qualitative and quantitative research, [while] triangulation is much more focused and concentrating on combining various qualitative approaches where the issue under study makes it necessary” (ibid). In other words, Flick frames triangulation in a way that integrates the use of mixed methods, instead of the opposite. Having said that, I approach the concept of triangulation as an integral part of mixed methods, one that is both the goal of a mixed methods research project and the way to enquire any given case. As Flick argues “methodology links the issue, theory, and methods of a study” (2018, p. 792). Therefore, I reckon that a mixed methods approach, especially one that “relies on a qualitative [...] view of the research process, while concurrently [recognising] that the addition of quantitative data and approaches are likely to benefit most research projects” (Johnson et al., 2007, p. 124) greatly suits my dissertation, which intertwines so many different theoretical and empirical parts.

Furthermore, while, in most cases, it is more typical for a researcher to have thought of their case studies well before undertaking the research (Schwandt & Gates, 2018), this did not consistently apply for my research project. Specifically, some cases studies were designed

with that principle in mind (e.g., Case Study #4), but some were developed in tandem with the advancement of my research's progress and the collection of data. For instance, Case Study #3 was developed in the context of regulatory developments in the EU, which had to be considered and informed my understanding of the situation as well as the questions I asked to interviewees. As a result, this was an iterative process, which resonates with the spirit of drafting a dissertation's research design.

Subsequently, we understand that defining what constitutes a case study can be a delicate issue, but this is not necessarily a problem. As Ragin has noted, “no definitive answer to the question ‘what is a case?’ can or should be given, especially not at the outset, because it depends [and thus] the question should be asked again and again” (2009, p. 6). Additionally, Schwandt and Gates posit that, “case study methodology is the examination of [suppositions and principles] as they relate to case-based enquiry” (2018, p. 600), while “the research techniques that can be employed in service of the study of cases know no intellectual boundaries” (ibid).

In other words, the process of defining what a case study is, as well as what one researcher's case study is – practically – is an iterative one, which is in line with how this project's case studies were developed, following Schwandt and Gates' argument about how “the researcher, guided by an initially broad research question, explores the data and only after some time formulates more precise research questions, keeping an open eye to unexpected aspects of the process” (2018, p. 603).

One principal argument of Ragin was “that cases can be understood as empirical units or theoretical constructs and treated as either specific or general (Schwandt and Gates, 2018, p. 601; Ragin, 2009, pp. 8-9). Specifically, he contends that, in a rather constructivist way, cases are generally either empirical units or theoretical constructs, with the former essentially being ‘out there’ and the latter effectively being constructed by the researcher along their progress (Ragin, 2009, pp. 9-11). More recent works have pushed forward a more critical understanding to account for the increasingly complex situations and “fuzzy realities” that researchers deal with, in which “things are both real and constructed” (Byrne & Callaghan, 2013, p. 155). My understanding aligns closer to the second framing of defining case studies because it accounts for the more increasingly complex phenomena that we are called to engage with.

Consequently, I agree with the idea that “the case study is not a research method” per se, as it “is not a tool for gathering or [analysing] data” (Micova, 2019, p. 71). Instead, a case study is a methodological “research- [and evidence-] based, inclusive of different methods” approach that allows researchers to conduct an “in-depth exploration “from multiple perspectives of the complexity and uniqueness of a particular project, policy [...]” (Micova,

2019, p. 73; Schwandt & Gates, 2018, p. 602). Yin offered a twofold definition of case studies: on the one hand, it is a method for in-depth investigation of contemporary events or phenomena within their real-world contexts, “especially when the boundaries between phenomenon and context may not be clearly evident” (Yin, 2018, p. 45). By extension, case studies are a way of demarcating our object of enquiry in such a way that enables us to critically tackle it with interdisciplinarity, from various angles, using mixed methods, and which are particularly well suited to investigate complex social systems and phenomena.

As a result, following the argument of Micova (2019), the case study approach is also quite relevant to the study of policy research (2019, p. 71), which is significantly important for this dissertation. As mentioned earlier, it is not uncommon – quite the opposite – for a case study to be developed in parallel with the research’s progress (Swanborn, 2010, p. 20). So, as Micova writes, “in media policy research [we] are often confronted with fast developing changes in the media and communications environments that need to be understood and explained” (2019, p. 72). For instance, this research study commenced in 2019, when the DSA had not yet been proposed by the European Commission. However, given the legislation’s importance, it had to be implemented in this dissertation’s scope. Therefore, the initial research design had to be adjusted to accommodate this development. This further reinforces the argument that case studies are the optimal methodological approach to studying policy.

At the same time, we ought to be candid about the limitations that an approach using mixed methods and case studies might have. As Swanborn notes, “[if] cases are drawn from the same context, nothing can be said about the role of that context, because it doesn't vary” (2010, p. 77). My dissertation’s case studies, primarily, draw from the European landscape and, as such, not only does this contain certain Eurocentric biases (Bradford & Posner, 2011), but it also makes it harder and riskier to infer universalising conclusions. What is more, Swanborn continues, adding more cases “from a homogenous subset” might not often provide new elements to our knowledge (2010, pp. 77-78).

However, “a case study can be theoretically driven,” while “the case or cases [...] can be chosen as instances of a phenomenon, which once better understood can be explained by theory or lead to theory building” (Micova, 2019, p. 72). Therefore, as Micova suggests, it might be better and more valuable to consider case studies as starting points for theory-building rather than, say, instances of applicable universal truths.

Additionally, the case studies presented here touch upon distinct layers of platform governance, even if in the restricted area of the EU, which allows us to deeply understand underexplored phenomena. Put simply, this limitation stems from a conscious methodological decision to focus on a specific ensemble of case studies, which shed light on various aspects

of, what could be called, EU's platform governance and which, certainly, hold biases that prevent us from applying Eurocentric conclusions on a global scale. Additionally, the design of case study research projects is significantly contingent on the researcher's own biases and priorities; after all, it is they who delineate the field of enquiry. Yet, complemented with a mixed methods approach, this alleviates the epistemic risk of skewing data to draw specific conclusions (Johnson et al., 2007)

In the following pages, I will present the methods used in this research project, as well as the limitations thereof. In cases where a more detailed elaboration is required, I will do so in specific sections of the thesis. More specifically, three types of analyses were followed in this dissertation: (i) semi-structured in-depth interviews; (ii) (computationally assisted) critical discourse analysis; and (iii) document analysis. It is important to note, though, that the interviews conducted as part of this study are a methodological constant for all case studies and the produced data underpin all parts of this thesis. As a result, I will elaborate further on the methodological remarks and the interviews in this part, which serves as a introduction for the dissertation, while briefly touch upon the other two types, which will be expounded on in the respective parts of this manuscript.

Finally, it must be emphasised that there might be a methodological overlap in some case studies, meaning that I have used more than one method to develop and analyse one case study. For example, document analysis might be the core method for Case Study #2, but I also conducted similar analysis for Case Studies #3, #4 and, to a certain extent, #5. Hence my decision to structure the dissertation in such fashion and discuss, though briefly, the main methodological choices in the introduction. In so doing, I believe that the reader can get a good grasp of the methods used and then read a specific case study to understand in greater detail the specificities thereof.

### 2.1.1. Semi-structured interviews

Qualitative research demands from the researcher to approach each matter with respect, openness and via the inevitable interaction, with individuals and/or groups, to form a particular perspective of truth and knowledge (Babbie, 2016). Qualitative interviews are one of the most important and common methodological approaches one can take to explore social phenomena (Brinkmann, 2018). Indeed, Brinkmann argues that “humankind is a kind of enacted conversation” (2018, p. 1028). Elsewhere, Seidman has stated that “every word that people use in telling their stories is a microcosm of their consciousness” (Seidman, 2006, p. 7). Thus, interviewing is a fundamental mode of inquiry, “giving access to knowledge that is socially constructed, relational and contextual” (van Selm & Helberger, 2019, p. 162)

Semi-structured interviews were deemed as the most appropriate type to proceed with my research, as “the researcher has a specific topic to learn about, prepares a limited number of questions in advance, and plans to ask follow-up questions” (Rubin & Rubin, 2012, p. 31). What is more, semi-structured interviews “make better use of the knowledge-producing potentials of dialogues by allowing much more leeway for following up on whatever angles are deemed important by the interviewee, and the interviewer has a greater chance of becoming visible as a knowledge-producing participant in the process itself, rather than hiding behind a preset interview guide” (Brinkmann, 2018). As such, they allow for significant iteration and, thus, for the co-production of knowledge by empowering interviewees to answer in their own pace and preference (Rubin & Rubin, 2012; Yin, 2017).

In addition to the iterative and open character of semi-structured interviews, another element was crucial for my dissertation: expertise. In particular, expert interviews have become one of the most standard methodological approaches to interviewing individuals who are framed as experts by their peers or the researcher within their social and working environments (Meuser & Nagel, 2009). The decision to designate an individual as an expert is not an arbitrary one but rather must adhere to a set of standards or priorities set forth by the researcher. As Flick has written, “expert knowledge does not only consist of systematized and reflexively accessible specialist knowledge, but it has the character of practical knowledge in big parts” (Flick, 2014, p. 401). In other words, they also allow us to have a good glimpse of how things operate in specific circumstances and environments that would otherwise be unattainable, like an organisation or a company.

As Meuser & Nagel put it: “in scientific research an individual is addressed as an expert because the researcher assumes – for whatever reason – that she or he has knowledge, which she or he may not necessarily possess alone, but which is not accessible to anybody in the field of action under study” (2009, p. 18). For that reason, experts tend to hold specific functions within an organisation, which makes them ideal candidates for gathering in-depth information on very technical matters, like the field of policy (Flick, 2014; Meuser & Nagel, 2009; Van Audehove & Donders, 2019). Additionally, when interviewing experts, a comprehensive interview guide has to be developed to assist the researcher infer expert knowledge (Bogner et al., 2009). This is succeeded by understanding the level of expertise of interlocutors, by preparing to be able to competently follow the interviewee’s responses, as well as adjusting the questions during the interview according to the respondents’ experiences (Meuser & Nagel, 2009; Seidman, 2006).

For my dissertation, I crafted an interview guide to accommodate broader themes concerning platform regulation and governance, the relationship between platforms and other

stakeholders (e.g., news media organisations, publishers, civil society organisations), and, more broadly, the European regulatory status quo. There was a principal interview guide, with more generic questions, which were adjusted according to the role and expertise of my interlocutor (Table 4). Every qualitative researcher has struggled with the issue of how many interview participants are adequate, and the author did as well. Relevant scholarship has identified that there are, broadly, two criteria for describing how many interviews suffice: sufficiency and information saturation (Seidman, 2006, p. 55).

On the one hand, sufficiency refers to whether the sample chosen can depict and reflecting a specific situation to others so that “others outside the sample might have a chance to the experiences of those in it” (Seidman, 2006, p. 55). On the other, information saturation refers to the repetition of information received by participants (Morse, 2018, p. 1392) without learning anything new (Seidman, 2006, p. 55). Additionally, information saturation refers to that point where the researcher starts receiving the same information from respondents and, thus, is not getting any radically new insights (Morse, 2018, p. 1392).

The data inferred from my interviews, supplemented by other types of analyses, have allowed me to address this project’s research questions. However, one of the limitations has been the challenge of conducting research while the discussions for some regulatory frameworks, like the DSA, were happening in real time, which posed the risk of making my data obsolete quite fast. To mitigate such risks, follow-up interviews were conducted, while the scope of documents’ collection and analysis was expanded.

Additionally, as van Selm and Helberger have claimed, “interviews can be a useful means for an in-depth exploration of the actors, context and dynamics of a situation that is subject to policy research and advice” (2019, p. 163). They continue by arguing how beneficial interviews can be for policy research on a conceptual level to “get an overview of the different arguments, values and concerns at stake, how to balance and evaluate them, learn about the different motivations as well as perspectives on a particular subject matter” (van Selm & Helberger, 2019, p. 164).

This does not differ from how van den Bulck frames “stakeholder analysis” (Van den Bulck, 2019), which invites us to explore the “who and the how of policymaking” (ibid, p. 451; emphasis theirs). In fact, experts and stakeholders, in the context of interviews, have a lot of similarities but the latter connotes a much more direct connection to what is being investigated, that is they have a stake or interest in the object of enquiry. For my dissertation, I interviewed both experts (e.g., academic advisors to the European Commission) and stakeholders (e.g., Twitter’s Policy Manager).

Subsequently, some of the major limitations that exist with expert interviews, as summarised by Flick, are: they require significant time to prepare as they demand a high level of expertise from the interviewer; oftentimes, participants might raise issues of confidentiality and refuse to answer questions on record or respond reservedly; it can be quite hard to secure interviews with such people, as they are often quite busy and might not prioritise social research (Flick, 2014, pp. 299-300).

For my research project, finding interviewees from major online platforms turned out to be difficult, as they largely ignored several invitations. I tried to mitigate the negative impact thereof by analysing documents and communication material produced by platforms. Another aspect that has to be taken into account, especially regarding expert interviews, is the participants' bias to either promote their and their organisations' work, or to attack positions or products of other competing stakeholders. This has been difficult to navigate around but the triangulation offered by my mixed methods approach has diminished the risk of uncritically presenting only one side of a case.

Furthermore, elaborating on the need to reimagine and reconceptualise the way in which we have been studying issues related to platform governance, particularly the identity of stakeholders participating in governance deliberations, a different operational model was followed. Specifically, we devised a research design involving representatives of stakeholder groups that go beyond the traditional categories of state, private, and non-governmental stakeholders found in typical governance models like the "governance triangle" (Abbott & Snidal, 2009; Gorwa, 2019a). As Puppis and van den Bulck argue, "this includes identifying stakeholders with a vested interest in the outcome of a particular policy, [analysing] various views and positions on the policy topic and how they relate to wider paradigmatic beliefs, mapping relevant fora where key discussions are being held and understanding the formal and informal steps in negotiations toward a policy decision" (Puppis & Van den Bulck, 2019, p. 10). This is elaborated in Chapter 3.

At any rate, these were the criteria that participants had to meet to qualify as a potential interviewee:

- Expertise in platform regulation
- Expertise in EU policymaking procedures
- Intimate knowledge of European politics
- Participation in organisations that deliberate with other stakeholder groups
- Availability and willingness to participate in the study
- Ensure gender and background diversity

And these were the stakeholder categories interviewed:



- Public authorities
- News media associations
- Experts/think tanks
- Online platforms (policy managers)
- Civil society organisations

I conducted four to five interviews with each stakeholder group except for citizens. Instead of choosing surveys as a way of obtaining citizens' input, I decided to analyse citizens' contributions to online public consultations held by the European Commission regarding texts that have been essential for recent content regulation; I will expound on these in the first case study presented in Chapter 6. At any rate, 21 semi-structured interviews of approximately 45 minutes from the first five stakeholder groups (Table 3) were conducted; the profiles of my interviewees can be found in the sub-chapter 2.1.2.1.

This project's number of participants was found to be adequate to tackle the research questions set out to explore, partly thanks to their, generally, high-level of expertise and detailed knowledge. Indeed, this is in line with what scholars have contended about how experts can function as "crystallisation points" for "practical insider knowledge and can be interviewed as representatives for a wider circle of stakeholders" (Van Audenhove & Donders, 2019; van Selm & Helberger, 2019, p. 62).

All interviews were conducted between January and November 2021, when many countries had still strict measures in place to prevent Covid-19 from spreading. They were conducted using the videoconferencing software Zoom. This was practically unavoidable due to the constraints brought about by the pandemic and the familiarity of all participants with the software. Interview data were stored offline in a hard drive and backed up in a cloud service. Thankfully, people were familiar with videoconferencing, precisely because of the need to continue working and socialising during periods of lockdowns or severe social distancing measures. Additionally, this solution also helped participants to feel safer compared to exposing themselves to risk by conducting an in-person interview (Brinkmann, 2018, p. 1000).

By and large, relevant scholarship distinguishes two types of internet interviewing: synchronous and asynchronous (Gubrium et al., 2012). In my case, all interviews were synchronous thanks to the technological advancement and people's affinity with videoconferencing tools. It ought to be mentioned too, that all participants had their cameras turned on of their own volition during our discussions. This helped a great deal in establishing a more personal relationship and emulate, to the extent of possible, the experience of a face-to-face discussion.

### 2.1.2. Thematic Analysis of Interviews

In qualitative research, data collection and analysis are often intertwined because the research is heavily reliant on interpretation (Cassell & Symon, 1994). Braun and Clarke define thematic analysis as “a method for identifying, analysing and reporting patterns (themes) within data” (2006, p. 79). It is a way of organising a dataset “in (rich) detail” (ibid) and enables the interpretation of various aspects of the research topic (Boyatzis, 1998; V. Braun & Clarke, 2006, p. 79). As such, thematic analysis is an integral method in the process of conducting qualitative research, especially related to interviews. In fact, thematic analysis was not considered to be a method “in its own right” (V. Braun & Clarke, 2006, p. 78) because, initially, there was an “absence of clear and concise guidelines” concerning its application (Antaki et al., 2003).

Nowadays, thematic analysis is widely recognised as a solid methodological approach through which researchers can analyse a varied gamut of data. For example, Herzog *et al.*, claim that thematic analysis is “one of the most straightforward ways of deducing patterns of meaning from qualitative data” (2019, p. 385), including data coming from media and creative industries policies (2019, p. 386). Nevertheless, Braun and Clarke’s seminal paper (2006) was among the first attempts to reconcile the initial discredit shown to thematic analysis by presenting a systematic and rigorous way to conduct it. Specifically, they broke the process down into six phases (2006, p. 87):

1. Phase 1 is the initial step to “[familiarise] yourself with your data” by listening and transcribing the raw data
2. Phase 2 is concerned with “generating initial codes,” which may or may not be final
3. Phase 3 is where the researcher is “searching for themes” by reading the “collated data extracts” (Herzog et al., 2019, p. 378)
4. Phase 4 consists of “reviewing themes” to ensure that the initial themes that arose during the previous step are relevant to the research questions and codes
5. Phase 5 is about “defining and naming themes,” which ties to the question of how themes “fit into the ‘overall story’ the researcher wants to tell about the data?” (Herzog et al., 2019, p. 379)
6. Phase 6 is the final step, where the researcher “[produces the report,” containing the themes, sub-themes, codes, and sub-codes, alongside “data extracts [such] as interview quotes which best represent a particular theme that emerged from the analysis” (Herzog et al., 2019, p. 380).

Certainly, the “analysis is not a linear process of simply moving from one phase to the next” [instead] it is a “recursive process, where movement is back and forth as needed, throughout the phases” (Braun and Clarke, 2006, p. 86). From the above guide, we can infer that, as Herzog *et al.* have written, the process of thematic analysis consists of three components: “(a) codes, (b) themes in qualitative verbal expressions, and (c) patterns of recurrence, evaluation or associations within these themes” (2019, p. 369); that last part, essentially, refers to the interpretation of the identified themes according to the research questions. Braun and Clarke have illustrated this in quite figurative fashion: “If your analysis is a brick-built house with a tile roof, your themes are the walls and roof and your codes are the individual bricks and tiles” (V. Braun & Clarke, 2012, p. 61). Let us look closer each of those components.

Coding is an important part of the data analysis process in qualitative research, and it involves carefully reviewing the transcript of an interview and identifying key words, phrases, and ideas that are relevant to the research question. Rädiker and Kuckartz have defined codes as “labels that assign symbolic meaning to the descriptive or inferential information compiled during a study. Codes usually are attached to data ‘chunks’ of varying size and can take the form of a straightforward, descriptive label or a more evocative and complex one” (2020, p. 14). Coding allows researchers to organize and categorize their data in a systematic way, and to identify common themes and patterns that may not be immediately obvious.

Moreover, Braun and Clarke have discerned two ways of coding: inductive and thematic (2006, pp. 83-84). The former refers to the process of “coding the data without trying to fit it into a pre-existing coding frame, or the researcher’s analytic preconceptions” (Braun and Clarke, 2006, p. 83), while the latter relies on the researcher’s “theoretical or analytic interest in the area and is thus more explicitly analyst driven” (Braun and Clarke, 2006, p. 84). As a result, a researcher might code a dataset based on the content itself, which would be more descriptive and closer to the inductive approach, or on a relevant theory or concept, which would be more interpretive and closer to the theoretical approach (Herzog *et al.*, 2019, p. 377).

The process of inferring themes from a dataset is an equally delicate process. DeSantis and Ugarizza define a theme as “an abstract entity that brings meaning and identity to a recurrent experience and its variant manifestations” (2000, p. 362). Thus, they argue that “a theme captures and unifies the nature or basis of the experience into a meaningful whole” (DeSantis & Ugarriza, 2000, p. 362). It is common, as Braun and Clarke contend, for researchers to claim that ‘themes emerge’ from their dataset (2006, p.80). However, as they assert, this frames the process of analysis as a rather passive one, whereas it is an active and subjective action undertaken by the researcher (*ibid*). Hence, themes are “actively crafted” (V.

Braun & Clarke, 2013, p. 740), reflecting the “interpretative choices” and biases of the researcher (Herzog et al., 2019, p. 378).

As in the process of coding, Braun and Clarke discern two approaches to developing themes: semantic and latent (2006, p. 84). According to the former, “the themes are identified within the explicit or surface meanings of the data, and the analyst is not looking for anything beyond what a participant has said or what has been written” (Braun and Clarke, 2006, p. 84). Thus, this is more descriptive and closer to the inductive coding process. Conversely, the latter concerns the “development of the themes [through] interpretative work, and the analysis that is produced is not just description, but is already theorized” (Braun and Clarke, 2006, p. 84).

For this dissertation, all interviews were transcribed and coded with the assistance of MAXQDA (VERBI Software, 2019). Those that were conducted in French or Greek were first transcribed and translated into English and then coded. Subsequently, I started to develop the first themes with the research questions in mind. However, this ended up following a quite rigid, “positivist” approach (Jackson & Mazzei, 2018, p. 1241), where I was getting to a place of merely framing my participants responses to fit my research questions. As a result, I went a step back, reviewed the coded segments and started developing my themes from scratch. This time I was connecting the themes to broader theoretical frameworks and phenomena.

Firstly, I followed a thematic approach to generate, mainly, evocative codes as I was concerned in addressing specific research questions and issues based on my own research and theoretical interests (e.g., a concept or a term used by one participant would invoke an already theorized concept, which would be a code). However, there were times that I opted for a more descriptive coding process, where one word or phrase would comprise a code. Subsequently, I adopted a latent (i.e., more interpretative and theoretical) approach to develop themes by bundling codes together that were addressing either directly or indirectly the same topic. Thematic analysis’s flexibility allows us to adjust the process in accordance with our project’s specificities. In this case, I reviewed many times the themes to ensure their codes coherence and that they were optimally organised to help me tackle the research questions. My codebook can be found in Table 5 of Appendix A.

#### 2.1.2.1. Profile of Interviewees

##### **Public Authorities**

- **dr. Alexander Schäfer** is the head of the division that is responsible for the German Network Enforcement Act (NetzDG), which is part of the Federal Ministry of Justice and Consumer Protection (interview #8). He has been the head of the division since NetzDG came into force in 2018. As a result, dr. Schäfer was very well positioned to

speak to issues related to how Germany developed and enforced one of the first regulatory frameworks for online platforms regarding the treatment of illegal online content. Therefore, through this interview, I was able to gather inside knowledge concerning the NetzDG's trajectory, as well as the position of Germany vis-à-vis EU COM's effort to harmonise the European (content) regulatory landscape with DSA.

- **Michèle Léridon** was a global news director of the Agence France-Presse (AFP), who worked there for more than 30 years, and a member of the Conseil Supérieur de l'Audiovisuel<sup>11</sup> (CSA) since 2019, as part of the “pluralism, ethics and supervision of platforms” working group (interview #9). This interview permitted me to learn more about how France has been approaching the regulation of online platforms, as Ms. Léridon was very well positioned to speak to how the CSA was enforcing regulatory frameworks, as well as to the relationship between online platforms and journalists. What is more, France was the second country within the EU, following Germany's example, to pass regulation concerning online platforms, namely the “Loi relative à la lutte contre la manipulation de l'information”<sup>12</sup> in 2018 and the, now defunct, “Loi contre les contenus haineux sur Internet”<sup>13</sup> in 2019. It ought to be mentioned, that alongside Ms. Léridon, during our interview there was another person, working as her legal advisor, who oversaw our conversation and advised my interviewee what and what she could not say regarding CSA's activities. Unfortunately, Ms. Léridon passed shortly after our interview in May of 2021 (France 24, 2021).
- **Camilla Bustani** (interview #10) is Director, international at Ofcom, the United Kingdom's (UK) telecommunications regulator, including online platforms in light of the UK's “Online Safety Bill” (Ofcom, 2020). The rationale behind my decision to interview Ms. Bustani was the fact that I wanted to touch upon the aftermath of Brexit and its influence on EU regulatory processes in my dissertation. Ofcom, as attested by other interviewees like Ms. Machet (interview #2), had a strong involvement in the development of regulation pre-Brexit. As such, Ms. Bustani was able to provide me with details of previous EU regulatory frameworks, as well as recent efforts undertaken in the UK. Therefore, in conjunction with other methods, e.g., the analysis of public consultations (case study #1), I was also able to infer interesting results concerning the Brexit's impact on EU platform governance.
- **European Commission Staffer:** for reasons of confidentiality, my interviewee asked not to be named in my dissertation. They are a member of the Directorate-General for

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<sup>11</sup> Superior Audiovisual Council, in English.

<sup>12</sup> Law against the manipulation of information, in English.

<sup>13</sup> Law against hate speech online, in English.

Communications Networks, Content and Technology (DG CONNECT) of the EUCOM, which develops and carries out EUCOM's policies. The interviewee works in a team that is "in charge of digital services and platforms and, in particular, the policy and regulatory frameworks around online platforms" (interview #11). With this interview, I was able to delve into the lesser-known aspects of the EUCOM's procedures, specifically concerning the DSA, and understand the EUCOM's overarching goals.

- **Patrick Breyer** has been a German Member of the European Parliament (MEP) with the European parliamentary group Greens/European Free Alliance since 2019 (interview #5). Before that, Mr. Breyer was a member of the northern most regional parliament in Germany with the Pirate Party (interview #5). What is more, he has "[been] active in the civil liberties movements for years, especially regarding the protection of privacy; filed numerous court Complaints [regarding] surveillance legislation; [and] in the EP, [he is] focusing on the protection of fundamental rights in the digital era, specifically the right to privacy and the right to freedom of expression" (interview #5). Therefore, he has significant experience in both national and European policymaking, especially in a country that has been at the forefront of regulating online platforms. Moreover, the fact that he has been an MEP during the development of DSA and DMA, made him an ideal candidate for understanding in-depth the processes that underpinned the whole story.

### **Industry associations**

- **Wout van Wijk** and **Aurore Raoux** are part of News Media Europe (NME), a "trade association representing the progressive news media sector in Europe" representing "around 2,500 news brands throughout the [EU]" (interview #13; Wout van Wijk). Mr. van Wijk is NME's executive director and Ms. Raoux is NME's policy manager on EU affairs. I conducted this interview with both interviewees simultaneously, following their request. This interview focused mostly on the relationship between online platforms and news media organisations, as well as on how EU has attempted to regulate it, namely through interventions like the 2019 Copyright Directive or the DSA. Moreover, I wished to understand what lobbyists of the European news industry were advocating for and how they may influence the regulatory agenda. Last, it must be noted that I conducted a follow-up interview only with Ms. Raoux, which is going to be treated as a separate interview to avoid confusion.
- As mentioned above, I conducted a second interview with Ms. **Aurore Raoux** to, specifically, discuss the debate that was untangling regarding a proposal to include a

provision for a “non-interference principle” in the DSA (interview #14), that would, essentially, establish a privileged relationship between news organisations and online platforms vis-à-vis editorial content, i.e., content stemming from the former. This interview allowed me to gather important data for my third case study and understand what the industry was trying to achieve with this proposal and, thus, delineate a comprehensive overview of how the whole debate unfolded.

- **Renate Schroeder** is the director of the European Federation of Journalists (EFJ), which is the largest journalist association in Europe, representing “over 300,000 journalists in 73 journalists’ organisations in 45 countries” aimed to “promote the interests of journalists, their unions and their associations” (interview #19). As a result, Ms. Schroeder’s expertise was crucial to delve into the details of the relationship between online platforms and news media organisations, as well as the regulation thereof. Moreover, similar to interview #12, I also asked specific question connected to the debate revolving around the proposed “non-interference principle.”
- **Thomas Bergmann and Jenny Weinand** are both senior EU policy advisors for the European Broadcasting Union (EBU), which is “the world’s leading association of public service media like television, radio and but also online services” (interview #21; Thomas Bergmann). Like interview #13, this interview was conducted with two persons simultaneously. According to my interviewees, they are “monitoring everything that is happening in Brussels, Parliament, the Council, and the Commission, and we’re informing our members about the different processes that are ongoing, like regulatory procedures, [trying] to do advocacy work towards policymakers and trying to influence the discussions and political negotiations in a certain way (ibid). Therefore, I wished to conduct this interview to deepen my understanding about the role that news media organisations, especially Public Service Media (PSM), play in policymaking. In addition, as EBU was also involved in the negotiation around the “non-interference principle,” I was also able to ask them specific questions about that.
- **Pierre Petillault** is the “director general of the *Alliance Presse d’Information Générale* <sup>14</sup> [(APIG)], which is the representative organisation of the general information press in France, a professional organisation which brings together about 300 titles of the national daily press, the regional daily press and the regional weekly press” (interview #18). APIG was among the three organisations, alongside AFP and *Syndicat des éditeurs de la presse magazine*<sup>15</sup> (SEPM), that filed complaints with the

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<sup>14</sup> Alliance of the General Information Press, in English

<sup>15</sup> Union of magazine publishers, in English.

*Autorité de la Concurrence* (ADLC) against Google regarding the remuneration for the indexing of their content. Crucially, APIG was the first association to strike a deal with Google and, subsequently, Facebook. As a result, my goal was to find out more details regarding the process of the negotiations and the details of the agreements, which are presented in Case Study #2. Finally, it must be mentioned that I conducted another interview with Mr. Petillault in light of new developments, namely their agreement with Facebook, the DSA proposal and the negotiation about the “non-interference principle.”

### **Experts/Think Tanks**

- **Samuel Stolton** was working for the news website Euractiv<sup>16</sup>, which specialises in policy-related issues that take place in the EU. I chose to interview Mr. Stolton because of his role as a digital editor focusing on topics “related to digital affairs from Brussels in the EU policy field, [ranging] from platform regulation to artificial intelligence, to cyber security, to 5G, to data protection and all the related fields” (interview #1). Moreover, Mr. Stolton was active on Twitter and was the responsible for the “Digital Brief” newsletter, which offered weekly updates on crucial EU policy issues. Last, the fact that he was based in Brussels made him a suitable interviewee to advise me on issues of lobbying.
- **Laura Kayali** was another journalist I decided to speak to because of her expertise and inside knowledge. At the time of our interview, Ms. Kayali was working for Politico Europe and had been covering EU policy for five years (interview #4). As such, she was well positioned to walk me through the change in perception as regards the regulation of online platforms, which was gradually unfolding approximately since 2015-2016.
- **Emmanuelle Machet** is the head of the European Platform of Regulatory Authorities (EPRA), which is a “a voluntary network of [54] broadcasting regulators from 47 countries [serving] Members from the EU and non-EU countries” (interview #2). EPRA was created more than 25 years ago with the “purpose [to] exchange best practices between audiovisual regulators, [as well as to] exchange experience (interview #2). I wished to interview Ms. Machet because of her long experience engaging with issues related to European regulation and its implementation by national and European authorities. Since EPRA is not limited to the EU, I also had the opportunity to understand the challenges that other jurisdictions also face, as well as the advantages

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<sup>16</sup> He currently works for *Politico Europe* as a competition and tech reporter.



that they gain from participating in EPRA. This was particularly important to get a sense of the impact that Brexit had on both EU and UK's regulators.

- **Lara Natale** is the director for “tech, media, telecom and mobility” at the Centre on Regulation in Europe (CERRE), which is an “independent academic think tank based in Brussels, which looks at advancing top quality regulation practices in the network and infrastructure industries” and which is mostly focused on the EU's regulatory agenda (interview #6). Among the members of CERRE, we see some of the biggest online platforms and universities; Ms. Natale informed me, that the former have to pay a fee for their membership to cover the not-for profit think tank's running costs, while the latter do not (interview #6). Therefore, I wished to interview her to learn more about the role that think tanks play in multistakeholder governance structures and policymaking, as well as to gain expert insight concerning EU's platform regulation.
- **dr. Bernhard Rieder** is an associate professor at the University of Amsterdam in the media studies department and served as a member of an expert group organised by the European Commission (EUCOM) named “The Observatory on the Online Platform Economy”<sup>17</sup> (interview #7). One of the primary reasons that I wanted to conduct this interview was my goal to comprehend the role that academics play in policymaking, as the EUCOM has been trying to integrate their feedback to substantiate evidence-based regulation (Kohler-Koch, 2010). In addition to that, dr. Rieder is a distinguished researcher who has been critically enquiring online platforms' governance on many levels, including their technical infrastructure. As such, this allowed me to gain profound insights both with regard to how the EUCOM frames academic contribution to policymaking and how platforms function.

### **Online Platforms**

- **Owen Bennett**, at the time of our interview<sup>18</sup>, was based in Brussels, working for the “non-profit tech company” Mozilla Foundation as a senior policy manager for EU public policy (interview #3). I wished to talk to Mr. Bennett, primarily, for two reasons: his expertise and the company he was working for. On the one hand, his experience and inside knowledge as a senior public manager for a very large company, which is also part of the largest advocacy group for online platforms in the EU, *DOT Europe*, allowed me to have a perspective that is difficult to attain otherwise. On the other hand, though, Mozilla is quite a different company compared to other, mostly, for-profit platforms. In many cases, Mozilla has undertaken the role of a quasi-watchdog of other technology

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<sup>17</sup> The Observatory has a dedicated website here: <https://platformobservatory.eu>.

<sup>18</sup> He currently works at Ofcom, the United Kingdom's regulator for telecommunications.

firms, investigating issues like privacy or data abuses (Mozilla, 2021). At the same time, Mozilla was one of the first signatories of the EU’s Code of Practice on Disinformation (CoPD) alongside other major platforms. As a result, I also wished to explore the nuanced divergences found among the technology companies through this interview.

- **Anna Mazgal** works for the Wikimedia Foundation, which is a non-profit “organisation or movement that supports the infrastructure for projects such as Wikipedia, Wikimedia Commons [and others],” where she focuses on “policy issues related to relevant legislation at the EU level” (interview #15). Wikimedia Foundation resembles Mozilla Foundation, in the sense that both are non-profit, activist-like platforms that have adopted a quasi-watchdog role to check other major online for-profit companies. Additionally, Wikipedia is one of the most revered examples of how alternative structures, beyond the common surveillance-based business models, could function, including its content governance strategy (Wagner et al., 2021). So, Ms. Mazgal was well positioned to inform me of issues related to EU policy, especially related to copyright and content governance, and provide me with details regarding Wikipedia’s governance.
- **Ronan Costello** has been part of the public policy team in Twitter in the Europe, Middle East, and Africa (EMEA) region for almost seven years (interview #22). Mr. Costello was the only policy manager or representative from a major, for-profit online platform that I was able to interview. This interview was illuminating in the sense that I had the opportunity to learn, among others, how a platform’s policy team works, how they try to advocate for their positions within policymaking circles, and what are the main challenges that they face concerning content moderation.

### **Civil Society Organisations**

- **Julie Owono** is the Executive Director of “Internet Sans Frontières”<sup>19</sup>, which is “an advocacy digital rights organisation, defending human rights online in particularly freedom of expression and privacy, created and based in France” (interview #12) and a member of the Facebook Oversight Board (FOB), which is an advisory council funded by Meta to make “binding decisions on Facebook’s and Instagram’s content moderation decisions” (ibid). She is also a fellow at the University of Stanford on Digital Civil Society (ibid). As a result, this interview benefited my research project on many levels: I was able to learn more about what role does civil society play in platform governance, advance my knowledge regarding online platforms and hazards related to issues of

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<sup>19</sup> Internet without Borders, in English.

fundamental rights, as well as to gain insights regarding the FOB, which has been pushing Meta for more transparency and nuanced approaches to content moderation (Levy, 2022).

- **Aimilia Givropoulou** is a member of the Greek digital rights advocacy group Homo Digitalis and a part-time advisor of the European parliamentary group Greens/European Free Alliance for digital policy (interview #16). I wished to conduct an interview with a member of Homo Digitalis, as it is the sole organisation dealing with such issues in Greece with remarkable success. For instance, they successfully filed a complaint with the Hellenic Data Protection Authority for data abusive practices against Clearview AI, which received a fine of €20 million (Homo Digitalis, 2022). Consequently, Ms. Givropoulou was well positioned to speak not only to issues appertaining the EU regulatory landscape but also the Greek reality, which aided my fifth case study.
- **Alice Stollmeyer** is the Founder & Executive Director of Defend Democracy, an organisation that aims to “defend and strengthen democracy against foreign domestic and technological threats” (interview #17). My primary goal with this interview was to include the perspective of an organisation that was, specifically, dealing with issues related to “disinformation warfare” (Zannettou et al., 2019), i.e., coordinated campaigns of disinformation that aim to spread misleading propaganda like North Macedonian troll farms (Collins & Zadrozny, 2020). What is more, Ms. Stollmeyer is an expert when it comes to EU policy affairs and, particularly, regarding lobbying practices. As such, this interview also benefited my research project to better understand how, primarily, large platform companies attempt to sway EU policymaking through lobbying.
- **Paul Keller** is the director of Open Future, which is an Amsterdam-based organisation “that looks into digital policy from the perspective of the open movement advocating policies around openness, open access to knowledge and culture in the broadest sense, mainly on EU level” (interview #20). Mr. Keller is also President of the Communia Association, which is an “international association [that] advocates for the public domain [from a copyright perspective]” (ibid). I chose to interview Mr. Keller because I wished to explore another facet of platform governance, that of alternative structures and models. So, I was able to learn more about issues related to EU policy but also notions like decentralisation, interoperability, and so on and so forth.

### 2.1.3. Critical Discourse Analysis Meets Digital Methods

In the next sections, I will briefly touch upon the other methods used in this dissertation, albeit in a briefer manner compared to the interviews. This is, primarily, for two reasons: they will

be discussed in more detail in the corresponding case studies and, as mentioned earlier, findings and results drawn from interviews supplement and permeate the whole dissertation.

The concept of critical discourse analysis (CDA) is quite malleable but, in general, it refers to the investigation of written or spoken texts (Peräkylä & Ruusuvuori, 2018). The concept of critical discourse analysis, specifically, goes one step further and takes into consideration the political aspect of the analysed texts to understand how they might “reproduce power and inequalities in society” (Peräkylä & Ruusuvuori, 2018, p. 1167). In other words, it allows us to “investigate how [discursive] practices, events and texts arise out of and are ideologically shaped by relations of power and struggles over power” (Mogashoa, 2014, p. 105). Hence, CDA “is concerned with the examination of power structures, inequalities and dominance” (Herzog et al., 2019, p. 372).

CDA should not be confused with document analysis or other types of close reading (Ali, 2019, p. 403). “Discourse analysis means doing analysis” (Antaki et al., 2003, p. 12) in the sense of conducting “rigorous epistemological and methodological” work (Herzog et al., 2019, p. 403). CDA allows us to enquire into the language used in specific circumstances and explore how power is exercised through it (Herzog et al., 2019, p. 372; McGregor L.T., 2004) by “[highlighting] who gets to speak and who does not speak, and expose structural inequalities and dominance” (Herzog et al., 2019, p. 403). It has become quite a valuable tool in the arsenal of scholars engaging with media policy (Streeter, 2013) as it “[denaturalises] the policymaking, process underscoring the belief that policy, like language itself, is a discursive construction— one containing its own contradictions, compromises and power dynamics” (Herzog et al., 2019, p. 403).

In this dissertation, CDA was preferred to study textual content produced by citizens of different European countries through online surveys put together by the European Commission as part of its Public Consultations (or “Have your say”) process<sup>20</sup>; all data were downloaded from the Commission’s website as a spreadsheet, with all participants’ information anonymised. The analysis was supplemented using IRaMuTeQ, a software that, among others, algorithmically dissects textual corpora into thematic clusters based on the linguistic principles of lexicometry that allows us to explore and compare the discourse employed in different textual corpora; this process is called Descending Hierarchical Classification (DHC) (Chaves et al., 2017; Ratinaud, 2009). In Chapter 6, which contains Case Study #1, this method will be discussed in more detail.

At any rate, computational-assisted CDA should be considered in the frame of the recent “computational turn in the humanities and social sciences” (Rogers, 2019, p. 4), that has

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<sup>20</sup> [https://ec.europa.eu/info/law/better-regulation/have-your-say\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say_en).

given birth to the so-called digital methods. These are defined as “techniques for the study of societal change and cultural condition with online data” (Rogers, 2019, p. 4). By and large, digital methods enable us to enquire web, digital-native data in a medium-native way (Rogers, 2019, p. 10), i.e., using methodological approaches and tools that are specifically tailored to tackle an online phenomenon appearing in a digital-native medium. Thus, digital methods are also a way of researching and archiving the ephemeral nature of online data (Rogers, 2013, 2019), and they are themselves malleable to change depending on the object of enquiry; for instance, one Application Programming Interface (API) might get updated or discontinued and, thus, either requiring a change in the research strategy or blocking its study altogether.

In this research project, I have not employed any digital method in the strict sense of the term, as I mostly worked with data that did not derive from private online platforms as is often the case. Regardless, provided that the relevant data originate from online sources, as well as I systematically treated and analysed them, my methodology does relate to the overarching epistemology of digital methods. For instance, I used IRaMuTeQ<sup>21</sup> to analyse the data gathered from the citizens’ contributions to the Commission’s consultations; even though the data were already in a downloadable and editable format, I had to clean and format them accordingly to input them into the software. Likewise, I ‘scraped’<sup>22</sup> the websites of GNI and MJP by downloading their source code, creating a spreadsheet with data (e.g., links, names of beneficiaries, etc.) and, then, manually cleaning or completing that data; the subsequent analysis of that dataset was done in an interpretive way, facilitated by the use of automated calculations of spreadsheet software; this will be discussed in greater length in Chapter 7.3, where Case Study #2 is presented.

#### 2.1.4. Document Analysis

Document analysis refers to the “systematic procedure for reviewing or evaluating documents” which are to be “examined and interpreted in order to elicit meaning, gain understanding, and develop empirical knowledge” (Bowen, 2009, p. 27). As mentioned earlier, analysing documents is an integral part of the triangulation process to “seek convergence and corroboration through the use of different data sources and methods” (Bowen, 2009, p. 28). So, analysing documents that are relevant to a case study help us to contextualise, supplement and validate or challenge data gathered from other sources or methods (Bowen, 2009, pp. 29-30).

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<sup>21</sup> Conversely, the use of *MAXQDA* as a tool to transcribe and code my interview data does not consist of a digital method, as it serves only to fulfil a facilitating and not an inquisitive role.

<sup>22</sup> The Cambridge Dictionary defines data scraping as: “the activity of taking information from a website or computer screen and putting it into an ordered document on a computer” (‘Data Scraping’, n.d.).

Scott defines a document as “an artefact which has as its central feature an inscribed text” (Scott, 1990, p. 5). Certainly, other forms of artefacts, which include audio-visual content, also constitute a document: “documents include a diverse range of different types of sources, including not only written reports but also letters, diaries, pictures, videos, speeches and so forth” (Karppinen & Moe, 2019, p. 251). In the context of researching policy, documents can also extend to include communication material, agendas and even memos produced by stakeholders (ibid). As such, “policy and industry documents can help us gain an overview of policy issues and debates, the history and context of political and regulatory developments, the emergence of new concepts, policy-making options, as well as different stakeholders and their positions and views” (Karppinen & Moe, 2019, p. 251).

Moreover, Karppinen and Moe describe three steps in conducting (media) policy research (2019, pp. 254-260): (a) research design and the identification of relevant documents, (b) access, collection and sampling, and (c) analysis and impact. In the first step, the researcher starts by identifying the principal research questions to narrow down the scope of enquiry and understand what documents would grant them with the ability to explore a set of policies, along with the power structures that shaped them. In the second step, the researcher starts to make decisions on what documents they will have to study and what to omit; Karppinen and Moe argue that it is often the wiser decision to focus on a specific period or “key political events” (2019, p. 258). The last step refers to the analysis of the selected documents; this can vary from a systematic textual analysis to a general “source of background information” (Karppinen & Moe, 2019, p. 259).

In this thesis, primarily, two types of documents were analysed: legal and communication. The former pertains to legal texts of public authorities, namely the European Commission, as well as from policy documents of either public authorities or platforms. The latter refers to, primarily, platforms’ announcements, blog posts and press releases. The analysis of such documents allowed me to contextualise developments in platform regulation in their legal and historical context, as well as to understand the discourse used by stakeholders through their communication material. As a result, I relied mostly on these documents to provide my analyses with crucial background information and did not conduct a rigorous systematic textual analysis onto them.

## 2.2. The Dissertation’s Case Studies

### 2.2.1. Case Study #1: The participation of citizens in European platform regulation processes

As mentioned earlier, I wished to operationalise my proposed reconceptualisation of studying platform governance, whereby, if we do not start accounting for the ways in which users and

citizens seek to or succeed in influencing governance processes, then we would continue replicating models of governance of increased power asymmetries and exclusion. To this end, using *IRaMuTeQ*, more than 13 thousand contributions of citizens to the Commission’s public consultations on three key regulatory texts were analysed (Papaevangelou, 2023b). All textual corpora and accompanying thematic clusters were analysed both separately and together:

- i) The Code of Practice on Disinformation (2018)<sup>23</sup>
- ii) The Commission’s Recommendation on Measures to Effectively Tackle Illegal Content Online (2018)<sup>24</sup>
- iii) The Commission’s proposal for a Regulation on a Single Market for Digital Services (Digital Services Act) and amending Directive 2000/31/EC (2020)<sup>25</sup>.

The Commission introduced public consultations in 2015 as part of its “Better Regulation Agenda” in a bid to increase citizen participation to its process of policy and law making<sup>26</sup>; this has always been a site of discussion both in circles of policymakers and scholars, who have been trying to take advantage of online technologies to increase political participation of citizens (Deligiaouri & Suiter, 2020). These consultations last for 12 weeks and, in principle, any European citizen who speaks any official European language may contribute; once the public consultation round is concluded, the Commission shares a summary of the findings – primarily from the quantitative part of the survey – along with the contributions. In this case study, we only look at replies made by EU citizens – including UK who was still part of the EU at the time – to open-ended questions, which were significantly overlooked by the Commission.

### 2.2.2. Case Study #2: The rise of funding intermediaries in funding programs of platforms for news media organisations, namely the *Google News Initiative* and the *Meta Journalism Project*<sup>27</sup>

As mentioned earlier, more and more governments around the world are considering or have already passed laws aiming to regulate the relationship between news publishers and online platforms. Specifically, the second and third case studies demonstrate how European regulatory frameworks have attempted, on the one hand, to ensure a form of remuneration for publishers by platforms and, on the other hand, to manage content governance. This last case study not

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<sup>23</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52018DC0236>.

<sup>24</sup> <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32018H0334>.

<sup>25</sup> <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=COM%3A2020%3A825%3AFIN>.

<sup>26</sup> [https://ec.europa.eu/commission/presscorner/detail/en/qanda\\_21\\_1902](https://ec.europa.eu/commission/presscorner/detail/en/qanda_21_1902).

<sup>27</sup> Parts of this case study have been submitted for publication to a peer-reviewed journal; the article is part of a larger project, which is funded by the Centre for Media, Technology and Democracy of the McGill University. At the time of writing, it has not yet been published.

only serves as another contribution to the discussion around the relationship between platforms and publishers, but also exhibits how online platforms have been partnering with key stakeholders, whom we call funding intermediaries, to funnel money into the news industry and, thus, further entangle themselves in networks of power relations (Papaevangelou, 2023c). What is more, these two funding programs, GNI and MJP, could be seen as part of platforms' strategy to fend off regulation or, at least, increase their leverage in negotiations and, thus, become more resilient to change.

For this case study, we built a dataset containing more than seven thousand beneficiaries by scraping web data covering the period between 2017 and early 2022 from communication material found on websites of platforms. Through the analysis of the data, I discerned a pattern whereby platforms, primarily Meta and then Google, collaborated with other stakeholders to carry out their funding activities, who were involved either directly (e.g., handling the attribution of grant money) or indirectly (e.g., providing training activities). These intermediaries were identified as: (i) journalist associations, (ii) educational institutions, (iii) news media organisations, (iv) philanthropic institutions, and (v) non-profit organisations.

### 2.2.3. Case Study #3: Framework agreements between platforms (Google and Facebook) and French publishers concerning “neighbouring rights”

During the past few years, the discussion around remuneration of news publishers from digital platforms, like search engines and social media, has reignited public interest and has been central to many regulatory frameworks around the world. France was the first State-member in the EU<sup>28</sup> to transpose the Directive on Copyright in the Digital Single Market, which *inter alia* included Article 15 regarding the “Protection of press publications concerning online uses” and introduced what has come to be called a “neighbouring” or “ancillary” right<sup>29</sup>. Other European countries, including Germany and Spain, had tried to take similar actions in favour of the news industry in the past, but in lack of a coordinated European front, they had to, ultimately, yield after facing Google’s retaliation.

This right introduced a right to copyright for press publisher, which opened the way for publishers to start being remunerated for the (re)use of their content – including indexing in search engines – by online intermediaries (Danbury, 2021); this right is set to expire two years after the appearance date of a press publication (Art 15(4)). This case study, then, examines the three-year negotiations of French news publishers with Google and Meta, which concluded with the following agreements:

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<sup>28</sup> <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000038821358>.

<sup>29</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32019L0790&from=EN>.



- One five-year deal struck in November 2021 between Google and Agence-France Presse (AFP)<sup>30</sup>
- A three-year deal signed in March 2022 between the *Alliance de la presse d'information générale* (APIG) - the largest union of French daily newspapers - and Google, as well as APIG's deal with Meta in October 2021
- Another three-year deal between the *Syndicat des éditeurs de la presse magazine*<sup>31</sup> (hereinafter SEPM) and Google in March 2022 (Rosemain, 2021).

For our analysis, we looked at the historical trajectory of how these deals were made possible and study them to identify similarities and differences. We built our analysis on data and information gathered by semi-structured interviews with stakeholders who participated in the negotiations and policy experts, as well as by analysing legal documents, like leaks, press releases and rulings of the French competition authority (*Autorité de la Concurrence*; ADLC). Overall, this case study sheds light on the undergoing transformation of the relationship between news organisations and online intermediaries, that organize, curate, distribute and, increasingly, fund news content. All these dimensions are essential to understanding the complex functioning of contemporary digital public spaces and, certainly, of platform governance.

#### 2.2.4. Case Study #4: The Case of a Content Moderation Debacle in Greek-speaking Facebook

Like the second case study, the fourth one also investigates the relationship between platforms and publishers, albeit from a distinct perspective and with a different focus: that of online content governance. Amongst the many debates within the sphere of platform governance, one is particularly telling of the political stakes at play: how should journalistic content found on online intermediaries be governed?

We begin by shedding light on a story that developed in Greece during a period of heated political debates and social unrest in the country caused by the refusal of Greek authorities to grant a legal demand to Dimitris Koufontinas, a detainee serving life sentence for crimes related to domestic terrorism in Greece perpetrated as a member of the “Revolutionary Organisation 17 November,” who then went on a hunger and thirst strike endangering his life.

Specifically, we focus on a dozen of instances of content and account restrictions of journalists and photo-reporters on Facebook, between February and April 2021, who were covering protests and the story's developments. This case study highlights the opaqueness and,

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<sup>30</sup> <https://www.afp.com/sites/default/files/afpcommuniqu/202111/pdf/cpafpgooglefr.pdf>.

<sup>31</sup> Association of magazine press publishers.

often, arbitrariness of social media platforms' content moderation, which might have severe impact on public discourse as it can directly affect how cultural products, like news, are disseminated (Papaevangelou & Smyrnaio, 2022a).

#### 2.2.5. Case Study #5: The bid of European press publishers to add a “non-interference principle” in the DSA regarding moderation of news content on platforms' services

The final case study illuminates the negotiations that took place during the process of developing EU's holistic regulatory framework for content governance, namely the DSA, which, *inter alia*, seeks to ameliorate the way in which platforms conduct content moderation by adding “the possibility to challenge platforms' content moderation decisions and seek redress” and more transparency obligations for Very Large Online Platforms (VLOPs) – including Google, Meta, Microsoft, etc. (EC, 2022). During the negotiations on the DSA, journalist associations lobbied for a “non-interference” provision<sup>32</sup> that would prevent platforms from moderating editorial content that has been published by credible news sources (EPC, 2021).

However, they did not succeed in convincing policymakers into adding that provision in the adopted text (Kontreas, 2022a), though this idea was partially backed by European Parliament's committees for legal affairs (JURI) and culture (CULT) (Bertuzzi, 2021b; EPC, 2021), and various member-States, including France; conversely, Germany, along with platforms and civil society experts were vocally against such a measure due to the risk of creating an exploitable loophole for bad actors (Goujard, 2021). In addition, this part combines interview data and data inferred from an analysis of several legal and communication documents. So, this case study contributes to the understanding of the contention between digital platforms and the news industry concerning online content governance.

In conclusion, the presented case studies provide crucial insights into the complexities of platform governance, highlighting the need to reconceptualise how we are studying its structure and composing power relations. They also reveal how the current configuration of content governance by platforms can affect both end-users and journalists, emphasising the role of citizens (or users) and news media in platform governance. The cases also illustrate the attempts made by public authorities to regulate the relationship between news media and online platforms, as well as the benefits and limitations of such regulations. Finally, the cases demonstrate that platform regulation and governance are contentious areas of political-economic discourse, reflecting the power dynamics and competing interests at play. In light of these findings, this research project aspires to contribute to continuing the discussion, both

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<sup>32</sup> Some have also called it a “media exemption” provision.

within and beyond the boundaries of academia, to imagine an effective, balanced, and inclusive regulatory framework.

# PART I – The Rise of Platforms and Platform Governance

Part I introduces the underpinning politics and ideologies of the internet, starting from its early years in the 1990s and the so-called “techno-optimism” or “techno-utopianism” to the dogmatisation of disruption by North American technological companies, often met in literature as the “Californian ideology” (Barbrook & Cameron, 1996), as well as the neoliberal embrace of a multi-stakeholder system of governance; though the concept of neoliberalism is more theoretically developed in Chapter 4.

This Part is separated in two chapters: the first chapter (Chapter 3) focuses on the concept of platform and explores how it came to dominate our digital public sphere, while the second chapter revolves around the concept of platform governance, providing a critical literature review. More specifically, the first chapter commences from presenting the Californian Ideology, as elaborated by Barbrook and Cameron (1996) to criticise the way in which early tech optimists and proponents of the concept of “the marketplace of ideas” subscribed to the commercialisation of the internet in the 1980s and 1990s with little regard for their innovations’ societal implications.

It continues by discussing how the ‘marketplace of ideas’ was institutionalised in American legal tradition through the First Amendment. The next section focuses on the concept of platform, alongside other relevant notions like platformisation. Finally, it concludes by theorising about the concept of the public sphere and how it can be helpful in theorising about platform governance, which is the second chapter’s central focus.

Subsequently, the next chapter (Chapter 4) focuses on what has come to be called as platform governance, that is the assemblage of sociotechnical and political-economic facets of platform technologies. Based on an extensive critical literature review, we go over useful definitions for many theoretical concepts that are fundamental to this dissertation, like regulation and governance. Additionally, we examine the relationship between the internet and platform governance, concluding that it is crucial not to conflate the two, despite their deep interconnectedness, to avoid replicating a corporate-driven narrative whereby platforms comprise the internet. Finally, the chapter ends with some critical points about the ongoing discussion about reconceptualising how we think about and study platform governance, while emphasising the need to address political-economic notions, like lobbying, capture, and dependence.

### 3. Platforms, Silicon Valley, and the Public Sphere

At the time of writing this chapter, Apple, Microsoft, Alphabet (Google), and Amazon (in that order) hold four out of the top five largest companies by market capitalisation globally; second in that list is Saudi Aramco, Saudi Arabia's national petroleum and natural gas company<sup>33</sup>. Meta Platforms (Facebook) currently sits at the twentieth place, after a swooping 65% loss of its stock value in 2022, chiefly, due to its decision to invest billions of dollars into the creation of Metaverse, Apple's privacy changes for iOS users, and TikTok's popularity explosion, especially amongst younger audiences (Conger & Chen, 2022). So, the dominance of GAFAM still stands (Barwick & Watkins, 2018).

In addition to the above, we also must account for the consequences of the pandemic and the war in Ukraine in the economy, ranging from the energy crisis to the unprecedented levels of inflation. It is also worth noting that most of them did massive hirings early in the pandemic to cope with the increased user demand. So, the aftermath did not only shake up Meta, as most tech companies faced a tempestuous year with their workers paying the price. According to Layoffs.fyi, a website tracking the layoffs of people working in the tech industry, 154,386 employees were laid off in 2022<sup>34</sup>: Meta fired about 11,000, Twitter – following Musk's acquisition – laid off more than 50% of its personnel, while Microsoft just announced that it will lay off 10,000 people (Pitt, 2022; Ziady, 2023).

These aimed at, allegedly, cutting costs. Though, at the same time, Microsoft is discussing a \$10 billion investment in OpenAI, a for-profit company creating AI technologies, like art generator Dall-E and chat generator ChatGPT (Browne, 2023). Thus, it is a deliberate decision to cut costs through layoffs and invest in acquisitions. Through a Marxist perspective, “the will to survive subject capitalists to a growth imperative” (M. J. Gordon, 1987, p. 529):

*“The development of capitalist production makes it constantly necessary to keep increasing the amount of capital laid out in a given industrial undertaking, and competition makes the immanent laws of capitalist production to be felt by each individual capitalist, as external coercive laws. It compels him to keep constantly extending his capital in order to preserve it, but extend it he cannot, except by means of progressive accumulation” (K. Marx, 1906, p. 649)*

While Marx's axiom might be dated, with various schools of political economy having revisited this and many more, as Gordon notes in his paper (M. J. Gordon, 1987), I feel that the

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<sup>33</sup> <https://companiesmarketcap.com>

<sup>34</sup> <https://layoffs.fyi>.

principle has endured, albeit with more conditions like through “predatory interaction with other systems” (ibid, p. 531) or the Keynesian perspective on the role that uncertainty and risk aversion play in capitalists’ growth strategies (ibid, p. 532).

Indeed, this tendency of capital “for concentration and [centralisation]” seeks to “reduce uncertainties of competition, secure growth, maintain profit rates, control and exploit labour, and harness efficiencies of scale and scope” (Bilić et al., 2021, p. 157). In addition, this strategy of incessant growth through a diversification of their portfolio investments – usually in the form of acquisitions - also helps large capitalist companies, like the ones studied in this thesis, to avoid risks, mitigate, to the extent of possible, uncertainties, and maintain or expand their monopolies (Bilić et al., 2021, p. 117; M. J. Gordon, 1987, pp. 533-534).

### 3.1. Californian Ideology and Silicon Values

As made clear in the introduction, this thesis is chiefly interested in studying digital communication platforms, like Google or Meta, and no other platforms that are part of the constellation of so-called ‘disruptors’, like Airbnb or Uber. Certainly, these conglomerates share common values, as they all stem from the same Silicon womb and are embroidered with the same patchwork of contradictory values and ideologies, which Barbrook and Cameron accurately captured in their seminal essay on the “Californian Ideology” (1996). This decision is, first, based on my own expertise and interest in digital media, information and communication studies, as well as on the practical side of narrowing down a research’s scope.

More importantly, though, these platforms have forcefully transgressed the boundaries between private and public, ushering us into a state of permanent hybridity. Instrumental to that was the technological advancements, especially high-speed broadband internet and hardware and software innovations in mobile technologies. These platforms, then, have become infrastructures, i.e., “built networks that facilitate the flow of goods, people, or ideas and allow for their exchange over space” (Larkin, 2013). This chapter tries to address this development by providing a historical, cultural, and political context to these firms’ growth, and by discussing the relevant literature that has engaged in studying these platforms both on an ontological and an epistemological level.

Barbrook and Cameron wrote in their seminal essay about the “Californian Ideology”: a “contradictory mix of technological determinism and libertarian individualism” (1996, p. 49), which “depends on a [wilful] blindness toward [...] racism, poverty, and environmental degradation” (1996, p. 46). They identified “a loose alliance of writers, hackers, capitalists, and artists from the West Coast of the United States” (1996, p. 44) as having succeeded in “[offering] a simple explanation” of the profound changes that were unfolding on many levels with the

advent of digital and online technologies at a time when, following the end of the Cold War and the Wall's fall (Fisher, 2009, p. 12), some were heralding that "history's long march has come to an end as liberalism triumphed around the globe" (Brown, 2001, p. 8).

This heterogeneous group, then, combining the "freewheeling spirit of the hippies and the entrepreneurial zeal of the yuppies" (Barbrook & Cameron, 1996, p. 45) achieved in offering a utopian vision of how society could function by incorporating information technologies in its governance so that "all individuals will be able to express themselves freely within cyberspace" (ibid). A form of technocratic cyber-utopia (Tréguer, 2019) that was presented as a comforting alternative for "a generation that had grown up in a world beset by massive armies and by the threat of nuclear holocaust" (Turner, 2006, p. 5). Suffice to remember the opening of the infamous 1996 manifesto "A Declaration of the Independence of Cyberspace" by internet philosopher John Perry Barlow (Barlow, 2016):

*"Governments of the Industrial World, you weary giants of flesh and steel,  
I come from Cyberspace, the new home of Mind. On behalf of the future, I  
ask you of the past to leave us alone. You are not welcome among us. You  
have no sovereignty where we gather."*

The *laissez-faire* spirit, a sort of predecessor to the 'move fast, break things' motto of 2000s Silicon Valley entrepreneurs, was unequivocally fundamental to the Californian Ideology (Barbrook & Cameron, 1996, p. 52). Interestingly, Barlow's manifesto was written in 1996 World Economic Forum in Davos, on the same day that President Bill Clinton "signed into law the Communications Decency Act, an attempt to ban 'obscene' material on the internet" (York, 2021, p. 21). Barlow had co-founded the Electronic Frontier Foundation (EFF) six years before his manifesto (ibid), one of the oldest and most well-known digital rights organisations to date.

While one could attribute a certain degree of irony to the fact that this manifesto was written in the Meccah of neoliberalism, this should be seen in the broader context of these 'evangelists.' Internet historian Fred Turner (2003) has written extensively about one of the most central figures in Silicon Valley's history, Stewart Brand, who spent most of the 1960s and 1970s preaching about the liberating forces of technology and entrepreneurship (Smyrniotis, 2022). Figures like Barlow or Brand were not only zealots of the Californian Ideology but also handsomely paid consultants for firms, governments, and other stakeholders; Barlow, for instance, was also a member of Vanguard<sup>35</sup>, an elitist think tank headquartered in Santa Monica,

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<sup>35</sup> <https://en.wikipedia.org/wiki/TTI/Vanguard>.

while Brand was a co-founder of the Global Business Network<sup>36</sup>, a consulting firm headquartered in San Francisco.

In any case, we could argue that the ideological drive behind Barlow's declaration that hinted towards an apathy for politics, at least in their earthly, mundane form, shared the same contempt for regulation as neoliberalism. As Turner said of Barlow's declaration and, particularly, the use of the "electronic frontier" as a metaphor: "it has not only eased the anxieties of the information elite, but increased their economic power" (1999, p. 10). This is because, according to Turner, this metaphor "renders the power of infrastructure owners invisible" (ibid) and seeks to blur the old class, racial, and gender clashes that were, allegedly, incompatible with the new cyberspace frontier.

By and large, metaphors are powerful media that help structure the lens through which we see and experience reality (Castells, 1996, p. 328); hence their use is an action with inherent political qualities<sup>37</sup>. The term platform is such a metaphor, as we will see later in this chapter. Another fundamental metaphor for the Californian Ideology has been the 'marketplace of ideas', enhanced by the belief that online technologies would create a sort of "*electronic agora*" (Barbrook & Cameron, 1996, p. 48; emphasis theirs).

This idea, as scholars have noted, was firmly pushed by intellectual 'technophiles' like legal scholar Lawrence Lessig who claimed that "Code is Law" (Badouard, 2020, p. 21; Lessig, 1999), media theorist Marshall McLuhan, or 'father' of cybernetics Nobert Wiener (Tréguer, 2019, pp. 125–126), who "preached the radical message that the power of big business and big government would be imminently overthrown by the intrinsically empowering effects of new technology on individuals" (Barbrook & Cameron, 1996, p. 48).

These ideas, Turner writes, had profound effect on "young Americans [who] encountered a cybernetic vision of the world, one in which material reality could be imagined as an information system" (2006, p. 3). They became involved in "developing new information technologies for the alternative press" and other alternative forms of media, often in the form of "community media [activism]" (Barbrook & Cameron, 1996, p. 48). Though, what could be initially regarded as people reacting to a post-World War grim reality, would later "[synthesise] a vision of technology as a countercultural force" (Turner, 2006, p. 6) that would together "create the Californian Ideology" (Barbrook & Cameron, 1996, p. 49).

As Smyrniaios has written, technology companies born from and with this mentality might boast about their commitment to ideals, like democracy and equality, but in fact are

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<sup>36</sup> [https://en.wikipedia.org/wiki/Global\\_Business\\_Network](https://en.wikipedia.org/wiki/Global_Business_Network).

<sup>37</sup> For a discussion on the use of metaphors and the implications thereof, see: (Lakoff & Johnson, 2003; Σκαρπέλος, 1999, pp. 67–75).



“focusing on societal issues and ignore the social question” (Smyrnaio, 2022, p. 34)<sup>38</sup>. This is closely aligned with the solutionist mindset of Silicon Valley poignantly detailed by Morozov (2013) or, perhaps, an axiom spelled out by Marx in the preface of his 1859 “A Contribution to the Critique of the Political Economy” (1970, p. 13):

*“Therefore, mankind always takes up only such problems as it can solve; since, looking at the matter more closely, we will always find that the problem itself arises only when the material conditions necessary for its solution already exist or are at least in the process of formation.”*

This is not to argue that technologies arise only to address problems that are solvable, which would require a treatise of its own, but rather to stress that, especially in late capitalism, capitalists are profiting from setting the agenda as regards the next thing in need of solving, that is superficially tackling a societal issue, insofar as they are in the process of achieving, or have already achieved, the material means to do so. Hence, these companies “exert a disproportionate influence on political life by massively financing causes that are dear to them and by ‘capturing’ a substantial part of the media and institutions for their interests” (Smyrnaio, 2022, p. 41).

### 3.2. The Marketplace of Ideas Metaphor

At any rate, it is vital to circle back to the ‘marketplace of ideas’ metaphor in order to examine how it imbued not only the products and services that Silicon Valley start-uppers developed but also the legal framework within which they operated – and continue to operate for the most part. Critical scholars of information law studies, like Julie Cohen (2019), Yochai Benkler, or Amy Kapczynski (Kapczynski, 2020)<sup>39</sup>, among others, have provided us with enlightening accounts of how this metaphor, effectively, consists of a “fairy tale” (Benkler, 2022). Specifically, Cohen argues that the marketplace metaphor is a neoliberal and modern “inflection, positing a virtuous alignment between economic and expressive liberty” (2019a, p. 76). It is a powerful metaphor because it, effectively, builds upon and distorts “the familiar conception of the public sphere” (J. E. Cohen, 2019a, p. 94), a concept which will be examined in the following sections.

The ‘marketplace of ideas’ is a hypothetical site “where the laws of supply and demand produce high-quality information” and those participating in this arena, as well as what

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<sup>38</sup> Translated from French by me.

<sup>39</sup> Amy Kapczynski is also one of the leading scholarly figures in the “Law and Political Economy” project (LPE), a vibrant and emerging interdisciplinary community of academics, “working to develop innovative intellectual, pedagogical, and political interventions to advance the study of political economy and law.” Source: <https://lpeproject.org>.

is said within it, should be regulated only based on these laws (J. E. Cohen, 2019a, pp. 94–95). Historically, this was what fuelled “the traditional First Amendment frame” in the US that allowed Internet intermediaries to grow uncontrollably by providing them “broad immunities from regulatory oversight” (Cohen, 2019a, p. 261).

As hinted earlier, in 1996, the Clinton administration introduced the infamous Section 230 of the Communications Decency Act (CDA), that came into force as part of the Telecommunications Act of 1996, protecting intermediaries from being held liable for content hosted on their services. Cohen recounts how “members of Congress endorsed the marketplace metaphor as a principal justification” for Section 230, as it also encouraged intermediaries to “make available to consumers tools for filtering out undesirable content” (2019a, p. 98); this, practically, introduced content moderation as a fundamental piece to maintaining the utopia of a ‘marketplace of ideas.’

Furthermore, Kapczynski contends that this was not always the case as regards US policymaking, evoking as a case in point the Fairness Doctrine (2022). Briefly, the Fairness Doctrine was issued by the US Federal Communications Commission (FCC) in 1949, requiring radio and television broadcasters to present issues of public importance in a “fair and balanced” manner with an obligation for the representation of different viewpoints (Napoli, 2021b, p. 3). While the regulator gave “little guidance” as to how broadcasters should go about fulfilling their obligations, “these caveats gave [them] some autonomy to determine whether particular positions and particular groups were outside the bounds of what constitutes responsible contributions” (Napoli, 2021, pp. 3-34). In other words, it encouraged editorial decision-making, but with sufficient regulatory backstops.

Napoli asserts that “[t]he reason that the Supreme Court considered the Fairness Doctrine constitutional in the broadcasting context, but not in the context of other media, has to do with the fact that broadcasters are licensees of a ‘scarce public resource’” (2021, p. 4). The FCC terminated the Fairness Doctrine in 1987, which had received persistent criticism from officials who supported that the regulation was incompatible with the First Amendment, despite the Supreme Court’s favourable rulings (Napoli, 2021, p. 5). Yet, as Napoli writes, the FCC did not act on grounds of the Fairness Doctrine’s constitutionality but rather because of the growth of number of media available would *de facto* ensure a plurality of viewpoints (Napoli, 2021, p. 5); put differently, the ‘marketplace of ideas’ would make sure that all points are represented.

Arguing in favour of or against the Fairness Doctrine, or similar regulation, is beyond this dissertation’s interests and goals. It is important to note though, as Napoli points out, that technological and political changes make it outdated, especially as it put “uncritical emphasis

on diversity of viewpoints over increasingly pressing concerns such as accuracy, objectivity, and truthfulness” (2021, p. 12). In other words, the social media’s affordances, along with the ways that our political systems and citizens use these platforms, make it impossible for a regulatory framework to consider them as passive conduits. Conversely, what I want to highlight with this brief historical account is that there was a certain shift in how US public authorities, regulators, and institutions thought of freedom of expression. That shift can roughly be traced back to the 1980s, at the rise of neoliberalism – both regarding the way it was applied and the ideological framework it bore.

Kapczynski goes as far as to argue that law was an enabling force for the growth of American tech companies: “the immense power of intermediary platforms like Facebook, Google, and Amazon is also an [artefact] of these shifts [...]: All of this was enabled by law” (2022). While this may lean towards a kind of legal determinism, it does highlight the importance that the US’s legal and regulatory framework played in these companies’ dominance. Certainly, as hinted earlier, this framework would not have been able without the neoliberal ideology that permeated US politics and legislators, especially in the 1980s and 1990s.

In any case, while the Californian Ideology crystallised all the ideological shifts described earlier, as regards the supposedly emancipatory qualities that online technologies had, its dominance – or more correctly, the dominance of its proponents - would not have been equally successful if not for the aforementioned shift in law, which championed a distorted framing of the public sphere in the name of a supposed ‘marketplace of ideas’. In the next sections, we turn our attention to another metaphor, that of platforms, and to the concept of the public sphere.

### 3.3. The Platform Metaphor and the Phenomenon of Platformisation

It is truly perplexing to narrowly define online platforms; are they technology enterprises, communication services, advertising intermediaries, or media companies? In a sense, they can be all those at once, but that would run the risk of emboldening a platform-deterministic narrative of unimaginable corporate power, as well as limit our critical capacity to challenge platform power (Helberger, 2020). A brief literature review will shed light on this almost philosophical question.

First, we must be wary of the platform metaphor itself, which is used to convey the sense of bridging two or more parties, thereby situating an entity as an intermediary, while obfuscating its original purposes (Gillespie, 2010). Initially, platforms were the elevated surface from which politicians would address the public, hence, gradually becoming

interwoven with the idea of a place from which ideas could be voiced (Gillespie, 2010, p. 350). Additionally, as scholars have theorised, and as the definition provided by Gillespie attests, modern platforms have become digital infrastructures, upon which applications can be built and run (Gillespie, 2010; Plantin et al., 2018).

They also afford specific social exchanges to take place on or through them, such as “an opportunity to communicate, interact or sell” (2010, p. 347). Thus, it is important to think about platforms in tandem with their context, their users’ perception, as well as their affordances, procedures, and politics (Bucher & Helmond, 2018; Gillespie, 2010; Plantin & Punathambekar, 2019). Indeed, Gillespie has provided us with an acute critique of the platform metaphor, further contributing to the discussion related to uncritically employing metaphors.

Specifically, Gillespie contends that the “platform as a bridge” metaphor “implies a neutrality” (Gillespie, 2010, p. 349) and went on to deconstruct that “comforting sense” of “technical neutrality and progressive openness” by arguing that “a term like ‘platform’ [...] is drawn from the available cultural vocabulary by stakeholders with specific aims” (ibid: 359-360). He also stressed how this metaphor obscures liability for data and content circulation, as well as their meticulous interference through algorithmic content curation (2010) or vastly obscure content moderation practices (Gillespie, 2018a; Roberts, 2019).

Broadly, the scholarly investigation of platforms has given rise to a rich interdisciplinary literature. Plantin et al. have written about this phenomenon in a literature review, arguing that, due to the platform’s conceptual mutability, it is only reasonable that the approach to defining and studying it would be interdisciplinary (2018). They describe how the concept of platform has been employed by scholars ranging from game design or platform studies (Bogost & Montfort, 2007) to social media studies (Dijck, 2013; Gillespie, 2010; Helmond, 2015). In particular, they note that “programmability, affordances and constraints, connection of heterogeneous actors, and accessibility of data and logic through [A]pplication [P]rogramming [I]nterfaces ([APIs])” are among the key features in studies focusing on platforms (Plantin et al., 2018, p. 294).

Other scholarly accounts have focused on the business aspect of platforms, investigating best competition practices between tech conglomerates, like minimising entry barriers (Nooren et al., 2018). Nieborg and Poell have contended how “bringing into dialogue” three different epistemological stems, namely “business studies, political economy, and software studies” (2018, p. 3) can help us develop a more comprehensive theoretical framework to study “interrelated changes in market structures, platform governance, and infrastructure” (2018, p. 2). Additionally, critical law scholars are also scrutinising platforms, not simply as businesses or legal entities, but also as social constructs that transform the conditions for

socioeconomic exchanges (Cohen, 2017), while expressing worries about problematic content, like hate speech and disinformation (Citron, 2018).

So, how can we define a platform? Let us take a closer look at two definitions. On the one hand, van Dijck *et al.* have defined “[a]n online ‘platform’ [a]s a programmable digital architecture designed to organise interactions between users - not just end users but also corporate entities and public bodies” (2018, p. 4). On the other hand, Poell *et al.* have framed the notion as “data infrastructures that facilitate, aggregate, [monetise], and govern interactions between end-users and content and service providers” (2022a, p. 6).

I consider that there is value in combining both definitions, as the former sheds light on the “programmability” of platform architecture (e.g., think of APIs), while the latter emphasises the political-economic weight of platforms. Thus, this dissertation adopts both definitions to delineate what constitutes a platform as its primary focus is on digital communication platforms with specific characteristics of social networking sites, namely platforms that are important for cultural production and the dissemination of information.

Subsequently, as noted earlier, online private platforms function as infrastructures for our communicational or commercial exchanges. At the heart of the platform model lie network and lock-in effects, which are produced through a “self-reinforcing feedback loop” that results in the “growth of value [...] with increases in the number of users” (Mansell & Steinmueller, 2020, p. 38) and the entrapment of users into proprietary digital environments without the option of interoperability or opting-out (Winseck, 2022a). These effects are made possible due to platforms’ “datafication” processes (Mansell & Steinmueller, 2020, p. 39; Schäfer & Es, van, 2017), which create “data relations” through which data are extracted to generate value (Couldry & Mejias, 2019a, p. 27).

Specifically, following Mansell and Steinmuller’s analysis on what constitutes a platform from a more critical political-economic perspective, we lay out some key characteristics: a) they rely on “network effects,” whereby “the more numerous the users who use a platform, the more valuable the platform becomes for everyone else” (Srnicek, 2017, p. 45) and, thus, simultaneously augmenting the platform’s social value (Mansell & Steinmueller, 2020, p. 38; Parker et al., 2016, p. 34), b) they lock people in their respective ecosystems, creating high costs for users in case they wish to leave or migrate to another service (Dijck, 2013, p. 154), c) rely on algorithmic curation of content, mostly through the use of Artificial Intelligence (AI) and Machine Learning (ML) algorithms, to matchmake and serve multisided markets (Mansell & Steinmueller, 2020, pp. 23–25), d) do not require a subscription or a fee for their use, but instead generate revenue primarily by indirectly monetising users’ data

through advertising<sup>40</sup> (Mansell & Steinmueller, 2020, pp. 37–38), and e) engage in self-governing practices, which might be elicited by formal regulation, like content moderation (Gillespie, 2018a).

As such, digital platforms act as digital intermediaries in multisided markets that have, in recent years, transformed into infrastructures for many industries and, indeed, for our socioeconomic exchanges (Mansell & Steinmueller, 2020; Plantin & Punathambekar, 2019). This phenomenon is often referred to as “platformisation”: “the penetration of online infrastructures, economic processes, and governmental frameworks of online platforms in different societal sectors and spheres of life.” Platformisation has been at the heart of many critical studies of online platforms in the last decade, especially since the publication of Helmond’s seminal article.

Bratton, a political philosopher, has given us an account of global technological systems that depicts online platforms and platformisation: “a standards-based technical-economic system that simultaneously distributes interfaces through their remote coordination and centralises their integrated control through that same coordination” (Bratton, 2015, p. 42). Interestingly, Bratton’s take on the definition echoes the concept of platformisation as theorised by Helmond, that is “the extension of social media platforms into the rest of the web and their drive to make external web data ‘platform ready’” (2015, p. 1).

Helmond’s enquiry focused on platforms’ tools and services that allowed them to gather data from various online sources by creating access points, like Facebook’s Like button. Her contribution cannot be stressed enough because it enabled us to scrutinise platforms’ affordances (Bucher & Helmond, 2018) and divulge complex mechanisms that allow socioeconomic exchanges to take place (van Dijck et al., 2018). However, it has not been enough to address political-economical questions on its own. Later work showed an interest to research “platform power and their effects” (Helmond et al., 2017) with novel ways, noting though that “further research should contextualise the politics of stakeholder relations” (2017, p. 5). Thus, platformisation goes further than the mediating aspect of infomediaries (Siapera, 2013) by emphasizing their “pervasive” and, in some cases, “intrusive” qualities that penetrate the relationships they establish or enable.

This is where the political-economic framework of infomediaion comes in handy, allowing us to delve into said relations to emerge issues of “maldistribution of power” (Smyrnaiois & Rebillard, 2019) and emphasise “the mediation between information and consumption” (Siapera, 2013, p. 11). Smyrnaiois and Rebillard’s (2019) interpretation of

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<sup>40</sup> It must be noted that, in recent years, this is slightly starting to change, as more and more platforms are introducing paying services with different tiers (e.g., Twitter’s verification program, YouTube premium, or access to APIs). Additionally, this does not include subscription-based services like Netflix or Amazon Prime.

platformisation, inspired by critical media studies, is presented as complementary to the concept of infomediation. By combining both conceptual frameworks, we can holistically scrutinise platforms as infomediaries that hold and exert asymmetrical power over other platform governance stakeholders, like producers of cultural “commodities and ideas” (Smyrnaiois & Rebillard, 2019).

### 3.4. The Conceptual Framework of Data Colonialism

In addition to the above, the concept of “data colonialism” (Couldry & Mejias, 2019b) is also a critical lens through which we can tackle platform power. Couldry and Mejias highlight the interconnectedness of colonialism, “dataism” (van Dijck et al., 2018), and capitalism. They argue that the quantified world in which we now live is a product of the continuation and expansion of both colonialism and capitalism: not a new frontier, but the inevitable expansion of an existing one.

Moreover, they situate data and labour dynamics in a much broader historical context of capitalism’s mutations, rather than examining the current status quo of data exploitation. As such, it is made evident quite early on that the authors desire to draw a line from the existing literature, which has criticised such issues from a liberalist point of view pointing to ‘rogue’ versions of capitalism (Zuboff, 2019). In essence, the authors do not frame a handful of Silicon Valley entrepreneurs as rogue capitalists who devised an unprecedented network of mass surveillance or data exploitation. Instead, they structure their critique around the modern political economy of capitalism, along with colonialist tendencies, which permitted the creation of such infrastructures.

By extension, they do not invoke colonialism simply as a metaphor but rather as a way of associating the extractivist rationale and practices of historical colonialism to those of data colonialism, claiming that our relationship with data today is one of “data colonialism”: “the appropriation of human life so that data can be continuously extracted from it for profit” (2019b, p. xiii). Just as historical colonialism appropriated land, bodies, and resources to extract value, data colonialism is appropriating human life through quantification (ibid). And just as historical colonialism rationalised its violence through the lenses of ‘civilising’ the world, the ‘superiority’ of the colonisers over the colonised, and the need to make use of ‘natural’ resources, data colonialism rationalising its constant accumulation of data by framing it as ‘connection’, ‘personalisation’ and ‘democratisation’ (Couldry & Mejias, 2019b, pp. 96–97).

The authors point to the emergence of the ‘social quantification sector’ as a key driver of data colonialism. While, as they posit, the collection of social data dates to the nineteenth century, the ‘big five’ technology companies – GAFAM – have taken the quantification of the

social to new levels. They collect data about us continuously and opaquely to understand and predict our behaviour, primarily, as consumers. A key takeaway point from Couldry's and Mejia's concept is the colonialist naturalisation of resources, whereby natural resources are treated as things that are "just there" to be exploited. In similar fashion, data colonialism treats social relations as resources that can be extracted and utilised to optimise algorithms to maximise profits, hence transforming them into "data relations" (Couldry & Mejias, 2019b, p. 88). Notably, it is usual for dominant platforms to "conceive of themselves" as "nation-states" (Couldry & Mejias, 2019b, pp. 26–27), legitimising a rhetoric that implies political ambitions. Consider, for example, how Facebook's Oversight Board was initially framed as the company's "Supreme Court" (Griffin, 2021).

Indeed, as Stern has written, the "company-state [is] a corporate with immense powers to regulate not just trade but also law, land, and liberty, in short, to regulate life" (2011, p. 39). It also worth mentioning that Couldry and Mejias allude to "state legislation" as "the best hope" in taming the capitalist appetite of big tech platforms (2019b, pp. 180–181). This certainly holds some truth, as several recent examples demonstrate, including this dissertation's Case Study #3. Yet, as critical scholars, we must also be reserved about regulation's impact because, as historical colonialism have evidenced, state power is not an emancipatory force, and neither is stakeholder capitalism (Flew & Martin, 2022, pp. 293–294).

### 3.5. The Public Sphere and Social Media Platforms

In this section, we will explore the concept of the public sphere in order to demonstrate, on the one hand, how little it has to do with its neoliberal interpretation examined earlier and, on the other, how it might benefit our enquiry into platform governance. The term "public sphere" is nowadays mostly used as a theoretical model to study democratic legitimation while breaking-free from the "conventional institutional understanding of how politics occur" (Eley, 2002, p. 230). While I do not wish to provide an extensive literature review of works that have studied the concept of the public sphere, I do believe it is useful to acknowledge some foundational works and critiques.

Habermas, in his seminal book "The Structural Transformation of the Public Sphere (1989), that was initially published in 1962, discussed how the public sphere, which was initially conceived as a space of "private persons" of a certain privileged stratum to deliberate about their common affairs and issues of the public interest; hence, "an [institutionalised] arena of discursive interaction" (Fraser, 1990, pp. 57, 59). This stratum consisted of a "bourgeois public," that is "the educated classes" which "occupied a central position within the 'public'"



(Habermas, 1989, pp. 22-24) and which “[mediated] between ‘society’ and the state by holding the state accountable to ‘society’ via ‘publicity’” or the “public opinion” (Fraser, 1990, p. 58).

Fraser notes that this sphere was “conceptually distinct from the state” and “the official-economy,” as it was “a theatre for debating and deliberating rather than for buying and selling” (1990, p. 57). As Habermas writes:

*“The bourgeois public sphere may be conceived above all as the sphere of private people come together as a public; they soon claimed the public sphere regulated from above against the public authorities themselves, to engage them in a debate over the general rules governing relations in the basically [privatised] but publicly relevant sphere of commodity exchange and social [labour]”* (1989, p. 48)

Thus, the public sphere is understood as “a category of bourgeois society” “not just because its members are mostly bourgeois but also because the [reorganisation] of society around the institutions of public criticism was one of how bourgeois society came into being, conscious of itself as ‘society’” (Warner, 2014). Hence, one of the major benefits of Habermas’ conceptualisation of the public sphere was a historically and analytically rich examination of the distinction between the private and the public (Seeliger & Villa Braslavsky, 2022; Warner, 2014), which, despite its own limitations and controversies, “[showed] that bourgeois society has always been structured by a set of ideals that were contradicted by its own organisation and compromised by its own ideology” (Seeliger and Villa Braslavsky, 2022, p. 69).

Nowadays, the private does not “just refer to the household but to private enterprise and industry, market values, and an array of capitalist powers that undermine public goods and public obligations” (Seeliger and Villa Braslavsky, 2022, p. 69). Yet, it was the private sphere that enabled the creation of these normative ideals that constructed the bourgeois public sphere according to Habermas.

Moreover, this public sphere, which engaged in rational-critical discourse about matters of general interest, underwent a fundamental transformation in European societies in the late 19<sup>th</sup> and 20<sup>th</sup> century (Warner, 2014). This was mainly attributed to the political, social and cultural developments that growth of the modern state, along with its bureaucratic and administrative “dynamics of regulation and exclusion” to govern society (Seeliger & Villa Braslavsky, 2022, p. 69), and the advent of mass media, which helped establish a “pseudo-public sphere” (Habermas, 1989, p. 162), far from the ideals of the initial public sphere.

As succinctly put by Boeder, the “work describes the evolution from opinion to public opinion and the socio–structural transformation of the latter” (2005, p. 2). Here, the “public opinion” takes on a negative connotation because of the commercialisation of those who were

able to wield it. Fundamental to this transformation was the participation of “practitioners of public relations” (ibid), including the mass media, in the public sphere, who sought to “manufacture” or “engineer consent” (Bernays, 1947; Herman & Chomsky, 2002). This caused the transformation of the public sphere into “a platform for advertising” (Habermas, 1989, p. 181), which “was met halfway by the [commercialisation] of the press” (1989, p. 189) and the broader dominance of consumerism (Boeder, 2005; Rheingold, 1994; Smythe, 1977).

Habermas laments this development, arguing that this development did not serve the public sphere’s original purpose, which was to rationally deliberate in favour of the general interest, but to form opinions to pursue competitive capitalist interests (Boeder, 2005, p. 3). Boeder notes that “[c]entral in Habermas’ thinking is the notion that the quality of society depends on our capacity to communicate, to debate and discuss” (2005, p. 3) and that “just institutions can lead to a fairer society based on cooperation rather than competition” (ibid). Importantly, Habermas identifies a connection between the proliferation of publicists and advertisers in the public sphere and the increasing “oligopolistic restriction of the market” (1989, p. 190), which characterises the “competitive capitalism” (1989, p. 79) which has been dominant in Western societies, roughly, since the half of the 20<sup>th</sup> century. In that sense, Habermas stresses the important underlying material and political-economic aspect of the public sphere (Fuchs, 2014, p. 57).

Habermas’ work has received numerous critiques, with some of the major points concentrating on the idealisation of the liberal public sphere and his negligence of other “competing publics” consisting of communities that were excluded from the public sphere, like women and “men of [racialised] ethnicities of all classes” (Fraser, 1990, p. 63). Even Habermas himself, following critique (Eley, 2002; Flyvbjerg, 1998; Fraser et al., 1995), acknowledged that he had neglected the existence of multiple competing public spheres in his early work (Habermas, 1992).

Fraser, though, argues in favour of not dismissing the concept of public sphere because she argues that “it is indispensable to critical theory” (1990, p. 57). In other words, she identifies its conceptual value partly because, as Eley put it, “it provides a way of [conceptualising] an expanded notion of the political. It forces us to look for politics in other social places” (2002, p. 231). Eley has also provided a feminist critique of the patriarchally structured public sphere, whereby the public spaces, where deliberation took place, as manifestations of masculinity compared to the private spaces, like households, which are considered as manifestations of a patriarchal femininity (Eley, 1994).

Furthermore, some critics have argued that Habermas' concept of rational-critical discourse is overly optimistic and does not consider the ways in which power and inequality

can influence the public discourse. For example, Mouffe arguing in favour of a “radical and plural democracy,” postulated that the rational-critical discourse is too idealistic and does not consider the ways in which power and inequality shape public discourse.

*“[T]he belief that a final resolution of conflicts is eventually possible, even if envisaged as an asymptotic approach to the regulative ideal of a free and unconstrained communication, as in Habermas, far from providing the necessary horizon of the democratic project, is something that puts it at risk” (Mouffe, 1993, p. 8).*

The technological advancements, especially the internet’s consolidation and the rise of social media, have had equally transforming consequences. Scholars, including Habermas, argue that these have brought upon a new structural transformation of the public sphere (Habermas, 2022; Seeliger & Sevigani, 2022). This relates to the existence of multiple public spheres, as this new networked society (Castells, 2009), presented us the illusion of a common public sphere in high-fidelity. As Butler said, “the internet does, to a certain degree, produce a common field of representation, it does so unequally” (Seeliger & Villa Braslavsky, 2022, p. 69).

As was presented earlier in this chapter, the wave of technological innovation, especially online services, and infrastructures, further fuelled an optimistic and, in cases, deterministic viewpoint that considered the internet as a liberating force. As Benkler wrote in 2006, the internet provided the opportunity to citizens to become “potential [speakers], as opposed to simply [listeners] and [voters]” and [...] “creators” (2006, p. 213). In that sense, he continues, “the internet [democratises]” (2006, p. 272). Similarly, Jenkins, albeit with a focus on popular culture, talked about how the internet introduced a new era of participatory culture, wherein media convergence created new opportunities for media companies to “spread” their content across many platforms, beyond traditional media like radio or television (2006).

Benkler, essentially, describes what came to be known as “Web 2.0”: a qualitative and quantitative transformation (2006, p. 213) of the traditional one-to-many model to that of many-to-many, which allowed for the creation and distribution of User-Generated Content (UGC) to the open web. According to Smyrniaios, this shift was not enabled simply by technological advancements but also due to the ineffectiveness of the early online advertising model, which was totally revamped following the 2000 dot-com bubble (2018, p. 118). Continuing, Smyrniaios also describes how the “Web 2.0” keyword was, effectively, a rebrand pushed by prominent marketer Tim O’ Reilly to grow interest in new platform services that would exploit UGC and users’ data to create better advertising conditions (2018, p. 118).

The “Web 2.0” shift, then, created the conditions for then-nascent platforms to rise and thrive in “a [globalised] and deregulated economy that [favoured] the extreme concentration of resources” (Smyrnaio, 2018, p. 4). These conditions persist to this day:

*“The present form of the internet owes nothing to its supposedly intrinsic technical characteristics of being participatory and democratic but rather results from the complex relationships between actors whose economic and political interests are both powerful and antagonistic”* (Smyrnaio, 2018, p. 4)

Indeed, as Mansell notes, there is “[t]he myth that the digital platform companies have been virtually unregulated or self-regulated” but, in fact, “[they] are subject to a considerable number of legislative conditions – with regard to commerce, data protection and more” (2019, p. 43). Thus, she continues, “the issue [...] is not whether the digital platforms should be regulated, it is how institutional arrangements can be altered to better reflect societal norms and values so that new conditions shape the platforms’ priorities and business practices” (Mansell, 2019, p. 44).

Furthermore, the advent of novel digital and online technologies brought about a structural transformation in the public sphere, where citizens could now participate in an, ostensibly, more direct and unmediated way. However, as astutely observed quite early by Papacharissi, this transformation was being sabotaged by “information access inequalities and new media literacy” (2002, p. 9). Importantly, Papacharissi was reluctant to conflate this novel online “public space” with the public sphere, which, as she noted, facilitates “greater, but not necessarily diverse, participation in a political discussion” and is further compromised by “dependence on special interests and a capitalist mode of production [and...] the quickly expanding commodification of internet-related resources” (2002, p. 22).

Additionally, recent scholarly contributions to the literature about the public sphere have argued that global commercial online technologies may constitute a new structural transformation regarding the way in which our public spheres are shaped (Seeliger & Sevignani, 2022) or in appropriating citizens’ participation in socio-political exchanges for profit (Staab & Thiel, 2022). In particular, Habermas’s opinion is that private social media platforms endanger the homogeneity and harmony of the public sphere through the creation of social silos, like filter bubbles or echo chambers (2022).

For contextual reasons, filter bubbles are defined as unique spaces created by social media platforms’ personalisation algorithms, presenting us content that we are more likely to engage with based on our data profiles (Pariser, 2014), while echo chambers are defined as “enclosed media [spaces] that [have] the potential to both magnify the messages delivered

within it and insulate them from rebuttal” (Jamieson & Cappella, 2010, p. 76). However, empirical evidence has recently suggested that we should be hesitant to adopting these concepts, as “echo chambers are smaller than commonly assumed, and a growing amount of research [is] rejecting the filter bubble hypothesis” (Arguedas et al., 2022, p. 30).

Certainly, this does not mean that social media affordances are not factored in the consequences of platforms to the public sphere. Platforms, as we will also empirically see in this dissertation, create and sustain power imbalances, inequalities in terms of access in news and information, govern in an unaccountable and compound way, are responsible for widespread online harassment and disinformation campaigns, and so on and so forth. Therefore, following Seeliger and Sevignani, in order to better conceive the new structural transformation of the public sphere elicited by social media, we have to focus on (platform) “governance structures” (2022, p. 13) in tandem with the overarching socio-cultural context.

Furthermore, the multi-stakeholder governance regime, under which the internet and social networking sites thrived, does not represent the multiple interconnected public spheres, and has been adopted as a framework by dominant stakeholders to perpetuate existent power relations, that is, to preserve the status quo that exists outside the constructed barriers of the digital world (Carr, 2015). This resonates with what Schmidt has named “discursive institutionalism,” in which exchanges between actors can promote institutional changes but also strengthen existing realities (2008). So, the political economy of digital platforms’ regulation is, by extension, an agonistic arena, in which stakeholders deliberate to secure a better position in the edifice of platform governance, which plays a dramatic role in formulating public sphere and, consequently, public discourse.

In addition, as this thesis aims to also contribute to the re-imagination of platform governance, it follows Carr’s criticism to the ‘monopoly’ of polycentricity and the lack of critical theorisation: “[the] more we understand about the opportunities and weaknesses of governance models for the internet (or anything else) the better equipped we are to effectively refine and amend those practices, functions and roles that comprise it” (Carr, 2015, p. 643). This type of critique is also in line with what other scholars have said of the Habermasian interpretation of the public sphere (Papacharissi, 2002) regarding the idealised exchange of rational arguments that, inevitably, will lead to a logical consensus (Habermas, 1989, p. 19). Yet, this has the risk of ignoring power relations (Flyvbjerg, 1998, p. 213), as well as the stark asymmetries among stakeholders (Gourgues et al., 2013, p. 20), while contradicting the “very essence of politics [...] in the networked public sphere” (Salikov, 2018, p. 94).

Concluding, we ought to acknowledge that not all actors in the current public sphere have the same leverage and that, more often than not, these multi-stakeholder regimes reinforce

and privilege existing power relations rather than truly decentralise power and ensure democratic participation (Carr, 2015). Therefore, we must also not forget the socio-technical affordances of each platform and, subsequently, how public spheres are constructed and negotiated, especially, in corporate-governed and profit-driven online spaces.

## 4. Platform Governance

### 4.1. The Challenge of Studying Platform Governance

A burgeoning volume of scholarly work has embraced the notion of *platform governance* as a way of conceptualising, on the one hand, the broader categories of stakeholders who participate in decision-making processes within the platform ecosystem, and on the other hand, the norms, mechanisms and – formal or informal – rules that dictate how platforms govern and are governed (Flew, Martin, and Suzor 2019; Gillespie 2018). In other words, platform governance refers to the assemblage of sociotechnical and political-economic facets of platform technologies (Mansell & Steinmueller, 2020).

This has further expanded the interdisciplinary boundaries of literature that relate to regulation and governance and has effectively consolidated the concept. The underlying common ground of these works is online platforms and, specifically, social media platforms (Bucher & Helmond, 2018; Gillespie, 2010). In this chapter, I attempt to theoretically frame the discussion with works stemming from the broader field of regulation and governance (Braithwaite, 2008; Kjaer & Vetterlein, 2018; Levi-Faur, 2011), media studies (Flew et al., 2021; Napoli, 2015; Puppis, 2010), internet governance (DeNardis, 2010; Hofmann et al., 2017) and research studying content moderation or regulation of social media platforms (Douek, 2019; Flew et al., 2019; Gorwa, 2019a). Therefore, this chapter serves as a critical exploration of relevant literature, aiming to underpin this dissertation's overarching theoretical framework.

The works reviewed in this chapter constitute an extensive representation of relevant literature and their selection was done through a quasi-snowball sampling, as I started discovering the selected works while reviewing pivotal publications connected with the topics of platform governance, as well as prior works that have studied regulation and governance.

This is an important field, not only because it expands our research horizons, but also because it aims to inform stakeholders found at every position within the governance spectrum. It is, thus, a timely effort to properly situate the discussion revolving around platform governance and to also contribute to the field's reconceptualisation and reimagination in a way that encompasses more critical and political viewpoints; we will touch upon this near the end of this part.

In addition, another point, that emerged from the literature review, is that conflating the internet with large social media platforms, which is often done by scholars who engage with the study of platform governance, may hinder our imagination of alternative models for how the internet could function (Papaevangelou, 2021). Therefore, it is crucial to discern the two to study platform governance as a distinct – yet intertwined – field from that of the broader internet governance structure and, thus, contribute to a much-needed reimagination of the way that regulatory frameworks are developed within current governance structures.

## 4.2. Towards a Definition of Regulation and Governance

### 4.2.1. Regulation

It would be useful, at this point, to clarify how governance and regulation are understood in this dissertation. First, regulation is defined as a governance mechanism, involving the intentional – direct or indirect – intervention in the activities of a stakeholder, with the intention to change a stakeholder’s *modus operandi*, which, in turn, may have unpredictable – yet measurable - consequences to the governance regime (Black, 2008; Koop & Lodge, 2015; Levi-Faur, 2011). By extension, governance is defined here as a complex networked structure that accommodates different stakeholders, who are connected to and coordinated through various types of regulations, norms, and practices (Heritier, 2002; Offe, 2009; Stoker, 1998).

What is more, governance is framed here as a bifold concept: *governance as structure* and *governance as power*. The former allows us to examine an ecosystem from a structural standpoint and, thus, map its stakeholders, whereas the latter elucidates governance’s analytical elements, which allow us to enquire an ecosystem’s power relations through their (in)formal arrangements, products (e.g., regulations) and processes of deliberations (Mattli & Woods, 2009). As can be inferred, there is an innate connection between regulation and governance, in the sense that governance offers the structure in which political-economic relations formulate, primarily, through regulation.

What is more, another element that quickly becomes visibly important is power. Michel Foucault theorised about power as a possibility, a concept that “can only exist when it is put in action” (Foucault, 1982, p. 788) and proposed that power relations are a fitting way for analysing institutions as they “structure the field of other possible actions” (ibid, p. 791). In addition, Manuel Castells has postulated that “power is the relational capacity to impose an actor’s will over another actor’s will on the basis of the structural capacity of domination embedded in the institutions of society” (Castells, 2011, p. 775). As a result, by enquiring power relations and their “[agonistic]” nature (Foucault, 1982, p. 790), we can deduce how

power is negotiated among platform governance stakeholders and, thus, understand how regulation is shaped.

The above rationale is significant to this dissertation as it engages with the study of platform governance's political economy, which asks the question of how governance of, by and through platforms (Agarwal, 2022; Gillespie, 2018b) is shaped and, in turn, how they shape political and economic outcomes. In most case studies presented in this thesis, we explore how platform governance stakeholders negotiate power among themselves and, particularly, how online platforms' own systems of governance are perceived by and interact with other stakeholders.

So, one critical way of understanding power in power relations is as exercising governance through regulation. Regulation consists of a large gamut of factors, including "politics, policies, institutions and effectiveness of formal and informal controls" (Levi-Faur, 2011, p. 16). In other words, to study regulation, one has to take into consideration a plethora of elements, alongside their innate political and, often, conflictual attributes. David-Levi Faur has offered us a comprehensive overview of the multidisciplinary field of regulation in his seminal book *Handbook on the Politics of Regulation* (2011), inviting us to consider how regulation's meaning can change depending on the disciplinary field of employment.

For instance, regulation has become a distinct field of international practice and research, especially after the introduction of the economic theory of regulation (Stigler, 1971). Certainly, the definition of regulation varies even among economic theorists: some argue that it acts as another weapon of neoliberalism against the welfare state (Majone, 1994), while others believe it to be a valuable tool to fuel competition (Levi-Faur, 2011, p. 3).

In any case, the concept of regulation expands well beyond the theory of economy and covers the field of standard-setting, administration and, more broadly, the power of institutions. Some scholars have talked about the benefits of regulation against consumer exploitation, environmental misdoings, and other activities in a rather pragmatistic way (Koop & Lodge, 2015; A. Marx, 2011). Moreover, one could not neglect adding to this long interdisciplinary list, the framing of regulation by social and political sciences as a means of control (Beresford, 2003; Levi-Faur, 2011, pp. 3, 16) that, among others, seeks to dictate a change in behaviour (Koop & Lodge, 2015). This also echoes Foucault's position on power, as expressed in his notion of *gouvernementalité*, as a behaviour-changing principle (Foucault, 1982; C. Gordon, 1991; Gourgues et al., 2013).

In addition, Levi-Faur frames regulation as "the ex-ante bureaucratic legalisation of prescriptive rules and the monitoring and enforcement of these rules by social, business, and political actors on other social, business, and political actors" (2011, p. 6; emphasis his).



Consequently, this is a definition with a distinct organisational approach to regulation, while excluding the “legislative or judicial rule making” (ibid). In other words, Levi-Faur describes a co-regulatory framework, in which the state sets rules which are then monitored and enforced through the collaboration of social, business, and political actors.

Elsewhere, Koop and Lodge frame regulation as following: “[it is the] intentional intervention in the activities of a target population, where the intervention is typically direct – involving binding standard-setting, monitoring, and sanctioning – and exercised by public-sector actors on the [activities] of private-sector actors” (Koop & Lodge, 2015, p. 106). The two definitions share the same characteristics concerning how regulation works (i.e., standard-setting instead of rule-making, monitoring and enforcement) and allow us to consider, on the one hand, the inscribed collaboration of regulation (i.e., multi-stakeholderism) and, on the other hand, its pre-emptive aspect to control behaviour.

Furthermore, one other significant common point of the definitions is the development of targeted and binding rules, which Black purports aim to “change the behaviour of others [...] through a combination of rules and norms” (Black, 2008, p. 139). As a result, we can further ontologically distinguish regulation according to its objectives. So, on the one part, there is regulation that serves the “public interest” (Hofmann et al., 2017, p. 1410; Levi-Faur, 2011, p. 28) and, on the other, regulation that “mainly serves private interests,” which some have called “deregulation” (Levi-Faur, 2011, p. 28).

It is made, thus, visible that, often, the envisioned goal of regulation as beneficial to the public interest is by no means a given. It is hard to argue that all actors in a competing environment share the same values. This is why it is crucial to be critical of the terms we use to enquire platform power and solutions provided by state actors. Regulation is a heavily political mechanism that externalise a stakeholder’s ideology and power. It is, thus, itself a product of negotiations and power dynamics.

It should be also noted that scholars of social media platforms have been approaching regulation with a public interest approach, following the long tradition of media and journalism as a force promoting the same goals (Napoli, 2015; van Dijck et al., 2018). In other words, they argue that regulatory forces should strive to align platforms’ interests with the public good. Although we will further delve into the relationship between platforms and journalism in the third part, as we discussed in the previous chapter, platforms have been developed to capture as much of a market as possible in order to maximise their profits and satisfy their shareholders. It would be naïve to consider that regulation that is not accompanied by a structural transformation of markets would advance public interest in their fullest (Polanyi, 2001). This

is true no matter how well intended such a regulatory force would be, mainly, due to the asymmetry of power that governs the relations between platforms and other stakeholders.

Continuing our literature review, we infer that, regulation concerns primarily ex-ante standard-setting or rules, which makes it hard to estimate the actual range of consequences of applying such rules. Though, it may be possible to predict a regulation's outcomes (e.g., what type of content will be deemed illegal or violating a platform's policy) but its long-term effects on governance are unpredictable. To this end, some argue that one way of mitigating such risk is through multi-stakeholder governance structures (Black, 2008).

Put simply, regulation that is developed by a single authority with specific results in mind is less flexible and, thus, less effective when dealing with ever-everchanging phenomena. As relevant literature attests, all governance structures include a multitude of different stakeholders deliberating regulatory frameworks, which has accelerated the decentralisation of state power, yet has exacerbated the complexity of governance regimes (Abbott & Snidal, 2009; Bernstein & Cashore, 2007; Büthe & Mattli, 2011a; Levi-Faur, 2011; Majone, 1994).

Furthermore, the actors most commonly found within these power structures are: state actors, non-state or market actors, and non-governmental or civil actors (Abbott & Snidal, 2009, pp. 8–10; Gorwa, 2019a, p. 2; Levi-Faur, 2011, p. 10). Accordingly, three types of regulation are most commonly met in the relevant literature: self-regulation, co-regulation, and top-down (or 'command-and-control') regulation (Gorwa, 2019b, p. 854; Hirsch, 2013; Levi-Faur, 2011, p. 531; Marsden, 2011, pp. 13–14):

- **Self-regulation:** This type of regulation refers primarily to non-state, “voluntary and ‘non-binding’” agreements and principles (Gorwa, 2019a) such as platforms’ “Terms of Services” (Bietti, 2020; Suzor, 2019) or self-organised industry groups, such as the “Global Internet Forum to Counter Terrorism” (Gorwa, 2019a). This type of regulation is, largely, preferred by firms as it reduces costs of implementing formal legislation (Bernhagen & Bräuninger, 2005, p. 46; Mattli & Woods, 2009, p. 8), which has also given way to the privatisation of regulation (Büthe & Mattli, 2011a). Moreover, this type of regulation has little legitimacy in polycentric regimes, as it is tied to a laissez-faire attitude (Bernstein & Cashore, 2007; Büthe & Mattli, 2011a; Flew et al., 2021; Marsden, 2011), which often lacks accountability. Moreover, self-regulation seeks to consolidate an actor's (or a cluster of actors) self-governance, that is their independence from a hierarchically higher authority to hold them to account.
- **Co-regulation:** This type of regulation primarily refers to the attempt of combining the ‘best’ of all three actors’ competencies, which Abbott and Snidal argue are: “interdependence, representativeness, expertise, and operational capacity” (2009, p. 66).

We could argue that this type of regulation acts as the cornerstone of the multistakeholder model and is, thus, often depicted as essential to democratic representation and plurality (Black, 2008; Cammaerts & Mansell, 2019). However, actors have their own agenda, making contention unavoidable. A large number of scholars, policymakers and, recently, online platforms, are in favour of this type of regulation, also called as “soft-law” (Mattli & Woods, 2009, p. 1), because it “[opens up a] more interesting [conversation] than a static no-regulation versus state regulation binary choice” (Marsden, 2011, p. 242). Co-regulation seeks to consolidate a shared governance (co-governance) among stakeholders. However, this is rarely realised because of power asymmetries that offer great levels of resistance to power for certain actors (e.g., online platforms). Accountability here varies but, in most cases, it takes the shape of periodic transparency reports, audits, and repercussions, in cases, where notice from a regulatory authority is not followed by action.

- **Top-down regulation:** Last, top-down regulation refers to state regulation, which is usually passed by public authorities in the form of official legislation or “hard rules” (Mattli & Woods, 2009, p. 1). They often directly intervene in an industry or a market. State regulation is usually critiqued as cumbersome and counterproductive, especially concerning innovation (Bostoen, 2018). However, it can work as the “baseline” (Gorwa, 2019a, p. 8) according to which other types of regulation are built, “either as complements to fill in certain gaps, or as substitutes to proposals perceived as overly invasive or harmful to human rights” (ibid). Its legitimacy can vary depending on the regulatory authority and the political state of affairs (e.g., democratic processes, political representation, etc.). Accountability is generally high in these systems because there are legal consequences to actors who do not abide by the state’s regulation, and it is the state’s responsible authorities that will hold to account an actor.

Levi-Faur adds some nuance to the traditional typology: according to him, “pure self-regulation” (2011, p. 531) is a branch of “[hybrid] meta-regulation,” which refers to a confined role of the regulator to the “institutionalisation and monitoring” of standards and rules (2011, p. 11). He also adds another type of regulation, that of “[hybrid] multi-level regulation,” emphasising the geopolitical implications of regulators, where the “regulatory authority is allocated to different levels of territorial tiers” (ibid). While the latter may add an important nuance to critical analyses, the former rather complexifies the discussion and, as such, does not help us in clarifying regulation as a concept. In any case, by going through the above-mentioned typology of regulations, it can be made clear that the concept of regulation is inherently tied to the notion of governance. This is because, as was mentioned earlier, regulation is, in and of itself, an

exercise of authority and power aiming to shape governmental structures (Kjaer & Vetterlein, 2018).

As a result, many scholars have been increasingly treating regulation and governance almost synonymously (Hofmann et al., 2017), while some have adopted the term “regulatory governance” (Kjaer & Vetterlein, 2018), that is “governance through regulation” (2018, p. 499). However, it is not entirely sure as to the justification behind the development of the concept of “regulatory governance,” given that modern multi-stakeholder governance regimes implicitly involve structuring power relations through regulation – or its lack thereof. Nevertheless, Kjaer and Vetterlein provide a detailed and convincing account of the historical aspect of regulation as a governance praxis, which is in line with this dissertation’s framing.

In the next section we will cover the concept of governance. We should though underline that regulation and governance are not synonymous; treating them as such “[strips regulation] of some analytical benefit” (Hofmann et al., 2017, p. 1420) and undermines potential regulatory frameworks, exactly because it restricts our theoretical understanding of volatile fields, like that of platform governance. As a result, this chapter is situated at the space between governance and regulation, following thus the political sciences’ turn to these concepts (Black, 2008; Braithwaite, 2011; Braithwaite et al., 2007). Perhaps, even more importantly, this allows us to resituate the discussion around governance and broaden our analytical horizons. Consequently, studying regulation in tandem with governance allows us to deepen our understanding of power relations in networked environments.

#### 4.2.2. Governance

As mentioned earlier, I approach the concept of governance as a bifold one: both as a concept used to describe the shift from one authoritative source of power (i.e., the state) to a multiplicity of stakeholders and as an analytical vehicle to analyse power relations of these stakeholders. Some argue that the root of governance can be traced back to the field of new institutional economics (Bulmer, 1998; Puppis, 2010, p. 135). Yet, I am most interested in its development by social and political scientists. As such, I understand governance as that politically charged notion that signifies “to govern” (Gorwa, 2019b, p. 2) and, specifically, to govern through regulation.

Governance, in this sense, possesses the attribute of authority that is tied with power, more akin to a Foucauldian interpretation as “the multiplicity of force relations immanent in the sphere in which they operate, and which constitute their own organisation” (Foucault, 1978, p. 92). Therefore, governance does not only have to do with the power of state over the public, as Foucault argued (*ibid*), but expands to include the balance of relations within a structured or

networked space. Put simply, the power in “power relations” which constitute governance, symbolises the interdependence, as well as the contentious interests among actors, which in turn, surface the “power plays” (Carr, 2015), that irradiate the political economy of a given field. Hence, power is a “property of the social [and political] relation” and it “*resides implicitly in the other’s dependency*” (Emerson, 1962, p. 32; emphasis theirs). Thus, when studying and discussing power relations, we are enquiring relations of (interconnected) dependencies (Foucault, 1982).

What is more, governance, has been extensively studied in tandem with international relations, as the movement of globalisation claimed a significant part of governmental, that is, state power (Kjaer & Vetterlein, 2018, p. 500). In his paper on media governance, Puppis reviews relevant political science literature and suggests that exist two approaches to defining governance: a narrower and a broader (Puppis, 2010). According to the narrower approach, governance is framed as a complex and multi-layered network of power relations among various stakeholders, “creating the conditions for ordered rule and collective action” (Stoker, 1998, p. 17). Subsequently, the use of governance as a concept marks the shift from government “to a new process of governing” (Rhodes, 1996, pp. 652–653), where the state is restricted to “political steering” of “non-hierarchical” governance structures (Héritier, 2001, p. 2; Puppis, 2010, p. 137).

Additionally, according to the broader approach, governance “[goes] beyond so-called new forms of regulation and [focuses] on collective coordination (emphasis theirs) in general” (Puppis, 2010, p. 137). Consequently, the broader approach to defining governance considers the role of the state and involves “a mix of governing efforts by public and private actors occurring at different levels and in different modes” (Kooiman, 2003, p. 3). As a result, in this approach, the state is replaced as the central authoritative node with “a multiplicity of governing and each other influencing actors” (Stoker, 1998, p.17) but still holds its “monopoly on the legitimate use of coercion” and regulatory intervention (Black, 2002; Puppis, 2010, p. 137).

Regardless, these two approaches are not oppositional one to another but rather highlight distinct aspects of governance. For instance, those who attempt to narrowly define governance as the new model of “governing without government” (Rhodes, 1996) may – inadvertently - promulgate the neoliberal “minimal state” paradigm (Puppis, 2010, p. 137), in which the state is limited to a managerial position and several of its functions are outsourced to the private sector (Büthe & Mattli, 2011a; J. E. Cohen, 2019a; Rhodes, 1996; Rosenau & Czempiel, 1992). As such, it seems that both approaches consider that governance signifies

that “boundaries between and within public and private sectors have become blurred” (Stoker, 1998, p. 17), but differ primarily in assessing the state’s role.

This is where the notion of “governmentality,” as framed by Foucault with regard to the broadly defined liberal political economy (J. E. Cohen, 2019a, p. 7; Foucault, 1991, p. 103), helps us to understand how governance is organised and exercised (Foucault, 1991, p. 7). It encapsulates all forms of regulation as the mechanism for enforcing, preserving and/or expanding governance. By extension, we could draw here an ontological parallel between this property of regulation and Foucault’s notion of government. Foucault argued that government refers to “the conduct of conduct” aiming to “shape, guide or affect the conduct of some person or persons” (C. Gordon, 1991, p. 7). As such, it seems that there is a shared understanding among scholars studying regulation and governance that regulation’s primary objective is to alter the behaviour of a regulated entity (ibid, p. 5).

As hinted earlier, non-state actors have been increasingly taking up roles and responsibilities that were once exclusively held by the state, which has been progressively limited to a “regulatory state” (Braithwaite, 2011), which has born what some scholars have labelled “regulatory capitalism” (Braithwaite, 2008). Ever since the 1970s, with the post-World War II Keynesian policies gradually fading in the Western world and the domination of neoliberalism (Carr, 2015, p. 643; Foucault, 1991) state power was distributed to various non-state actors (Mazzucato, 2014). This led to the development of the current “networked governance” landscape (Braithwaite et al., 2007; Drahos & Krygier, 2017), which does not easily allow for top-down regulation, nor a traditional distinction between private and public actors.

To summarise, the definition of governance is constructed in two interrelated ways: governance as structure and governance as power. The former refers to governance as a complex networked structure that accommodates different stakeholders that are connected and coordinated through various types of regulations, norms and practices, whereas the latter refers to governance as a politically charged notion that allow for power relations among governance stakeholders to formulate, primarily, through regulations. What is more, these two approaches hold different analytical purposes: the former is used to conceptualise governance structures based on its outcomes (e.g., think of Abbott and Snidal’s “Governance Triangle”), whereas the latter is used as a way to study the procedures that form the stakeholders’ power relations (e.g., how a regulation was formed).

#### 4.2.3. Regulation, Governance, and Multi-stakeholderism

As mentioned earlier, regulation and governance have recently emerged as an interdisciplinary field of scholarship which, as a founding principle, seeks to inform regulatory and law studies with the concept of governance (Braithwaite et al., 2007). This is pursued by inviting scholars to study regulation in relation to its political and societal impact and, thus, steering us away from a narrower understanding of regulation as policymaking (Koop & Lodge, 2015, p. 105). By examining regulation in relation to governance, we position ourselves at a better spot to study the multistakeholder governance environments in which regulation is shaped and applied. These are environments which are characterised by “fragmentation, complexity and interdependence between actors, in which state and non-state actors are both regulators and regulated” (Black, 2008; Koop & Lodge, 2015, p. 1).

As a result, these multi-stakeholder environments are contentious fora, where power relations among actors surface the interdependence of one another, while shaping the governing status quo, which is “most likely to promote their own interests” (Carr, 2015, p. 645). Moreover, this situation also reinforces the “radical pluralist” (Cammaerts & Mansell, 2019) criticism of the purported “marketplace of ideas” (Brietzke, 1997), inasmuch as the “bargaining” or “regulatory game” (Abbott & Snidal, 2009, p. 48; Levi-Faur, 2011, p. 11) among stakeholders does not necessarily promote legitimacy and fairness but, instead, perpetuates existing power relations.

However, as discussed earlier, this assertion can fall short as, often, power asymmetries are not mitigated but reinforced. Indeed, a reimagination of the way in which we study multi-stakeholderism is needed. Interestingly, the term “multistakeholder” first emerged in the 1990s and was officially used in the context of the internet with the establishment of the Working Group on Internet Governance (WGIG) (Hofmann, 2020, p. 256; Palladino & Santaniello, 2021). In any case, as Carr acutely put it, “[the] more we understand about the opportunities and weaknesses of governance models for the internet (or anything else) the better equipped we are to effectively refine and amend those practices, functions and roles that comprise it” (Carr, 2015, p. 643).

Thus, to study platform governance and, subsequently, platform regulation, we also ought to define two core elements that are often at the heart of regulatory frameworks: *legitimacy* and *accountability* (Carr, 2015, p. 142). By assessing a governance regime’s legitimacy and accountability, along with its constituents’ efforts to reify these two fundamental elements, we can infer critical results of that regime’s status quo and power relations.

Accountability is defined as “a particular type of relationship between different actors in which one gives account and another has the power or authority to impose consequences as a result” (Carr, 2015, p. 150). However, Black purports that it is increasingly difficult to define who is to be held accountable at a given point in time, precisely due to the increased fragmentation of power (2008, p. 139). Black structures her argumentation in relation to the regime’s accountability around a trilemma: if something goes wrong, do we hold to account a single regulator (“one for all”) or each decentralised regulator (“all for one”) or each actor individually (“each for itself”; Black, 2008, p. 143)? Her position is somewhat of a hybrid, arguing that: “in order to assess the accountability of a regulatory regime [...] the focus has to be on holding the outcomes of a regime as a whole accountable” (2008, p. 157).

In other words, within a polycentric regime, we should be able to hold to account both each actor individually, as well as the regime collectively, to assess the effectiveness of regulation - or its lack thereof. Black’s approach, then, shows us how to better understand power relations among stakeholders, along with their “institutional embeddedness” (2008, p. 157). For instance, in cases where a regulatory authority fails to hold to account a platform for violating a law (e.g., with a fine), we ought to consider how the regulatory authority can also be held to account. In other words, if one stakeholder is not held to account for disrupting the system’s governance, then the whole system, including its constituent stakeholders, is accountable for letting this happen.

Additionally, legitimacy is defined as a social construct, providing an actor with “social credibility and acceptability” (Black, 2008, p. 144). Santaniello and Palladino offer a valuable historical overview of the scholarship around legitimacy and, specifically, talk about two perspectives of legitimacy: a normative and a descriptive (2021, p. 31). They argue that the former, effectively, looks at an actor’s “values and principles,” which supports its “right to rule” (i.e., rule-makers), whereas the latter examines the “audiences and their reasons to believe that an authority is appropriate” (i.e., rule-takers; *ibid*). Therefore, legitimacy is essentially an expansion or evidence of power and, thus, the key to assuming authority in a governance regime.

Provided that the internet is inherently tied to the concept of multi-stakeholderism, gauging legitimacy, as with accountability, is tremendously difficult (DeNardis, 2010). There is no single one authority that rules the internet. As a result, many scholars have argued that legitimacy in these environments is primarily related to the participation of a plethora of actors (Haggart & Keller, 2021; Palladino & Santaniello, 2021, p. 32; Suzor et al., 2018)/ Consequently, a governance regime’s legitimacy depends on its openness and inclusiveness,



so that “all the categories of actors affected by a particular issue were involved in the decision-making process” (Santaniello & Palladino, 2021, p. 33).

Carr criticises what could be called a Habermasian viewpoint on normality based on rationality and consensus (Cammaerts & Mansell, 2019; M. Davis, 2020). She criticises normative claims of “what the internet ‘should be’” (Carr, 2015, p. 642) for concealing their own agenda behind “widely resonant norms like ‘privacy’, ‘freedom’, ‘democracy’” (2015, p. 642). In addition, she also blasts the lack of critical analysis of “multi-stakeholderism,” which she believes has “become almost synonymous with global Internet governance” (2015, p. 641). Ultimately, Carr suggests that this normative interpretation leaves little space for the expression of alternative views, as they are quickly shunned as opposition to those norms (2015, p. 641). She believes that the polycentric model has been so institutionally embedded, that it almost feels shielded by terms with “a strong normative component” such as “democracy promotion” or “Internet freedom” (2015, p. 641).

This theoretical approach comes with its own restrictions and biases. Carr’s take on the internet as “a mechanism for the projection of power” (2015, p. 643) feels like a one-dimensional bashing on United States’ global interests in a post-Snowden world (2015, p. 656). However, this should not reduce the argumentative power of her claim that, while the polycentric regime has been beneficial to the internet’s growth (2015, p. 649), it has also been reinforcing and privileging existing power relations despite an ostensible decentralisation of power. As a result, she feels that there has not been enough space for critical voices to be heard, going as far as to suggest that “multi-stakeholderism [has] become a ‘rhetorical exercise aimed at neutralising criticism’ rather than an utterly unique and participatory mechanism for governing a global resource” (2015, p. 642).

Furthermore, she identifies three major stakeholders within this regime: government, private sector, and civil society. There seems to be a recurring triadic model within regulation and governance studies. Abbott and Snidal have conceptualised this as a “governance triangle” (2009), which acts as a “heuristic device to structure analysis of widely varying forms of governance” (2009, p. 52). According to the authors, this triangle consists of various zones, depending on the number of stakeholders involved in the deliberations, and each zone has a unique or mixed regulatory framework. Similarly, they also group actors in the same fashion as mentioned earlier: states, firms, and non-governmental organisations (NGOs).

However, we would be remiss not to highlight the consequences of discussing governance structures that refer only to these three actors: it normalises and reinforces a governance imaginary, where outsiders are excluded of the balance and, thus, risks replicating power imbalances and a quasi-elitist power structure. Additionally, the dynamics produced

among these actors are contentious, which the authors often describe as “[a] transnational arena” or “bargaining game” (Abbott & Snidal, 2009, p. 48), painting a picture of struggle for domination. Again, this reminisces an idealised exchange of rational arguments that should lead to a logical consensus (Habermas, 1992), whereby polycentric contention is framed as benign, constructing consensus, legitimacy (Black, 2008) and fairness.

Yet, Carr argues, such an interpretation neutralises attempts to further politicise the discussion regarding polycentricity, even if “[it celebrates] the inherently conflictual nature of ‘the political’” (Cammaerts & Mansell, 2019, p. 5). The primary reason for this critique is that there are deep asymmetries in the relations that shape multi-stakeholderism and, as such, there cannot exist a fair exchange of ideas. Similarly, Cammaerts and Mansell call for a “radical turn” to pluralism, one that will have the “generative discursive power to render visible asymmetries and biases” of governance structures and, specifically, platform governance (2019, p. 15), with which I am sympathetic. Therefore, on the one hand, we ought to further theorise about multi-stakeholderism instead of taking its dominance as the ‘natural order of things’ and, on the other, that we must expand our analytical and conceptual models of governance to account for latent asymmetries, inequalities, and biases.

### 4.3. Internet and platform governance

#### 4.3.1. Internet Governance

Before proceeding with a proposal to start reconceptualising platform governance, I would like to provide a brief historical overview of the term’s deployment in relation to internet studies. The term “internet governance” dates to the years after the commercial internet’s birth, circa mid 1990s. As Brousseau et al., note, one of the earliest uses of internet governance “as a tentative political construct” (2012, p. 2) was observed in the 1998 International Telecommunication conference. The reason the authors label it as a political construct is because, up until that point, the term “internet governance,” was mostly related to technical issues of the internet, albeit a not well-known one. It was during that time that a specific socio-political agenda was also identified, along with its surrounding stakeholders (Brousseau et al., 2012, p. 4).

Certainly, even within those fora, actors could not entirely agree on the exact nature of participating stakeholders. Brousseau et al., paint a picture of a dichotomy between the “technical community,” who were defensive of the internet’s principles and values that would be ensured by self-regulating institutions and the “civil society,” that identified social actors and “commonly defined rules” outside the strict “Internet community” as crucial (Brousseau et al., 2012, p. 4).

A few years later, in 2006, the United Nations (UN) founded the internet Governance Forum (IGF). This marked a new era for internet researchers and, largely, the internet's *modus operandi* (Hofmann et al., 2016, p. 3). The IGF provided us with the first formal definition of internet governance: "Internet governance is the development and application by Governments, the private sector and civil society, in their respective roles, of shared principles, norms, rules, decision-making procedures and programmes that shape the evolution and use of the internet" (de Bossey, 2005).

This multi-stakeholder framing has truly been the cornerstone of internet research ever since. It should be noted, though, that this does not confine the framing of internet governance to the infrastructural or computational aspect of the internet (ten Oever, 2020, p. 27) but expands it to account for the broader stakes that are at play, like the internet's "private ordering" (DeNardis, 2010). Likewise, as mentioned in the general introduction, this dissertation is interesting in exploring the "manifestations of power and political values" (Hofmann et al., 2016, p. 4) of participating actors colliding one with another, co-shaping governance.

The rise and consolidation of online platforms as dominant infomediaries (Smyrnaioi & Rebillard, 2019) has posed an existential threat to the internet governance. Online private platforms became ubiquitous and expanded their services to a myriad different instance, creating centralised networks of data at an unprecedented scale; scholars have named this phenomenon the "platformisation" of the web and, even, society (Helmond, 2015; van Dijck et al., 2018). No other construct better illustrates these existential stakes than the aforementioned notion of "platform governance" (Gorwa, 2019b; Haggart, 2020), which encapsules the processes that shape the rules, norms and policies that govern platforms.

While the vast majority of these processes are part of the more traditional multi-stakeholder procedures that were established by the internet governance, platforms have been developing strong self-governance structures (e.g., Facebook's Oversight Board) or even co-governance structures (e.g., European Commission's Codes of Conduct). Moreover, due to the web's platformisation, it would not be an exaggeration to argue that for a large part of the global population, private social media platforms are essentially the internet (Couldry & Mejias, 2019a). Yet, as mentioned in the previous chapter, we ought to be wary of the risk of conflating the internet with platforms, a rhetoric that is often propelled by platforms<sup>41</sup> but also policymakers and users.

As a result, that viewpoint is challenged in this thesis, treating platform governance as a distinct but interrelated field of enquiry from that of internet governance, while

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<sup>41</sup> [See also Facebook Free Basics program, which makes "the internet accessible \[...\] to a billion people across Asia, Africa and Latin America."](#)

acknowledging the analytical benefits of the former as a conceptual model, in the same vein that Puppis proposed media governance as a concept with “heuristic value” (Puppis, 2010). Overall, in this dissertation, platform governance has a bifold purpose: on the one hand, to provide an institutional understanding of the governance structure within which platforms exist and, on the other, to provide an analytical conceptual model for “describing, explaining, and criticising [platform] policy and regulation” (Puppis, 2010, p. 144).

#### 4.3.2. Platform Governance

More recently, a discussion concerning a new chapter in the multi-stakeholder internet governance model has emerged, that of online content regulation (Douek, 2019) within what we call “platform governance” (Gorwa, 2019b; Owen, 2019). A satisfactory definition of platform governance is given by Gorwa as “an approach necessitating an understanding of technical systems (platforms) and an appreciation for the inherently global arena within which these platform companies function” (Gorwa, 2019b, p. 5). So, platform governance entails the study of governance *of* platforms (i.e., how platforms participate in multi-stakeholder governance structures and how regulation is developed by these structures and applied to platforms), as well as *by* platforms (i.e., how platforms themselves govern their spaces through self-regulating mechanisms like Community Guidelines; Gillespie, 2018b). In addition, as noted earlier, scholars have also been studying the concept of governance *through* platforms (Agarwal, 2022), whereby state actors instrumentalise platforms to extend their power, enforce government policies and, even, stifle freedoms.

However, this definition principally addresses the so-called “Big Tech” platform companies (also called GAFAM: Google, Amazon, Facebook, Apple, Microsoft), perpetuating thus a narrow understanding of the modern internet as a space occupied by a handful of oligopolistic firms, which leaves little space to “reimagine the internet” (Zuckerman, 2020) and reinforces the idea that recent regulation is primarily shaped around “Big Tech” companies, which replicates existing power asymmetries (Carr, 2015).

Even though this may very well be true, we ought to be critical of the rhetorical constructs we choose to build our conceptual work. As a result, we should approach platform governance as distinct from the broader internet governance structure or, perhaps, as a sub-field; it is important not to conflate the internet with private platforms, as that would narrow our perspective in a rather platform deterministic fashion (Caplan et al., 2020).

Nevertheless, platform governance holds significant value both on a conceptual and on a practical level: the former as a means to think of the ways in which stakeholders pertaining to private platform companies participate in shaping governance and regulation, while the latter

to gauge and study the various agreements or collaborations forged and shaped among stakeholders. In that sense, platform governance helps us to demarcate the field, as well as the object of inquiry and, thus, serves as a useful analytical lens to study governance structures that involve platforms.

Furthermore, the present platform governance status quo seems to be shifting away from self-regulatory frameworks to complicated collaborative ones (Gorwa, 2019b; Hirsch, 2013). We reckon that the main reason behind this shift is the wish of private actors with strong “opinion power” (Helberger, 2020) to ensure public legitimacy and fend off public intervention, thus, ensuring self-governance, that is, the ability to function independently of public audit and accountability. Moreover, as Evelyn Douek sharply notes, “platforms [...] [play] catch-up to societal demands for more responsible content moderation through self-regulatory innovations and reforms” (Douek, 2020c, p. 4).

For instance, when Facebook publishes guidelines on online content regulation, this should be seen as a move to formalise their content moderation processes by welcoming collaborations with other stakeholders and, thus, mitigating part of their responsibilities. However, a problem that quickly arises with this approach, and which Natali Helberger hints at with the “opinion power” concept (2020), is that it obscures or, at least, downplays the governance conflicts. Where internet governance was imagined to be a self-governed and self-regulated space, platform governance is imagined as a space of co-governance and co-regulation. Inviting co-governance and, consequently, co-regulation is, of course, not reproachable, quite the contrary; Douek believes that public regulation can make systems of content regulation “more accountable and credible” (2020, p. 59). Still, we should see such invitations as part of their communication strategies aimed at building legitimacy and affecting accountability (Black, 2008, p. 151).

#### 4.4. Towards a Reconceptualisation of Platform Governance

The aforementioned realisations have moved us away from the “techno-optimist” early years of “Web 2.0,” which were characterised by a lack of regulation, which played a key role in enabling the growth and domination of many digital companies, as well as the rise of platform capitalism (Srnicek, 2017). As critical media scholar José van Dijck has observed, in the early years of the “platform revolution,” there was a surge, even within academic circles, of the conviction “that networked technologies [could] offer sufficient leverage” to previously ‘passive’ recipients “to renegotiate their relationships” with then-dominant gatekeepers, like media companies (van Dijck, 2009, p. 43).

Likewise, in the field of social and political sciences, scholars have talked about how global commercial online technologies may constitute a new structural transformation of the way in which our public spheres are shaped (Seeliger & Sevignani, 2022); what role private social media platforms may play in creating social silos (Habermas, 2022), or in appropriating citizens' participation in socio-political deliberations for profit (Staab & Thiel, 2022). Others have argued that such capacities may be employed to foster “deliberative e-rulemaking,” i.e., “the development of [a] law-making environment online which enables and facilitates public participation” (Deligiaouri & Suiter, 2020, p. 4).

As Flew *et al.* have argued, an expansion of the way in which we study power relations of platform governance should account for “the shifting alliances across categories and also the heterogeneity of interests within them” (Flew *et al.*, 2021, p. 134). As such, it might be that scholars, arguing in favour of a “reimagination” of platform governance, are pushing for a politicisation of the field by adopting more critical and radical approaches. In this sense, the discussion of whom exactly we talk about when we talk about stakeholders is a difficult yet necessary to have.

For instance, it is often taken for granted that citizens are represented by civil society organisations in governance deliberations (Kohler-Koch, 2010, p. 107; Regilme, 2018). However, “civil society guarantees only the existence of a public, not public consensus” (Flyvbjerg, 1998, p. 229). Thus, with the capacities given by online technologies, as well as by the Commission's strategy to integrate a varied gamut of public input, citizens can now directly participate in deliberations and provide feedback. For example, Meta's Oversight Board also welcomes public comments for their cases (D. Wong & Floridi, 2022, p. 2), while Twitter's “Community Notes”<sup>42</sup> project invites “contributors collaboratively add context to potentially misleading Tweets”<sup>43</sup>. The European Commission tried to do this too with the adoption of its “Better Regulation Agenda” in 2015 to increase the range of stakeholders participating in governance deliberations and, particularly, amplify the role of civil society (Deligiaouri & Suiter, 2020); we will examine this in more depth in Case Study #1.

These examples demonstrate that platform governance stakeholders, platforms themselves in these instances, experiment with public participation in their decision-making processes. Therefore, while macroscopic approaches to (platform) governance are indeed useful because they facilitate theory-building, I contend that we should also investigate instances of public participation that may shed light on citizens' role in governance processes, as well as on the impact that these experiments may have.

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<sup>42</sup> The project formerly known as “Birdwatch” (Coleman, 2021).

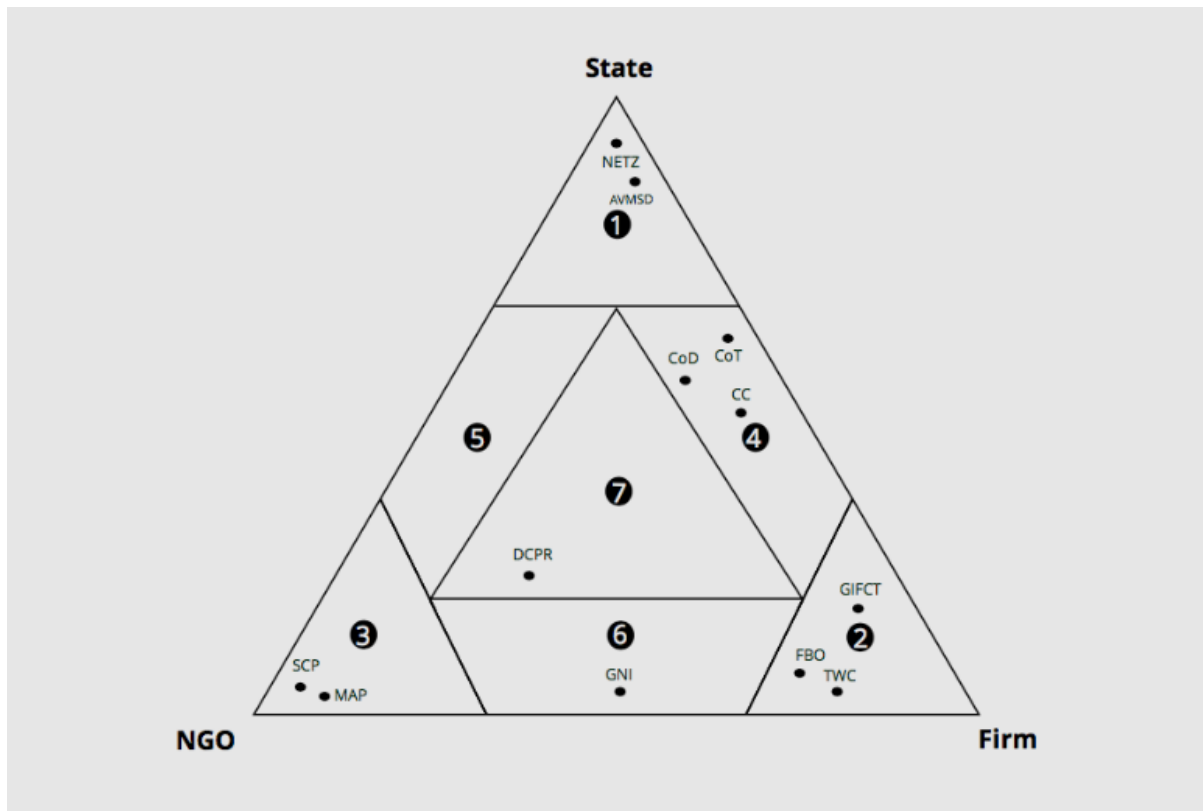
<sup>43</sup> The program is currently available to US users. Source: <https://help.twitter.com/en/using-twitter/community-notes>.

It is true that it is becoming increasingly difficult to distinguish actors' interests in governance deliberations; for instance, private actors, ranging from news media organisations to platforms, have competing interests that are difficult to be accounted for within the governance triangle model. As we have seen, relevant scholarship has attempted to identify these stakeholders based on concepts borrowed from political science and international relations studies, as well as by analysing the products (e.g., regulatory frameworks) of these power relations (Papaevangelou 2021).

Specifically, Gorwa, following the political science tradition, has suggested to study platform stakeholders' relations through their outcomes (i.e., regulations or agreements). To that end, he suggests exploring these products using the "platform governance triangle" (Gorwa, 2019a), which is a re-contextualisation of Abbott and Snidal's governance triangle, in which each corner represents a stakeholder: NGO, state, and firm (Figure 1). Gorwa also offers a rather comprehensive view of different platform regulations that indicate governance relationships among stakeholders.

As a result, though the "governance triangle" lens is indeed useful in identifying the overarching actors at play (public, private, and NGOs), it would benefit from a reiteration. As governance regimes are becoming increasingly complex, so does the need for a more nuanced approach to identifying participating stakeholders. For example, Flew *et al.*, criticise Gorwa's triangle as not allowing us to conceive "inter-capitalist interests" (Flew et al., 2021, p. 129) following the recent Australian "News Media Bargaining Code" (NMBC) that would require Facebook and Google "to collectively negotiate with commercial news publishers for payment for the use of the news content they carry" (2021, p. 128) .

Figure 1 - Robert Gorwa's formulation of the 'Platform Governance Triangle' depicting the EU content regulation landscape (Gorwa, 2019a, p. 7)



Additionally, it is often implied that platform governance can promote an inclusive and participatory environment, given that it is a system of *de facto* networked governance and, thus, there is a constant interplay of state and non-state (Drahos & Krygier, 2017, p. 15), as well as of human and non-human actors. So, while the governance triangle serves as a valuable conceptual model of pinpointing stakeholders, it restrains us from having a more nuanced picture. However, it should be mentioned that Gorwa's re-framing of the triangle to illustrate the European content regulation landscape (Gorwa, 2019a, p. 7) adds some nuance concerning the stakeholders' relations concerning online platforms' regulation. Nonetheless, I argue that there are some stakeholders that are difficult to group together and that clustering them solely based on a 'spatial' manner (i.e., where they stand in the governance triangle) does not do justice to their unique nature.

Furthermore, in a more recent essay, Gorwa attempted to further clarify and expound on his previous work by defining stakeholders as "actors with a stake in the processes of platform governance" without "necessarily [acting] on it [as] all individuals affected (or governed) by the outcome of a policy process are stakeholders" (Gorwa, 2022, p. 8). He also suggested a more nuanced typology of possible stakeholders who may appear in platform governance processes, ranging from "industry associations" to "ordinary users" (Gorwa, 2022, p. 10). Additionally, he highlighted that "key stakeholders [will] vary across *platform policy issue areas*" (Gorwa, 2022, p. 14; emphasis his), echoing what others have said about how



grouping stakeholders based on their interests and power relations can shed light on how regulations are developed (Papaevangelou 2021, p. 10).

At the same time, the research agenda of platform governance is constantly negotiated among the scholarly community, with many academics pushing for its “reimagination” despite its relative novelty. For instance, some scholars have warned against adopting a privileged platform deterministic perspective, which “[risks fetishising] a Western legal and policy focus” (Solomun, 2021), while others have underlined the need for the community to engage with understudied phenomena relating to platform governance and platform power, like sexual expression online (Tiidenberg, 2021).

Following the heeds to reimagine how the internet and platforms should be governed (Suzor, 2020b), we should begin by reconsidering how we engage with these concepts on an epistemological level. Therefore, the alternative operational model devised for this research project that was mentioned earlier is an expansion of the platform governance triangle (Gorwa, 2019a) to account for “the shifting allegiances across categories and also the heterogeneity of interests within them” (Flew et al., 2021, p. 134). In other words, it would be beneficial to study clusters of stakeholders through their relations (procedural approach to governance) and not only based on their institutional profile (normative/outcomes-oriented approach).

As a result, the approach of identifying and mapping relevant stakeholders for this dissertation is that of “governance clusters” (Figure 2) which are comprised of actors sharing some common fundamental principles and interests. The governance clusters presented in the formulation below is merely an operationalisation of the governance triangle to account for subtle nuances that exist within modern governance structures. I do not propose to abolish the traditional model of triangle but rather operationalise it to accommodate more complicated arrangements. Also, this figure illustrates a platform governance structure within the context of the news industry; so, asymmetries and biases exist in this illustration as well. Also, other instances of platform governance, like data or Artificial Intelligence (AI) governance, are not accounted for here but could be explored if adjusted accordingly. It should also be noted that the clusters’ size does not represent their importance or power.

Moreover, this approach takes into consideration the bifold quality of governance as structure and as power that was explained earlier: that is, it allows us to map relevant stakeholders that are not easily identifiable in the triadic model, as well as to analyse the power relations of stakeholders – and their power dependencies. Consequently, it considers both the organisational or regulatory arrangements among stakeholders and the procedures that underpin these arrangements.

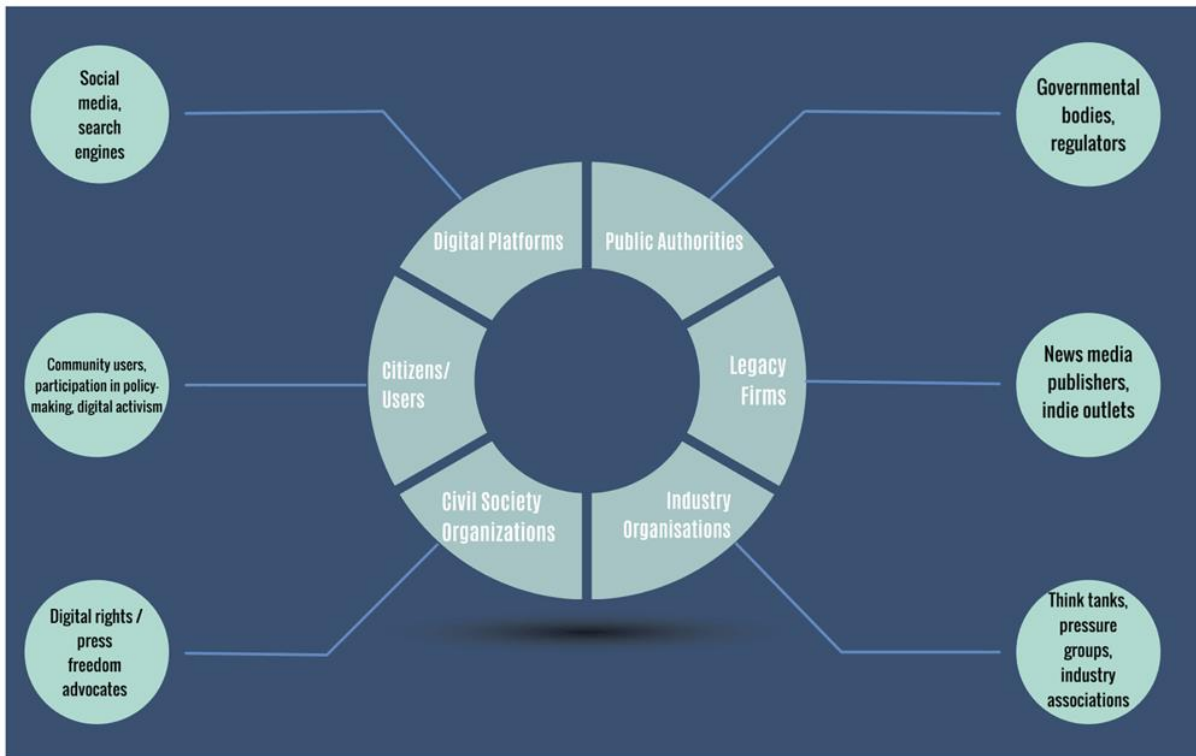
Since this dissertation is focused on studying the political economy of platform regulation and governance with a distinct interest in the EU, as well as in the impact of governance of and by platforms on the relationship between news media organisations and platforms, the clusters for this project were produced based on their identity, as well as power relations or dependencies. What is more, as explained in the methodology section (Chapter 2), my overall corpus (e.g., interviewees) was built upon this clustering of governance stakeholders (i.e., to select expert interviews and to develop my case studies):

- i. **Online Platforms:** These refer to online, socio-technical platforms of infomediation (Siapera, 2013; van Dijck et al., 2018) like social media platforms or search engines. In this dissertation, I primarily study platforms that host, curate and disseminate content online (Gillespie, 2018a) and no other types of platforms, like data brokers or advertisers.
- ii. **Public authorities:** These refer to public actors, like governmental, national, or supranational organisations, who are either elected or appointed by elected officials, with the authority to pass regulations, policies or legislation. In this dissertation, I am mostly interested in European institutions, like the European Commission.
- iii. **Civil Society Organisations:** Tjahja, et al. (2021) have provided us with an illuminating discussion and typology of what civil society means in a modern multi-stakeholder governance network, namely that of the internet Governance Forum (IGF), highlighting the contested nature of the concept. One of the most essential elements is their framing of civil society organisations as “intermediaries” advocating for their “communities’ interests” (Tjahja, et al., 2021, p. 3). In this dissertation, civil society organisations mainly refer to organisations that engage in advocating for citizens and users’ digital rights, trying to hold to account both public authorities and social media. In Chapter 6 (Case Study #1), I touch upon the notion of civil society from a sociological perspective as well.
- iv. **News media organisations:** These refer, primarily, to news organisations that play an active role in shaping the regulatory agenda of online content. Platforms might argue that news’ revenue is “minimal” (William, 2021) but their role in platform governance is crucial (Napoli, 2015; Smyrniotis & Rebillard, 2019) because, among others, they make platforms nodes of public interest, where information is centralised (Helmond, 2015). Additionally, ever since the consolidation of online platforms, news organisations have been trying to stay afloat and retain or increase their visibility (Interview #18). In this dissertation, I analyse, through various case studies, the relation between platforms and news media organisations as a critical factor that shapes regulation.

- v. **Citizens/users:** These are theoretically represented in governance deliberations taking place in public sphere(s) by civil society organisations (Habermas, 1989; Kohler-Koch, 2010; Regilme, 2018). Yet, in most cases, this is more of a hypothesis rather than an axiom. In other words, representation in modern networked governance (Caplan, 2022) is far from certain and, thus, public consensus could be nothing more than wishful thinking (Flyvbjerg, 1998, pp. 214, 229). What is more, in modern deliberations, we see citizens participating individually and directly, for instance through the European Commission’s public consultations. Additionally, there are platforms, like Wikipedia or Reddit, that rely on their users to co-govern their content (Wagner et al., 2021). For instance, consider how social media influencers and content creators are integral to platforms’ economy, but their role as governance stakeholders, along with the way that platforms treat them, has been understudied (Caplan & Gillespie, 2020). So, in complex governance arrangements, we should also account for the opinion and stakes of citizens and users (Case Study #1).
- vi. **Industry associations:** Here, we mostly refer to industry associations that work to advance their respective industry’s interests. These should be examined separately from civil society organisations because they do not work in favour of the public interest but, rather, private interests (Napoli, 2019). Their role has been upgraded in multistakeholder governance structures, as they are able to lobby in regulated and enabling environments, as we will see in the next section. For instance, for this dissertation, I primarily interviewed industry associations representing the interests of news media organisations and publishers, while taking into consideration advocacy material published by similar groups representing online platforms in the EU.
- vii. **Experts/think tanks:** These, mainly, refer to research-oriented or highly expert individuals or non-profit organisations, which produce reports for commissioned by other stakeholders and, thus, contribute viscerally to shaping regulation. Their role is tethered to the prominent role that evidences and evidence-based policymaking have obtained in multistakeholder structures, like the EU. Certainly, experts are not the same as think tanks, in the sense that the latter might have specific agendas to advance and may have more resources to do so – often from eyebrow-raising funders. Indeed, experts might be individuals who are invited to advise policymakers on complicated matters. For instance, one of my interviewees is a researcher at the University of Amsterdam who participated in an expert working group to help EU policymakers understand how platform economies work (Interview #7). Nevertheless, they are presented here as one

cluster, primarily, due to their expertise, but their distinct characteristics and interests are pointed out.

Figure 2 - Operational model to study platform governance within the context of the news industry



#### 4.4.1. Lobbying and Structural Dependencies in Platform Governance

Furthermore, another aspect that can contribute to studying platform governance in a more critical way is scrutinising lobbying processes that take place in platform governance deliberations. While this dissertation does not explicitly investigate instances of lobbying within the EU or elsewhere, it takes them into consideration to provide a more holistic account of the developed regulatory frameworks and the broader landscape of platform governance.

Traditionally, businesses “aim to secure [favourable] political outcomes by lobbying” which refers to “influencing the formation of public policy, its passage through legislature and its implementation by means of containing and [pressurising] policymakers (Bernhagen & Bräuninger, 2005, pp. 44–45; Richardson, 1993, pp. 1–2). Scholars have been studying lobbying to understand how corporate interests have been attempting to influence public opinion and the “networks encompassing economic and political elites” (Bernhagen & Bräuninger, 2005, p. 45; Rhodes & Marsh, 1992).

Another relevant concept is that of revolving doors, which is “defined as such when the heads of state agencies, after completing their bureaucratic terms, enter the very sector they have regulated” (Brezis & Cariolle, 2019, p. 1). As Brezis and Cariolle note in their study about

the effects of this situation in the financial sector, “the revolving door could be a convenient vehicle for corrupt deals, leading to lenient regulations, and in turn to public resource misallocation” (Brezis & Cariolle, 2019, p. 2). Pons-Hernández argues that revolving doors is a phenomenon that “emanates from an architecture of power in which power remains within the same social elites, guaranteeing the protection of individual and industry interests” (2022, p. 315) and, thus, “are an essential feature of the structure of contemporary capitalism, in which industries permeate public policymaking” (Pons-Hernández, 2022, p. 316).

A recent report concerning the EU, for example, found that, despite the existence of a framework to ensure that these movements are regulated and restricted, “around three quarters of all Google and Meta lobbyists (those that either hold or held European Parliament accreditation) have formerly worked for a governmental body at the EU or member state level” (Lobby Control, 2022). So, when the Australian government following the report of the Australian Competition and Consumer Commission (ACCC), passed a bill that would force leading platforms Google and Facebook to negotiate with news publishers for news content hosted by their services, it was seen as an intervention to the platform governance’s status quo. Platforms’ reactions, especially from Facebook, was so strong, which resulted in blocking even governmental agencies that were informing the public regarding the development of the coronavirus pandemic and, thus, involving citizens to the governance deliberations, even if indirectly. This could be why the Australian government agreed to some amendments demanded by platforms.

Moreover, civil society groups and opinion shapers participated in the consultations held by the ACCC (Flew, et al., 2021), albeit the former in a rather restrained way (ibid, p. 128). It worth merits that the stakeholder analysis proposed by Flew and Lim (2019, pp. 541-574) suits great the operationalisation proposed here to study governance deliberations and power relations. Last, news media, apart from being directly involved in the deliberations, used their own means to sway public discourse, while large legacy media organisations were negotiating other financial deals directly with platforms. Finally, as mentioned earlier, the proposed operationalisation allows to account for inter-stakeholder competing interests: for instance, smaller Australian news media organisations voiced their concerns over the Code’s advantageous position that it gives to large corporate publishers at the expense of smaller players. As such, this brief example shows how increasingly complicated governance structures are becoming, as well as to illustrate how, by expanding our understanding of stakeholders, we can better study governance procedures.

Marxist scholars have diachronically purported that lobbying and subsequent “pro-business policy bias” (Bernhagen & Bräuninger, 2005, p. 45) are part and parcel of capitalist

democracies, where states and, indeed, the “entire society” are structurally depended “on the willingness of capitalists to continue to invest” (Przeworski & Wallerstein, 1988, p. 12; Swank, 1992, p. 38). Essentially, this thesis asserts that business or market elites enjoy a “privileged position” in the political system (Lindblom, 2001, p. 246) to influence policymaking through their “investment decisions” (Swank, 1992, p. 38).

Furthermore, a more updated take on the theory of “structural dependence” (Przeworski & Wallerstein, 1988) stipulates that vested interests have also “informational advantages vis-à-vis policymakers due to the latter’s capacity constraints, and because of interest groups’ own strong incentives to pool resources and routinely conduct research on issues of concern to their members” (Bernhagen and Bräuninger, 2005, p. 47). This informational asymmetry also allows lobbyists “to misrepresent the size and likelihood of a policy’s negative inducement effects” (Bernhagen and Bräuninger, 2005, p. 47). As a result, Bernhagen and Bräuninger conclude, we end up with a “signalling game” in which lobbyists “[remind] [policymakers] that [they are] structurally dependent on business” while policymakers do not have access to data or information to assess whether a proposed policy would induce the consequences that business lobbyists claim to (2005, p. 48).

Hence, their structural dependence is reinforced through this informational asymmetry, as “regulators need information about the activities of, and costs and benefits for, individuals and firms” (Beyers & Arras, 2020, p. 575). However, in that same study, Bernhagen and Bräuninger assert, that “policymakers sometimes have more manoeuvre than they believe they do” because “business sometime has little choice but to back down and bear the costs of policy for the sake of preserving its good reputation” (2005, p. 57). Yet, this stronger capacity to govern more decisively is contingent on the policymakers’ capacity to break loose from their dependency to obtain information from those that they are supposed to regulate (Bernhagen and Bräuninger, 2005, p. 59). However, it is increasingly difficult to consider an assertive, democratic regulatory force in the current neoliberal framework, where “market rules and practices” and “managerial oversight” are employed in the “framing of regulation” (J. E. Cohen, 2019a, pp. 140–141; Grabher & König, 2020, p. 108).

This has given birth to a “neoliberal governmentality,” which champions “efficiency of lean and nimble production” (Cohen, 2019a, p. 145), “is “procedurally informal, mediated by networks of professional and technical expertise that define relevant standards, heavily reliant on privatisation and automation strategies, and opaque to external observers” (J. E. Cohen, 2019b, pp. 243–244). Hence, Cohen argues that “different institutional configurations [are prevented] from emerging” (Cohen, 2019b, p. 244) due to the ubiquitous platform companies that dominate our public spheres (Seeliger & Seignani, 2022; Srnicek, 2017).

Additionally, because of the structural dependencies noted earlier and, particularly, the “highly [informationalised] processes” which “requires [capable] governance institutions” make, in fact, “governance processes more opaque and less accountable” (Cohen 2019a, p. 234).

So, it would be myopic to contend that, if there was an informational equilibrium then policymaking would become more effective. Surely, it would empower policymakers to try and create better regulated markets, but the underlying capitalist structure would remain unscathed. This is also because markets are “objects of ongoing political contestations” and, thus, consist of “a complex alchemy of political, social, institutional, and technological ingredients” (Grabher & König, 2020, pp. 95, 97) This structure, then, is what drives the “runaway [marketisation]” (Fraser, 2017, p. 10; emphasis theirs) of many “societal spheres” (Grabher & König, 2020, p. 96) and which embeds social and political relations in the market (Polanyi, 2001). Moreover, this marketisation is essentially “[normalised] through technological mediation” that “[naturalise] and entrench extractive market logics based on exchange and efficiency” (Delanty & Harris, 2021, p. 104).

As such, regulation or policymaking in an informational equilibrium would not bring about the kind of structural transformation needed, even if it would be an undoubtedly positive development. Indeed, “the turn toward technocracy in transnational governance,” as Cohen contends, “exacerbates the problem of public impenetrability” (2019a, p. 234) making stakeholders constituting “expert networks” (Cohen 2019a, p. 234) or “market elites” (Lindblom, 2001) more “opaque, arcane, and self-reinforcing” (Cohen, 2019a, p. 234). As a result, scholars engaging with platform governance should turn their attention to and engage with concepts deriving from emancipatory politics such as “feminism, postcolonialism, critical-race theory, and political ecology,” as Fraser encourages us to (Fraser, 2017, p. 10).

Furthermore, related to the notion of lobbying are the phenomena of capture and revolving doors (Brezis & Cariolle, 2019; Stigler, 1971). The former derives from the economic theory of “regulatory capture,” which was designed to account for the ways in which regulators often end up working in the interests of the industries they are supposed to be overseeing on behalf of the public (Stigler, 1971). For example, the recent leak of “Uber Files” showed, among others, how Uber lobbied academics to produce favourable reports for its services, as well as political leaders to help with its expansion in markets, like France, where it was illegal to operate and was facing tremendous backlash from taxi drivers (Davies et al., 2022). Beyond regulatory or academic capture, scholars have also suggested that “platform capture” is also at play, whereby platforms may become captured by “bad actors who rig [them] for their own gains” (Usher, 2021, p. 31) and who exercise governance through them (Agarwal, 2022).

News media organisations are also part of the market elite, especially large brands and publishing powerhouses which can sway public opinion and exert pressure on other stakeholders through their reach; hence they are often the target of capture by vested interests (Schiffrin, 2014, 2021), as are online platforms which, however, have stronger capacities to resist (Usher, 2021). For instance, Nina Holland, a researcher at the Corporate Europe Observatory<sup>44</sup>, tweeted on 9 December 2022 that she received an invitation to attend an “invite-only” Gala Dinner organised by Politico Europe, “[bringing] together [more than] 150 high-level policy and industry leaders”<sup>45</sup>.

Relatedly, when I asked tech reporter Samuel Stolton (Interview #1) about the fact that a newsletter, for which he was responsible at Euractiv, was sponsored by Big Tech, he replied that he was “not a party to those commercial agreements or anything. I mean all it is, is an advert from Facebook or Google, or whoever on the “Digital Brief.” It’s a commercial arrangement they pay for an advert really.” It seems, then, that there is a broader consensus among EU stakeholders to sustain this status quo.

Additionally, in recent years, industry associations have also been competing with one another in terms of lobbying policymakers, especially in the EU which has been leading the regulatory race in relation to rules for competition and content moderation (Alves et al., 2021). The same applies for non-governmental organisations or civil society organisations as well, which also compete with other stakeholders to advance their interests in shaping policies (Alves et al., 2021, p. 3). Yet, as literature suggests, “large businesses usually prevail over other stakeholders” because of their resources and the structural dependencies of state mentioned earlier, which grant them access to the “highest level of government representatives” (Alves et al., 2021, p. 3).

Certainly, though, even among lobbyists and advocate groups there exist large power asymmetries. For example, DOT Europe, the leading lobbyist group representing large technology companies in the EU, has many more resources compared to digital rights advocates like EDRi or, even, publishers’ lobby groups, like News Media Europe (NME). However, as mentioned earlier, power is a relational concept (Emerson, 1962; Foucault, 1982). As such, power does not only derive from resources but also from access to influential actors and, potentially, the public discourse surrounding a certain topic. For example, considering the

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<sup>44</sup> Corporate Europe Observatory is a research and campaign group working to expose and challenge the privileged access and influence enjoyed by corporations and their lobby groups in EU policy making. Source: <https://corporateeurope.org/en/who-we-are>.

<sup>45</sup> Holland, N. (2022, December 9). *Corporate-sponsored media is part of the problem! @POLITICOEurope "invitation-only" Gala Dinner "bring together > 150 high-level policy and industry leaders" for top-28 "Most Powerful Players."* Twitter. [https://twitter.com/nina\\_holland/status/1601129913763135488?s=61&t=8wylMenrbd3kPfaPEvjeFg](https://twitter.com/nina_holland/status/1601129913763135488?s=61&t=8wylMenrbd3kPfaPEvjeFg).



techlash that we discussed early in the general introduction, policymakers were more willing to hear voices critical to the power and expansion of platform companies (Interviews #2, 6, 14); hence, it might be that in periods of critical junctures, stakeholders from weaker vantage points can have a stronger impact.

It is worth highlighting here that the EU has, in the last two decades approximately, attempted to reconcile the informational asymmetry described earlier, as well as to deal with phenomena like lobbying. A case in point, regarding the former, was the European Commission's "Better Regulation Agenda"<sup>46</sup>, adopted in 2015, that aimed to increase the range of stakeholders participating in governance deliberations and, particularly, amplify the role of civil society (Deligiaouri & Suiter, 2020). It was, effectively, an integral part of the EU's approach to policymaking and multi-stakeholderism (Donders & Raats, 2012) made "evidence-based policy-making [to gain] ground in Europe and beyond" (Puppis & Van den Bulck, 2019, p. 14).

This much was also underlined by Emmanuelle Machet, head of the Secretariat of the European Platform of Regulatory Authorities (EPRA), in our interview as something that EPRA has been pushing for consistently (Interview #2); related to the "beyond" aspect invoked by the authors here is the concept of the Brussels Effect (Bradford, 2012, 2020), which will be expounded on later in this dissertation (Chapter 5). A fundamental mechanism, then, of this approach has been the Commission's public consultations (Beyers & Arras, 2020), which are examined in Case Study #1.

As regards the measures taken by the EU to tackle the issue of lobbying's political legitimacy, these are, primarily, limited to the launch and development of the EU's Transparency Register (EP, 2021)<sup>47</sup>. As the legal document published in the Official Journal of the EU reads: "That dialogue enables stakeholders to present their views on decisions that may affect them and hence to contribute effectively to the evidence base on which policy proposals are made. Engaging with stakeholders enhances the quality of decision-making by providing channels for external views and expertise to be given" (EP, 2021, recital 2).

Thus, the EU sought to, in practice, legitimise lobbying practices by regulating them and, purportedly, making them more transparent, while justifying it as an integral aspect of evidence-based policy. Indeed, there have been positive aspects of this approach. For example, organisations with limited resources have been able to showcase their arguments via consultations, and we have learned that Big Tech companies, namely GAFAM, have spent

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<sup>46</sup> [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_15\\_4988](https://ec.europa.eu/commission/presscorner/detail/en/IP_15_4988).

<sup>47</sup>

[https://ec.europa.eu/transparencyregister/public/staticPage/displayStaticPage.do?locale=en&reference=WHY\\_TRANSPARENCY\\_REGISTER](https://ec.europa.eu/transparencyregister/public/staticPage/displayStaticPage.do?locale=en&reference=WHY_TRANSPARENCY_REGISTER).

more than €120 million on legitimate lobbying in 2022, which places them among the top spenders in the Transparency Register.

Yet, there are numerous examples showcasing otherwise. For instance, in October 2022, during the final stages of the negotiations on the DSA, European Parliament (EP) staffers submitted formal complaints against eight organisations for having lobbied in favour of Big Tech platforms, while officially claiming to represent small-and-medium sized businesses and, thus, violating transparency clauses (Goujard, 2022). Lobbying is also carried out by wealthy authoritarian states, like Gulf states, which in recent years have created significant path dependencies through their investments and energy supplies to Western democracies. As Alemanno notes, the “weakest link in the EU’s integrity system is the [EP], simply because of its lax rules and irregular enforcement” (2022). Such strategies do not only offer said market elites leverage but also seek to improve their public image. For example, a recent scandal made headlines about EP staffers, including Vice-President (VP) Eva Kaili, who were charged with bribery for lobbying in favour of Qatar (Wearing, 2022; Wheaton & Camut, 2022).

Nevertheless, the fact that lobbying has become a “regulated business” (Interview #1) does little more than legitimise the elites contending for the preservation of the governance’s status quo and is, thus, far from the idealised objective to enhance “the quality of decision-making” (EP, 2021, recital 2). In any case, the implications of these phenomena and the analytical value of these concepts will be further examined in Part II, where I touch upon the recent regulatory frameworks concerning online platforms developed within the EU, as well as in Part III, where I discuss the strategy of large companies, namely Google and Meta, to capture journalism through funding activities.

# PART II - Online Content Governance of and by Platforms in the European Union

In the previous part, we described how a deregulated economy, accompanied by a general *laissez-faire* attitude towards corporate practices, bolstered the creation of oligopolies in the technology sector. Although, in recent years, platforms have received substantial criticism, mainly due to unprecedented incidents that were facilitated by their online services. This wave of criticism was, somewhat expectedly, accompanied by a change in the discourse surrounding platforms: experts and commentators dubbed this phenomenon as *teclash*, which is defined by the Cambridge dictionary as “a strong negative feeling among a group of people in reaction to modern technology and the behaviour of big technology companies” (*‘Techlash’*, n.d.).

As a result, for the first time since their inception in the first decade of the 21<sup>st</sup> century, platforms were not only met with widespread suspicion but were also presented with the risk of regulation. For the sake of context, it is important to briefly touch upon some decisive moments in recent history that prompted this shift. It is also worth reminding here that this dissertation focuses principally on platforms’ impact on our capacity to deliberate publicly. As such, it is primarily concerned with how online content governance is negotiated and, subsequently, what kind of regulatory initiatives have been developed by public authorities in response to platforms’ power over the public sphere. This is stressed here to justify the decision to mention only a few of the many incidents that prompted the *teclash*, along with the reactions of platform governance stakeholders.

At any rate, this part consists of two chapters. In the first chapter, I cover the regulatory response of the EU and two of its Member-states, namely France and Germany, between 2015 and 2020. Firstly, the selection of this dissertation’s area of analysis was largely based on two factors: my personal connection with and understanding of European politics, and the fact that the EU has been globally spearheading policymaking as regards online platforms. Relatedly, France and Germany, especially following Brexit, have been essentially shaping the EU’s agenda and have been pressurising the EU to take more stringent measures by passing national legislation and, thus, endangering the Union’s legal homogeneity. As two interviewees told me:

*"So, preventing fragmentation is just an argument that's used throughout by everyone as a case for harmonising. And there is a clear business case for preventing fragmentation: if you're a global company, you cannot have 27 sets of rules for distribution for X or Y; I mean that doesn't help*

*business, and it goes against the Digital Single Market concept. So I think the European Union does have these fundamental tensions between these ambitions for deepening the Single Market with some more culture-based national instincts” (Lara Natale, Senior EU Advisor of CERRE, Interview #6)*

*“Larger Member States [haven’t stopped] trying to take action at national level, particularly in recent years as it’s become increasingly clear that the internet plays a role in people’s lives” (Owen Bennett, Senior Policy Manager at Mozilla (now Ofcom), Interview #3)*

It should be noted that this chapter does not cover every regulatory framework passed or proposed in the examined period. I have selected to exclusively refer to those that have explicitly aimed to address concerns about online content governance. As a result, the first chapter serves to provide the necessary contextual information in order to appreciate the EU’s approach to platform governance. For example, the regulations proposed by the European Commission, which are described in Chapter 5, provide the background for Case Study #1, which is presented in Chapter 6. While no other case study is specifically tied to the national regulatory frameworks passed or proposed by Germany and France, I deemed it important to include them in this contextual and historical overview to better conceive the implicit (geo)political stakes of platform governance. Finally, the period was selected because most regulations appeared during that time span, primarily, as a reaction to the wave of techlash chronicled earlier. As Ms. Natale told me:

*“ I think it’s [the discourse] changed a lot. I guess like maybe in 2014, when the Digital Single market was sort of conceived or started, and I think it’s really changed a lot. In that era, that was just when I was starting as a permanent representative and that’s when many tech companies, in particular, platforms didn’t even have offices in Brussels, especially the US-based companies” (Interview #6)*

The second chapter deals with the role of citizens in platform governance within the context of the EU, by presenting an analysis of European citizens’ contributions to the public consultations held by the European Commission as part of its policymaking process. This second chapter works on two levels: on the one hand, it applies the conceptual changes about platform governance proposed in Chapter 4 and, on the other hand, challenges the normative claims concerning public deliberation in European policymaking. The reason that this chapter

is found in this part and not in the previous is because it is better connected to the European public sphere and the EU's approach to platform governance.

## 5. Regulatory Fervour in the European Union Between 2015-2020

### 5.1. A Brief Overview of Techlash

In 2018, thanks to a whistleblower who worked at consultancy firm Cambridge Analytica, we learned that the company, which had collaborated with the Brexit and the Trump campaigns in 2016, had gathered personal data from Facebook users without their consent to create individual voter profiles and serve them with appropriate political advertisements (Cadwalladr & Graham-Harrison, 2018). Facebook's CEO was summoned to testify to Congress (Watson, 2018), where he demonstrated remorse and admitted the need to "do better" to protect Facebook users (J. C. Wong, 2019).

The consequences were cataclysmic. Firstly, Facebook, and other social media companies, were forced to change their privacy settings; it must be noted that these changes, especially Facebook's, had also collateral damage as researchers' access to Facebook's API was blocked. Secondly, the scandal made users and policymakers more aware as regards data privacy and political manipulation through social media. Thirdly, regulators, especially in the EU, started pushing for stricter measures and enquiries into social media companies' data privacy practices. Lastly, Cambridge Analytica went bankrupt and shut down, while Facebook agreed to settle a class-action lawsuit in 2022, paying out \$725 million to plaintiffs (Hern, 2022).

Another tragic incident that played a crucial role in shifting public discourse concerning online platforms, as well as in eliciting regulators to take bolder action, was the live streaming of Christchurch Mosque massacre in New Zealand in 2019 (Lapowsky, 2019). A right-wing extremist opened fire in a mosque in Christchurch killing 50 people and injuring 50 more, while filming and live streaming his atrocious act on Facebook (Wakefield, 2019). The platform's content moderation mechanisms did not stop the shooter from live streaming it. By the time that Facebook acted, the video had already been downloaded by far and alt-right trolls, who kept reuploading it until the platform managed to ban it completely. It is important to notice that the extremist used 8chan, a fringe online alt-right community that has been used repeatedly by fascists and extremists to spread hate speech and, even, to announce an imminent attack (Rogers, 2020).

The consequences of this tragedy had severe implications for how platforms would approach online content governance afterwards. Hitherto platforms would primarily rely on outsourced labourers to conduct content moderation, who worked in distressful and

exploitative conditions (Roberts, 2019). They also made use of Artificial Intelligence (AI) technologies to fuel their mechanisms, but these were mostly used to assist human moderators' work (Zuckerman & York, 2019). Following the Christchurch massacre, along with advancements in AI technologies, the balance shifted radically. For instance, Facebook moved from reluctantly using AI to moderate content under human supervision to automatic removals of posts (Rosen, 2019). While there are definitely advantages in deploying automated solutions to conduct content moderation at scale, the challenges and risks to fundamental human rights are equally – if not more – grave (Gillespie, 2020).

Moreover, the massacre's live streaming had also political consequences. New Zealand's Ministry of Foreign Affairs and Trade launched the "Christchurch Call to Eliminate Terrorist and Violent Extremist Content Online" in 2019, with Aoteroa New Zealand and France as leaders and founders<sup>48</sup>. The Christchurch Call is part of what we call co-regulatory frameworks with soft-law implications (Gorwa, 2019a). Put simply, they mostly include non-binding commitments to be signed by relevant stakeholders as a sign of 'good-faith' to increase informal cooperation among concerned parties (Douek, 2019). In this case, 58 governments and 12 online tech companies have signed the Call's commitments, including Google, Amazon, Microsoft, and Facebook<sup>49</sup>. A similar example is "The Santa Clara Principles on Transparency and Accountability in Content Moderation"<sup>50</sup>

Furthermore, ever since 2015, many Western countries like the Netherlands, Germany, France, the United Kingdom, and the United States, have reported attempts of cyberattacks and disinformation campaigns from Russian agencies. Although, recent empirical studies denounce the fearmongering climate that was cultivated in relation to the actual impact of these campaigns, at least in the US (Eady et al., 2023). It still stands, though, that these campaigns were orchestrated and carried out by Russian intelligence agencies, as proved by an extensive investigation by the Federal Bureau of Investigation (FBI) and platforms' own reports. For instance, Facebook removed more than 70,000 fake accounts prior to the 2017 Presidential Election in France, while vast amounts of data about Emmanuel Macron's campaign were leaked (Conley & Vilmer, 2018; Daniels, 2017; Menn, 2017).

As such, these efforts, despite Russia's denial of involvement, created a sense of generalised suspicion and concern about "disinformation warfare" (Zannettou et al., 2019): "A few years ago, we were not talking about manipulation of services through online platforms" (EU Commission Staffer, #Interview 11). This was crystallised in European regulatory frameworks, which started including specific provisions to tackle this phenomenon, and in

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<sup>48</sup> <https://www.christchurchcall.com/about/>.

<sup>49</sup> <https://www.christchurchcall.com/our-community/countries-and-states/>.

<sup>50</sup> <https://santaclaraprinciples.org>.

platforms' content moderation policies, such as Facebook's policy on "Coordinated Inauthentic Behaviour" (Gleicher, 2018). As Mr. Bennett observed:

*"So, for instance, we've seen many, many cases over the last couple of years, particularly in elections, whereby bad actors simply understood that the way in which platforms are optimised for engagement. So, through things like coordinated inauthentic behaviour, they were able to effectively turn platforms into weapons and tools for disinformation."* (Interview #3)

Also, misinformation concerning the coronavirus and vaccines had negative impact on public health and contributed to vaccine hesitancy (Pascual-Ferrá et al., 2021). The shortcomings of platforms' investments in content moderation systems were also blatantly evident in this case. Early in the pandemic, when people had to stay home to stop the virus from spreading, platform firms amped up the use of AI which saw the proliferation of harmful and deceitful content (Gillespie, 2020; João Carlos Magalhães & Christian Katzenbach, 2020). In an analysis we conducted with the Institute for Future Media, Democracy and Society, we observed that platforms like TikTok or Facebook, had not adequately complied with their obligations stemming from their participation in the European Commission's Code of Practice on Disinformation regarding the mis- and disinformation about Covid-19 (Culloty et al., 2021).

Continuing, in January 2021, the U.S. Capitol riot was incited in part by disinformation and conspiracy theories spread on social media platforms about the integrity of the electoral result and QAnon (Guardian Staff, 2021). Here, the central node in the disinformation ecosystem was former president Donald Trump, as an exhaustive investigation carried out by a committee of the House of Representatives detailed (Garver, 2022). It is important to highlight that, according to documents leaked by whistleblower Frances Haugen, Facebook was not well-prepared to tackle the spread of such theories and, thus, to avoid facilitating the insurrectionists' attempted coup (Guardian Staff, 2021). Trump was banned from most online platforms shortly after the Capitol riot in a heated debate about whether it was the right call. As many scholars have since argued, the question should have never been about the case's substance.

Indeed, Trump had been pompously violating social media platforms' community guidelines long before the Capitol insurrection. Instead, the questions should focus on the decision's convenient timing – shortly after he had lost the election, and platforms' power to arbitrarily take such crucial decisions about our public sphere and, more specifically, public figures. Recently, Facebook reinstated Trump's account in a decision, following a recommendation from its Oversight Board, but that was ultimately taken by the second most powerful figure of the company, Nick Clegg, president for global affairs and former Deputy

Prime Minister of the UK. Likewise, Musk unilaterally decided to reinstate Trump's account, while using a Twitter poll as the decision's justification (Bond, 2022; Douek, 2021; Fallow, 2023).

In early 2021, social media platforms were used to spread mis- and disinformation to incite violence in Myanmar, which contributed to the military coup that took place in the country. Facebook, in particular, was the most significant facilitator of what concluded as a genocide of Rohingya Muslims living in Myanmar and as a massive refugee movement towards Bangladesh. Facebook is, effectively, the internet for the majority of Myanmar's population; this can be attributed to Facebook Free Basics, a program used to bring internet and online services free of charge to regions where there is not the appropriate infrastructure<sup>51</sup>. In a *mea culpa* move, Facebook commissioned the United Nations to conduct an independent report to identify whether it had indeed facilitated a genocide. The report condemned the tech giant for having created an "enabling environment" that was used to "incite offline violence" (BBC, 2018); Rohingya victims residing in the US and the UK have sued Facebook for over \$150 billion (Milmo, 2021).

This brief chronology indicated only a few of the numerous incidents that gradually chipped into the paradigmatic shift in public discourse regarding social media platforms. While the list is not exhaustive, it does bring to the surface the various challenges that platforms have had to face in recent years. Certainly, this does not take away their beneficial qualities, but goes to show that more robust regulation and oversight is required to "[facilitate] social, productive interaction" (Matei et al., 2021b, p. 2). In particular, the so-called "techlash" demonstrated platforms' incompetence to effectively moderate content allowed to circulate on their platforms. However, this is reasonable due to the astronomic scale of their services, which is bound to make moderation perplexing. By extension, some scholars argue that it is both a matter of competent content moderation but, also, a matter of design (Bucher & Helmond, 2018; Helmond, 2015) and political economy (Gillespie, 2020):

*"It is not just that moderating an enormous platform is harder. The persistent failure of social media platforms to build moderation architectures that work should tell us something. Perhaps, if moderation is so overwhelming at this scale, it should be understood as a limiting factor on the 'growth at all costs' mentality. [...] It is size, not scale, that makes automation seem necessary" (Gillespie, 2020, p. 4)*

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<sup>51</sup> <https://www.facebook.com/connectivity/solutions/free-basics>.



Additionally, as our Case Study #4 demonstrates, content moderation is an innately political action with apt effects on the way in which we deliberate publicly and, thus, participate in our various public spheres. Thus, online content governance is a fundamental facet of the platform governance edifice and its impact on the public sphere. Therefore, we must examine and scrutinise regulation aimed to adjust the way online content is governed, which is precisely what this part aspires to do; this is also touched upon in Part III, but in a more concentrated effort, examining the role of news media organisations in platform governance.

Furthermore, there is another aspect to the regulatory response prompted by the aforementioned techlash: how platform companies will adapt to these novel frameworks does not solely depend on the policymakers' intentions, as lobbying practices and political-economic power allow them to adjust these policies in a way that does not undermine their governmentality. The extent to which this concern is reified lies, primarily, on the legislators' and regulators' willingness to adopt and enforce policies that challenge the status quo, in which tech giants dominate our online public spaces, while considering that the burden of compliance is not equally distributed among platform governance stakeholders (e.g., small and medium-sized businesses).

Michèle Léridon, a long-time journalist at AFP and member of France's Superior Audiovisual Council (CSA), told me that she observed a shift in platforms' discourse regarding regulation, from being "[arrogant]" to trying to find solutions (Interview #9). But, I believe that we ought to be suspicious of relatively recent calls from these corporations' CEOs to policymakers for regulation (Zuckerberg, 2019), particularly when these calls are followed by specific guidelines as to what would constitute a best-practices approach (Bickert, 2020). This much was also stressed by one Commission staffer I interviewed: "I think [this] story is as old as life itself, where the large companies at some point push for more regulated environment that fits their models" (Interview #11). In the next sections, we will take a closer look into this environment and how the targeted companies, along with other platform governance stakeholders, reacted to regulatory developments.

## 5.2. The Brussels Effect, Regulation, and Geopolitics

As mentioned earlier, in recent years, we have seen the development of several regulatory frameworks, agreements (binding and non-binding), industry initiatives, etc. as a response to the phenomenon of techlash, which was described above. Specifically, in recent years, Brussels – as the European Commission and other EU institutions are often colloquially called – have been active in producing regulatory frameworks, especially relating to the technology sector, which have had a global impact (Figure 3). As van Dijck has written, “the [EU], despite a

scarcity of home-grown ‘big’ tech companies, tries to position itself as a governmental agent of change in the global digital economy” (Van Dijck, 2021, p. 2804). Recently, it seems that the Commission changed its strategy and now seeks to actively “export its regulations,” as it plans to inaugurate a new office in Silicon Valley - home to major American technology companies - to “have a positive relationship between the regulator and the regulated” and to coordinate common regulatory action with American regulators (Bertuzzi, 2022).

Bradford coined the term “Brussels Effect” to describe this tendency whereby European regulation goes beyond the EU’s jurisdiction and influences policymaking around the world (Bradford, 2012, 2020). She defined it as “the EU’s unilateral ability to regulate the global market place [which] can be unintentional, arising from a set of enabling conditions [...] rather than from the EU’s active efforts to export its regulations” (Bradford, 2020, p. 1).

Specifically, Bradford argues that there exist two interrelated variants of the Brussels effect: the *de facto* and the *de jure*. The former refers to “how global corporations respond to EU regulations by adjusting their global conduct to EU rules,” while the latter refers to the “adoption of EU-style regulations by foreign governments” (Bradford, 2020, p. 2). A common example of the former is the General Data Protection Regulation (EP 2016; GDPR), which was adopted by the EP in 2016. Bradford posits that the GDPR was the manifestation of the EU’s strong “de facto Brussels Effect” in the domain of data privacy because of its broad extraterritorial reach, as it was more cost-effective for dominant platforms to comply with its new regulation than to exit the European market (2020, p. 143). Similarly, she continues, the “de jure Brussels effect” in the same domain, has made hundreds of countries to emulate EU’s data privacy laws<sup>52</sup>.

Moreover, Bradford provides us with an important overview of how some may consider EU’s regulatory activity as a form of “regulatory imperialism” arguing that EU has been making it extremely costly for others to keep up, especially countries of the Global South, as well as that European values and processes are not universally applicable (2020, pp. 247–248). Bradford, though, convincingly contends that, in fact, developing countries might benefit from the Brussels Effect by “free [riding]” the EU regulators’ investigations and proposals (2020, p. 253). In addition, Bradford claims, that most of the global effects elicited by European regulation have been inadvertent rather than deliberate and strategic (2012, p. 6). In other words, European policymakers have oftentimes found themselves in the privileged position to exert global regulatory influence as a “by-product” of the EU’s goal to “create an internal market that reflects [domestic policy preferences]” (Bradford, 2012, p. 6).

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<sup>52</sup> A stark exception is the US, which as European authorities have judged, do not have adequate data privacy legal safeguards (Natasha, 2020).

Indeed, the unpredictability of regulation in a globalised environment might cause unintended aftershocks that expand across jurisdictions. This effect can also have negative consequences, as seen in the cases of authoritarian regimes using Germany’s Network Enforcement Act (NetzDG) as a legitimacy vehicle, like that of President Erdoğan in Turkey, to crack down on freedom of expression (Windwehr & York, 2020). At the same time, researchers and scholars who study EU platform regulation run the risk of embracing a myopic “Eurocentric” position, that fails to consider global nuances and, indeed, the contradictions of the EU itself.

Moreover, it is not uncommon for European scholars to depict the European approach as a kind of a third ideological model for platform governance (van Dijck and Lin 2022, p. 65), with the other two deriving from the United States, which is “[promulgating] less-stringent regulatory standards” (Bradford, 2020, p. xv) and from China, which “operates a state-controlled, corporately run ecosystem of platforms” that are increasingly toppling US’s dominance (Van Dijck, 2021, p. 2814). However, legal scholar Yang Cao has noted that, in fact, China has adopted a “less stringent attitude towards digital platforms,” maybe in a bid to establish its “internet sovereignty home and abroad” (Mckune & Shazeda, 2018, p. 3850), while its “antitrust legislation and implementation rules” seem to have been “heavily based on Western rules” (Cao, 2020, p. 2).

Therefore, one cannot gloss over the fact that accounts presenting the EU as a potential role model for “governing a digital platform society” (van Dijck et al., 2018, p. 165), despite being compelling, might oversimplify complex socio-political and socio-economic situations. What is more, such approaches also run the risk of replicating a Eurocentric approach<sup>53</sup>, which as this dissertation suggests, might skew conflicts and tensions found within the EU, as well as the problems that exist with the current policymaking system, which is far from the idealised participatory system envisioned in the Commission’s “Better Regulation Agenda” (Papaevangelou, 2023a). In any case, Bradford’s concept is a useful lens through which we can appreciate the geopolitical aspect of regulation and, particularly, the unique nuances that tech policy entails, especially in the EU.

As we saw in Chapter 4, scholarly literature has, principally, identified three approaches to regulation: self-regulation, co-regulation, and state or top-down regulation. Mansell claims that each of these options “raises questions about how to ensure that clashes among economic and public values do not yield outcomes that are disadvantageous or harmful

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<sup>53</sup> Drawing from the concept of “exceptionalism,” defined by Bradford and Posner as “the values of one particular country should be reflected in the norms of international law” (Bradford & Posner, 2011, p. 7), we refer to Eurocentrism as the idea that “European values,” as laid out in the Charter of Fundamental Rights of the EU (Charter of Fundamental Rights of the European Union, 2012), should be globally reflected.

to specific individuals or groups of stakeholders” (2019, p. 38). In so doing, she effectively encapsulates an essential aspect of regulation’s political economy: who benefits, or is restricted from benefitting, from a certain regulatory framework? Importantly, she does not restrict her argument to the economic sphere but expands it to cover public and societal values, which will most likely be at odds with pursuing capitalist interests. Thus, the responsibility to level the playing field rests with decision makers who are found at a new “critical juncture” (Mansell, 2019, p. 43), as was mentioned in this treatise’s introduction.

### 5.2.1. The Impact of France and Germany in Platform Governance

In the next sections, we will cover some of the most well-known and impactful regulatory initiatives taken by Germany and France, two countries which are effectively driving the EU’s policymaking agenda. This was further reinforced after the UK announced in 2016 that it would be leaving the EU, following the Brexit referendum; indeed, the UK officially left the Union in January 2020, radically transforming the European landscape. As Ms. Natale remarked: “The Franco-German axis is much heavier now” (Interview #6). Brexit also left a scar on the EU’s regulatory procedures and, broadly, policymaking. Almost all relevant interviewees I asked about Brexit’s impact on EU politics concurred that it reduced the diversity of viewpoints on several issues, strengthened the Franco-German axis, and changed the balance in EU politics.

Concerning the first point, Ms. Natale’s insight has been illuminating, as an expert who has worked in and collaborated with regulatory authorities both in the UK and the EU. Specifically, she told me that, since the EU receives input from Member-states before conceiving and implementing any laws, “UK consumers have traditionally been, and continue to be, early adopters of new technologies” (Interview #6). The UK MEPs, thus, would inform EU authorities from a different perspective concerning the benefits and harms of novel technologies. Likewise, the UK telecommunications regulator, Ofcom, “is a very experienced regulator” (Interview #6) and one of the most active members of EPRA (Interview #2), an informal international forum of regulators. Indeed, both Ms. Machet and Camila Bustani, Director international at Ofcom (Interview #10), lamented Brexit’s negative impact on EU politics:

*“I think it's such a pity for the EU [that UK is leaving the EU], in terms of regulation and regulators, because Ofcom is a regulator, that is really well known for a long tradition of good research-based regulation, and really thought about the processes as well as, its consultation process. So, it's a loss I think” (Interview #2)*

Regarding the other two points, while it has already been hinted, it seems that Brexit made France's and Germany's position in the EP much stronger, given that they are the EU's two largest countries: Germany currently has 96 MEPs, while France has 79<sup>54</sup>. It is worth noting that Italy, the third largest constituent of the current EP's formation, has 76 MEPs but does not have the same political influence as the other two countries, probably due to a weaker economy and more unstable political landscape. According to Ms. Natale, the UK "carried a lot of voting points and could form majorities and minorities and other balance of voting power in the Council, which now looks very different and that impacts on everything" (Interview #6). Similarly, Ms. Bustani argued that the UK's approach in European politics helped ensure a more balanced approach to the "more prescriptive tendencies of some of the European countries":

*"The Brits are pragmatic, they're not dogmatic. And when you've got a multilateral negotiation of 28 countries, that's a very helpful thing to have, pragmatism. Because you're never going to get compromised based on dogma that doesn't happen. So, I think that the dynamic of the 27 is going to miss that pragmatism"* (Interview #10)

Admittedly, though, in addition to Brexit, one must consider the historical Euroscepticism in the UK, which is intertwined with the Conservative Party and, in particular, Margaret Thatcher's legacy {Citation}. Certainly, as Alexandre-Collier explains, Euroscepticism was embraced and reinforced by, primarily, Conservative governments, who sought to oppose the prospect of European integration on many levels, even by ensuring legal carve-outs concerning the UK's responsibilities in relation to the Union (2015). Here, Euroscepticism is associated with a hard kind of opposition to the project of European integration, which greatly differs from a softer kind that is mostly critical of EU politics and future trajectories (Alexandre-Collier, 2015). At any rate, this clarification was necessary to avoid singling out Brexit as a singular moment in time, as well as to provide a brief account of the political and historical framework within which Brexit took place. What is more, the fact that the notion of pragmatism is invoked by my interlocutor in this instance, echoes what Chris Gifford observed regarding how Euroscepticism was constructed based on a set of distinctions between Europe and the UK, such as "European bureaucracy and political formalism versus British pragmatism and democracy" (2014, p. 97)

Furthermore, beyond the enhanced position of France and Germany due to Brexit, these two countries have developed a strong cooperation in recent years apropos platform

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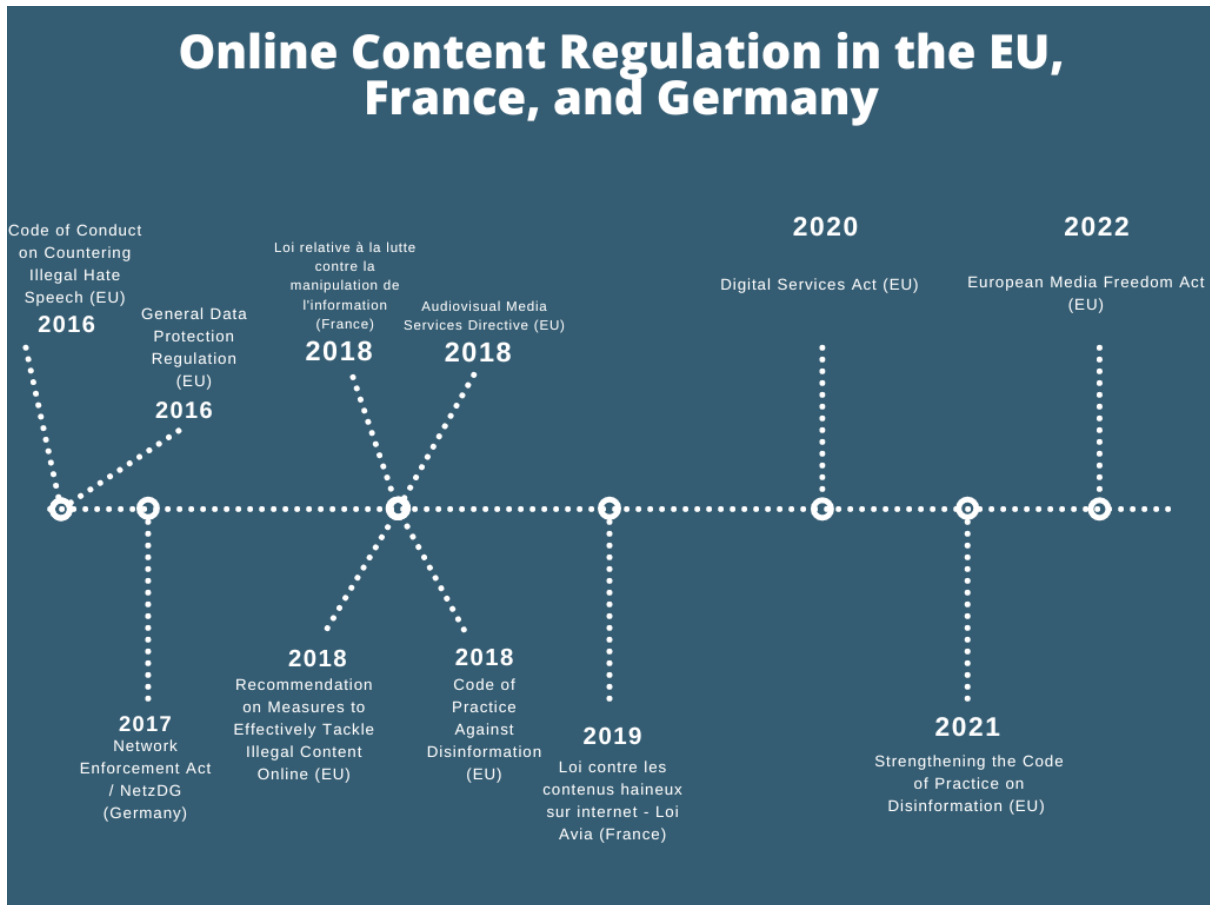
<sup>54</sup> <https://www.europarl.europa.eu/election-results-2019/en/seats-political-group-country/2019-2024/>.

governance and online platform regulation. Their relationship, though, has seen sporadic conflicts. For instance, France, in a bid to put pressure to the Organisation for Economic Cooperation and Development (OECD), proposed and unilaterally implemented a Digital Services Tax (DST) in 2020 to target large tech conglomerates (Leigh, 2020); previously, when the tax was suggested as a Europe-wide measure, Germany had staunchly opposed and lobbied “behind closed doors” to prevent it (Fanta, 2020).

Nevertheless, they largely agreed on assuming a more protectionist approach that would also reap the economic benefits that digital and online technologies could bring to the EU, which has been often depicted as a laggard compared to the US and, recently, China (Interview #3). This was crystallised at the 2016 “Franco-German conference on the digitisation of the economy” co-directed by former President François Hollande and former Chancellor Angela Merkel, where both countries exalted the role of startups in the digital economy and the need to ensure that more European businesses will thrive (Tech, 2015). It is worth noting that, all these initiatives, including France’s DST and many of the regulations that we will touch upon later, raised eyebrows in the US. For example, US officials have repeatedly expressed concerns over EU policies discriminating against US businesses (Samuel, 2022). This serves as a reminder that regulatory initiatives do not only seek to promulgate public values but may also include, explicitly or implicitly, geopolitical pursuits.

However, as our current focal topic is online content governance, in the next sections we will unpack some of the most notable relevant regulatory frameworks. Specifically, we turn our attention to: Germany’s pivotal Network Enforcement Act (NetzDG) from 2017, which has arguably set the standards for many subsequent content regulations around the world (Zurth, 2021); France’s law against the manipulation of information from 2018, which is among the first to tackle mis- and disinformation campaigns especially related to elections, and the largely defunct law against online hateful content from 2019 (colloquially known as “Loi Avia” from its rapporteur Laetitia Avia, a former member of the French parliament).

Figure 3 - Timeline of Landmark Initiatives on Content Regulation in the EU



#### 5.2.1.1. Germany’s Network Enforcement Act

Germany’s Network Enforcement Act or NetzDG was first introduced in 2017 and entered into full force in January 2018 (Bundestag, 2017). It was one of the most “ambitious attempt[s] by a Western state to hold social media platforms for combating online speech illegal under the domestic law” (Tworek & Leerssen, 2019, p. 2). Also, it is considered one of the few examples of top-down regulation, part of what law scholars call “new school speech regulation” with “legalistic rules mandating deletion of specified content categories” (Griffin, 2022, p. 2). Practically, the law obliges platforms to remove or block content that is illegal according to the national Criminal Code within 24 hours of receiving a complaint (Matei et al., 2021a, p. 105). Before going through the law’s specificities, though, it is significant to understand the context within which it was developed.

As Griffin notes, Germany has been striving, in recent years, to combat the rising of far-right terrorism and neo-Nazi groupuscules’ popularity (Griffin, 2022, p. 2). This was aggravated following the unprecedented refugee and migration crisis of 2015, when more than a million Syrians applied for asylum in Germany, which incited a novel wave of racism and misanthropy in the EU (Heldt, 2020). For instance, in the 2017 German federal election, the far-right political party AfD (Alternative for Germany) secured its entrance to the German

Bundestag as the third largest party; however, in the most recent election of 2022, it saw its percentage decrease and now is the fifth party in the parliament (Schultheis, 2021). Additionally, 25 far right and ex-military figures were recently arrested by German authorities as they were preparing a coup; notably, some of them were also part of the QAnon conspiracist movement that began in U.S. fringe online fora like 8chan (Kirby, 2022).

Therefore, Germany's troubled past with Nazism has had a tremendous impact on its modern legislation, in particular concerning freedom of expression. Germany's Basic Law, which was retained as the country's constitution after its reunification in 1990, "upholds the rights to free speech, press, and opinion, but also sets certain restrictions for protecting young individuals and personal honour" (York, 2021). This may include "criminalising offensive speech" (Heldt, 2019, p. 4), which "can be acceptable as long as it does not result in overblocking," that is the deletion or blocking of content "for no substantial reason" (Heldt, 2019, p. 5).

The notion of 'overblocking' is important to keep in mind, as it has appeared in diverse cases regarding social media platforms' content moderation. For instance, the risk of over-removal was one of the reasons that the French Institutional Court struck down most of "Loi Avia," that was proposed by the French government in 2019 (Untersinger & Piquard, 2020). In addition, the German criminal code further regulates speech that incites hatred, denies the Holocaust, and other related subjects (Tworek, 2021). Laws prohibiting anti-constitutional practices, such as membership in neo-Nazi or far-left political groups, are also in place. As such, the NetzDG is often framed as a law within the spirit of "what is illegal offline, should be illegal online" especially concerning hate speech. This is also the spirit of recent EU regulatory frameworks like the DSA, albeit with a substantially different approach (Chini, 2022).

Dr. Alexander Schäfer, head of the division responsible for enforcing and overlooking NetzDG's application, told me that "the network enforcement act didn't start with drafting the act, but first of all, we tried to have another mechanism of self-regulation" (Interview #8). This started as a Code of Practice in 2015, which included a task force focused on hate speech and led by former Minister of Justice, Heiko Mass; it also brought together some of the largest social media platforms and civil society organisations to iron out how this would work (DW, 2015). Gorwa has also shown how the NetzDG's development should be considered in tandem with Mass's own political ambitions for to move up the ranks (Gorwa, 2021).

Regardless, Dr. Schäfer noted that platforms were, initially, rather negative towards the prospect of having to comply with certain standards, which stemmed from German's Criminal law. However, in December 2015 they managed to agree on a first "self-binding



declaration” with platforms “[promising] to accept German law and to have a notification procedure [so that] every user can [flag] content that that was found to be illegal; they also promised to check and to use German Criminal law to check whether these notified posts comply or contravene German criminal law and to do this within 24 hours” (Interview #8). In addition, the task force took up the responsibility of checking whether platforms were holding up to their pledges (Gorwa, 2021). To that end, they were supported by “an organisation of youth protection that is held by youth ministries of the federal states,” which conducted tests to gauge platforms’ reaction. According to Dr. Schäfer, the results were disappointing, which prompted German policymakers to devise a law that would include binding obligations.

The NetzDG applies to for-profit online platforms with over two million German users and, primarily, targets hate speech that is motivated by “prejudice against a protected group” (Griffin, 2022, p. 8). An important aspect of the NetzDG is the obligation for platforms to carry out assessments regarding internal handling of complaints received by users through a dedicated service accessible only to German residents. Platforms can receive fines up to €5 million for not complying with the law (Griffin, 2022; Heldt, 2019). For example, Facebook has been fined twice for using ‘dark patterns’ “to mislead users into reporting content under its community standards instead of under the NetzDG, and for excluding all such complaints from its transparency reports” (Griffin, 2022, p. 9); platforms are also obliged to publish separate transparency reports for content they took action on according to the NetzDG’s provisions.

NetzDG has received substantial criticism from industry and civil society stakeholders alike, with the former fearing the risk of facing huge fines and the latter warning against the possibility of over-removal of content by platforms precisely due to the financial repercussions (Gorwa, 2021, p. 1); this critique has not been without “misconceptions, biases, and exaggerated assumed impacts” (Zurth, 2021, p. 1153), primarily due to the difficulty of empirically studying the effects of the law because of insufficient access to data for researchers (Tworek & Leerssen, 2019, p. 9). However, Griffin argues that “NetzDG’s regulatory model is fundamentally flawed [by] focusing exclusively on stricter moderation of illegal content, without considering how the likelihood that users post and view illegal content is influenced by the wider online environment” and, thus “effective regulation must be more systemic” (2022, pp. 14–15).

The responsible team for NetzDG, as Dr. Schäfer let me know, have been working on improving some of the law’s blindspots, as well as to harmonise it with new changes in the country’s Criminal law (Heldt, 2020). Specifically, Dr. Schäfer pointed out three major changes: a) the obligation for platforms to notify the Federal Criminal Police Office in cases of death threats or incitement to hatred, b) the capacity for users to contest a platform’s content

moderation decision, and c) an encouragement for platforms to cooperate and share data with scientists and researchers studying social media (Interview #8).

Yet, not only does the first point might further endanger freedom of expression, the NetzDG continues to approach online content governance from an *ex-post* perspective, i.e., regulating content, namely a specific category of content, after it has been published or shared online, rather than prior to its distribution. Conversely, recent EU regulatory frameworks have been adopting an *ex-ante* perspective, i.e., appreciating the broader systems within which platforms operate and regulating the way in which they govern content (e.g., moderation, algorithmic personalisation, etc.). As such, I believe that the NetzDG was a timely regulatory initiative, which, as Heldt has shown, did not cause an overblocking or censoring of Germans' online speech (2019). In that sense, "it was better than having done nothing" (Gorwa, 2021, p. 10). But, as Griffin rightfully contends, it is now obsolete, especially in light of EU's upcoming regulations (2022).

Concluding, the law has inspired other countries, both within and beyond the EU, like Austria and France (Grüll, 2020; Seibt, 2019), to pursue similar measures in "some sort of race to the bottom" (Heldt, 2020), in what could be described as a "Berlin Effect." As one MEP staffer told Gorwa for a research project: "the consensus was that early law made by a major member state could serve as a blueprint for eventual European wide legislation" (Gorwa, 2021, p. 9). Hence, some digital rights activist groups have labelled the law as an "export success" to authoritarian regimes, as Russian and Turkish legislators, among others, have passed or suggested similar legislation, often with direct reference to the NetzDG (Mchangama & Fiss, 2019; Windwehr & York, 2020). Relatedly, Dr. Schäfer put it this way:

*"There are good example and there are bad examples. The good examples would be France and Austria. However, for France, we have to see now that the French Constitutional Council has stopped the full implementation of the law [Loi Avia] but, nevertheless, France has tried, and the next try is on the way. [...] And, of course, there are bad examples like Russia and some other authoritarian regimes; and, yes, it's an argument, but I think it's not Germany who decides if Russia and other countries can [implement] such a law or not. They would have done it in any way, I think"* (Interview #8)

#### 5.2.1.2. France's Challenges with Online Content Regulation

Badouard informs us that a fundamental piece of history of speech regulation in France is the law on the freedom of the press voted in 1881 by the Third Republic (2020, p. 31). Briefly, the law aimed at legally enshrining certain protections and responsibilities for press publishers in

France. Among others, the law clearly defined what could constitute an abuse of freedom of expression (e.g., defamation) but with adequate protections for editors to defend themselves even in cases of such abuses (Badouard, 2020, p. 31). The law, expectedly, has received numerous amendments since its adoption.

In 2004, France passed the law on confidence in the digital economy<sup>55</sup>, which effectively transposed the Law 1881's provisions to the internet, albeit with a number of practical problems (Badouard, 2020, p. 33). The law's main objective and challenge was to clarify the legal status of intermediary liability (Badouard, 2020, p. 33). Specifically, the law included provisions of symmetrical legal obligations depending on the status of regulated entities. For instance, according to this law, the service providers had the "[least] liability, but [had] to accept [carrying out] surveillance and filtering activities concerning sites pointed out by a judicial authority" (Badouard, 2020, p. 33); the hosts had an "increased liability," meaning that they could be found liable for a publication's content if proved that they had prior knowledge (Badouard, 2020, p. 34), much like to the "safe harbour" regime that we will discuss later; last, the publishers were liable for content published through their services, insofar as "they have an editorial activity of sorting and enhancing the information they make available" (Badouard, 2020, p.34).

However, as Badouard notes, this law had practical applications that became visible quite early with the rise of online platforms: "on the one hand, [platforms] do not exercise a priori control over the content published via the tools they make available" but "on the other hand they are not completely neutral in relation to the content they host [...] as they exercise [algorithmic] activities of filtering [and] sorting" (Badouard, 2020, p. 35). This question of whether platforms could be recognised as exercising editorial activities and, thus, whether they could be held liable for content they host has been a central policy debate in the era of the commercial internet (Maroni, 2020).

Nonetheless, what is clear, as Napoli and Caplan argue, is that these companies are not merely technology firms but play an important role in our democracy, often equal to or more important than that which media organisations have played in the past; and this should be inscribed in modern policy weaponry (Napoli & Caplan, 2017). As Ms. Léridon put it, "the goal would be that, at least, what is forbidden in the traditional media, should also be on social networks" (Interview #9).

At any rate, in this section we are primarily interested in more recent regulatory proposals developed in France, especially under President Macron's tenure since 2017, who sought to establish a favourable policy framework for the "French Tech" (Smyrnaio, 2022, p.

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<sup>55</sup> In French: Loi pour la confiance dans l'économie numérique.

42), as well as to present himself as an innovator in regulating platforms (Badouard, 2020, p. 36). In 2018, the French Parliament voted the law against the manipulation of online information<sup>56</sup>, which, among others, obliged platforms to publish transparency reports regarding political advertising, media literacy and, most importantly, ‘fake news’ (Badouard, 2020, pp. 37–38; Interview #9); Ms. L  ridon told me that, “France started with false information and Germany with hatred” (Interview #9) referring to NetzDG and the priorities set forth by each country.

It is important to note that, during electoral periods, the law stipulated the intervention of a judge as the authority to discern whether an information that was flagged as false by a user in 48 hours (Badouard, 2020, p. 38). Yet, this was seen more as a soft regulation approach, as there was no sanction involved in cases of non-compliance from platforms. This regulation, primarily its part dealing with elections, was seen by many as Macron’s personal objective to regulate online content, following his own experience during the 2017 French Presidential Election (Menn, 2017). As Ms. L  ridon put it: “So, what we regulate is [the control] of the means and tools that platforms put in place to fight [against] false information and soon hatred online [hinting at Loi Avia]” (Interview #9).

As a result, Ms. L  ridon, effectively, puts into frame a common point of critique towards modern regulatory frameworks: the privatisation of regulation (B  the & Mattli, 2011b) and, in particular, of speech regulation (Badouard, 2020, p. 36), which “[legitimises] the role of social media platforms as the governors of much of the speech that is being shared online” (Helberger, 2020, p. 844). At any rate, Ms. L  ridon informed me that, in 2019, the CSA did the first review of the law’s application and found that platforms had not shared sufficient information concerning their algorithms’ mechanisms, which would allow the authorities “to better understand [the algorithms’] objective effectively, the criteria on which they are based” etc. (Interview #9).

What is more, she also emphasised the need to look beyond algorithmic transparency and focus on how platforms moderate content. For instance, she brought up TikTok as an example of a platform whose number of French-speaking moderators was unknown (Interview #9). She highlighted, though, that the CSA was satisfied with the overall level of dialogue and cooperation with platforms.

Furthermore, in 2019, Macron’s government tried to introduce a novel regulatory configuration based on co-regulation (E. Braun, 2019) or “smart regulation” (Badouard, 2020, p. 41), wherein platforms are left to “conduct the work of moderation themselves based on commonly defined criteria, by imposing them [obligations] on their means rather than on their

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<sup>56</sup> <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000037847559/>

results” (Badouard, 2020, p. 41); this coincides with what Ms. Léridon noted in our interview too. This initiative was proposed after a report compiled by a group of telecom policy experts with experience both from the public sector, as members of public regulator groups like CSA, and the private sector (Desmaris et al., 2019).

For example, Mr. Loutrel had previously served shortly as director of public affairs for Google in France in 2017 and as a co-director of France’s telecom regulator ARCEP. It is worth mentioning here that it has become widespread practice for policymakers to propose regulatory frameworks based on commissioned reports (Helberger, 2020), demonstrating a shift in evidence-based decision-making, albeit – as we mentioned in the previous part – with often limited access to corporate data.

In addition, this report was part of an agreement that Macron had done with Facebook’s CEO during the former’s visit in Paris in 2018: instead of regulating them in a top-down manner, the two men, reaffirming the patriarchal paradigm, agreed to have a team of regulatory officers installed in various content moderation centres around Europe so that they can draw safer first-hand results. The experiment was supposed to run for six months starting from January 2019, but was reduced to two months because of internal political turmoil: some members of Macron’s government, like former Secretary for the Digital State Cédric O, wished to adopt a softer regulatory stance and were, thus, in favour of the experiment, while others, including deputy Avia, wished to assume a stricter position (E. Braun, 2019). Moreover, Big Tech companies embraced the proposal: for instance, Facebook’s former Vice-President of policy solutions characterised it as “one of the most future-looking approaches we have seen” (Kayali et al., 2019).

The report outlined a vision of a more systemic approach to regulating online content governance, focusing on *ex-ante* provisions, like the EU would do shortly after with the DSA; though, the French proposal did not have a regulatory backstop to enforce compliance. What is more, the proposal included a shift in earlier approaches to regulate tech companies based on the destination of their offered services rather than the country from which they operate, i.e., it suggested abolishing the ‘country-of-origin’ principle which is enshrined in the EU’s e-Commerce Directive. Notably, France pushed for this during the DSA negotiations, but failed to convince other Member-states (Bertuzzi, 2021a).

Furthermore, as the initial, more *laissez-faire* approach was shelved, the other stricter approach, which would come to be colloquially called Loi Avia, gained prominence. As mentioned earlier, the law on combating hateful content online resembled, in many aspects, Germany’s NetzDG: apart from the obligations for transparency reporting, it targeted “explicitly illegal” content, against which platforms should act in a time frame of less than 24

hours for hateful content or less than 1 hour in cases of child exploitative or terrorist content, to avoid receiving fines corresponding up to 4% of their annual global turnover (Badouard, 2020, p. 39; Molinari, 2020). So, this marked a decisive turn from France's previous approaches, e.g., with the law on the manipulation of information, in that it stipulated high fiscal penalties. Additionally, it also introduced novel oversight obligations and regulatory capacities for the CSA, including the power to unilaterally request the blocking of a condemned online platform to Internet Service Providers (ISPs) (Badouard, 2020, p. 39).

The law received substantial criticism from various sides, ranging from opposition parties to civil society organisations (De Fournas, 2020). Shortly after its adoption by the French Parliament on 13 May 2020, a coalition of the law's opponents appealed to France's Constitutional Court against the Loi Avia (Charrier, 2020). As the digital rights advocacy group *La Quadrature du Net* noted in their submission to the Constitutional Council, the time restrictions put by the law, especially the span of one hour (Article 1 of the law), were disproportionate to the risks posed to users' freedom of expression because platforms would be pressed to act without sufficient due diligence (Smyrniotis & Papaevangelou, 2020)<sup>57</sup>.

Indeed, on 18 June 2020, the Council judged the law unconstitutional, striking down most of its provisions (Jean-Sébastien & Godfrin, 2020). The only provision that survived the Council's decision was Article 16, which stipulated the creation of the Observatory on Hate Speech<sup>58</sup>, presided by the CSA, aimed at conducting analyses of hateful online content and share insights with policymakers and other stakeholders.

Effectively, the judges deemed that, if the law applied, platforms could start "overblocking" content to avoid sanctions (Untersinger & Piquard, 2020). Ms. Léridon underscored the importance of Article 1 for the Council's ruling: "the whole law was built on it; it was the first article and so everything else derived from it. From the moment the Constitutional Council struck down this provision, it cancelled almost the whole law," adding that "we ourselves had a few doubts as to how such a law could pass" (Interview #9).

As Douek contends, online speech governance is negotiated between proportionality, i.e., proportional limitations on online speech resulting from competing interests, and probability, i.e., the margins of 'collateral suppression' of online content (Douek, 2020a). Overblocking was also brought up in the previous section about Germany's NetzDG, where the fear of overblocking, according to empirical studies, did not materialise, most likely due to the country's unique sociopolitical context and platforms' own work to combat hate speech, which, in a way, nullified much of the law's effectiveness.

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<sup>57</sup> <https://www.laquadrature.net/2020/05/26/loi-avia-nos-observations-devant-le-conseil-constitutionnel/>.

<sup>58</sup> *Observatoire de la haine en ligne*: <https://www.csa.fr/Informer/Toutes-les-actualites/Actualites/Observatoire-de-la-haine-en-ligne-analyser-pour-mieux-lutter>.

It could be, then, that in the case of the Loi Avia, platforms would have to, as Douek has put it, “err on the side of caution” (Hendrix, 2022) due to the extremely narrow time restrictions to efficiently review content before acting on it. So, instead of challenging the platforms’ status quo and self-governance, for instance by putting in place systemic obligations (Griffin, 2022), the French law would further elevate their capacity to balance between proportionality and probability. The EU’s approach with the DSA tried to strike that balance, as we will see in the next section.

### 5.2.2. EU’s Approach to Online Content Governance

We now turn our attention to the EU level, which has spearheaded the development of several regulatory frameworks, binding and non-binding agreements, industry initiatives, etc. to rein in platforms’ power as new governors of our (digital) public spaces (Helberger et al., 2018b; Klonick, 2018). Generally, the EU was reluctant to regulate platforms in a hard way, opting for softer solutions, like the CoC or the CoP, which progressively became stricter, like the DSA or the revamped CoP. This stance changed over time as the techlash movement was growing, alongside national initiatives to regulate platforms, like the ones mentioned earlier regarding Germany and France.

So, the Commission was, effectively, tasked with the challenge of averting what has come to be called as a “regulatory fragmentation,” i.e., a situation wherein Member-states have their own regulatory frameworks concerning digital services endangering the harmonisation of the EU DSM. As a Commission Staffer put it:

*“I think that there's certainly a risk of fragmentation and it's a core part of the analysis that we've made for the impact assessment for the [DSA]: it's a testimony to the shared challenges [...] that these are issues that Member-states are confronted with on a daily basis.”* (Interview #11)

That same concern was shared by all my interlocutors. Ms. Machet summarised it accurately:

*“[Now you] have the DSA but you have, as well the national initiatives, like the NetzDG in Germany, in France the Loi Avia, whose more or less key provision disappeared, but now is reappearing in another form<sup>59</sup>, there's now an Austrian law about this; so all this coordination between the*

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<sup>59</sup> Ms. Machet alludes to a later French law passed in late 2021, dubbed “Loi Séparatisme,” which carries some of the same obligations as “Loi Avia” but following the spirit of the DSA; in fact, Ms. Avia characterised it as a “pre-DSA” law (Fuentes, 2022)

*European and the national level, as well as the question of the jurisdiction around this is really hot issue.” (Interview #2)*

To that end, in 2020 the Commission unveiled its Digital Strategy Plan, which outlined a strategic vision of how the EU could become a leader in setting the agenda and imposing its values on how global technologies operate<sup>60</sup>. The publication’s timing was also intriguing: the plan was unveiled in February 2020, at the same time when the CEOs of some of the largest tech companies flocked to Brussels to meet with EU executives, namely Margrethe Vestager (VP of the Commission for the Digital Age), Věra Jourová (VP of the Commission for Values and Transparency) and Thierry Breton (Commissioner for the Internal Market) about potential regulatory solutions.

For instance, Zuckerberg’s visit coincided with two important publications: a white paper published by Facebook itself, describing what would be a best-practices approach to regulating online content, not only on their platform but elsewhere too (Bickert, 2020) and, second, an op-ed by Zuckerberg himself on *Financial Times* (Zuckerberg, 2019), who asked for more regulation, which would “[hurt Facebook] in the short term but [help] in the long term.” Notably, Commissioner Breton rejected Facebook’s pitch, arguing that “it’s not up to us [the EU] to adapt to this company [Facebook], it’s for this company to adapt to us” (Dhaliwal, 2020).

However, it is also important to underline the asymmetry that the regulatory fragmentation causes, and which can be exacerbated by high compliance costs. Indeed, as Ronan Costello, Twitter’s EU policy manager, argued:

*“[The largest companies] are the ones who are best able to cope with regulatory fragmentation, because they have tremendous resources, they have tremendous profits every year; they have extraordinarily kind of corporate footprints and offices all across Europe. In Twitter's case we have about 5,500 employees globally” (Interview #22)*<sup>61</sup>

At any rate, we will not delve into details about each EU policy but instead provide an overview of four key texts that compose the EU’s approach to online content governance: the EU Code of Conduct on illegal hate speech online (EC, 2016); the Code of Practice on Online

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<sup>60</sup> [https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/shaping-europes-digital-future\\_en](https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/shaping-europes-digital-future_en).

<sup>61</sup> The interview was conducted well before Musk’s acquisition of Twitter, which saw the company’s personnel reduced by more than half.



Disinformation<sup>62</sup> (EC, 2018a; EC, 2021); the Recommendation on Measures to Effectively Tackle Illegal Content Online (EC, 2018b); the Digital Services Act (EC, 2020a)<sup>63</sup>. These texts, except for the CoC, also served as the basis for Case Study #1, concerning the Commission’s public consultations.

#### 5.2.2.1. The EU Code of conduct on countering illegal hate speech online

In 2014, the Commission announced the creation of a “Forum with the internet service providers community” (EDRi, 2016) which was launched in December 2015 as the “EU Internet Forum” by former Commissioner for Migration, Home Affairs and Citizenship, Dimitris Avramopoulos and Věra Jourová, former Commissioner for Justice, Consumer and Gender Equality<sup>64</sup>. The rhetoric was mostly focused on combating terrorist content following a series of terrorist attacks in Paris in November 2015; thus, it was inherently tethered with the discourse revolving around EU’s security agenda<sup>65</sup>. The forum would invite stakeholders from the industry, civil society, and public authorities, to voluntarily participate in discussions on how illegal terrorist content online could be tackled; though, civil society organisations accused the Commission of holding meeting “behind closed doors” and, thus, excluding them from meaningfully participating in these deliberations (EDRi, 2015).

The EU Internet Forum, effectively, reached an agreement in May 2016, announcing the CoC on hate speech. The first companies to sign the CoC were Facebook, Microsoft, Twitter, and YouTube. In 2018, Instagram, Snapchat, and Dailymotion joined the cohort; Jeuxvideo.com joined in 2019, TikTok in 2020, LinkedIn in 2021, while Viber and Twitch in 2022<sup>66</sup>. The CoC, despite its rather self-regulatory approach, introduced some “privatised enforcement” obligations for signatories (Coche, 2018) “to promptly remove terrorist material and other problematic content” (Gorwa, 2019a, p. 10) and “[incentivised] companies to collaborate on best practices, such as the creation of hash databases for terrorist material through the [GIFCT]” (Gorwa, 2019, p. 10). Mr. Bennett agreed with the take concerning the privatisation of enforcing regulation:

*“A big concern there is that this is effectively what one might call [privatised] enforcement, whereby companies are going to voluntarily sign up to commitments to kind of take action against content, outside of a rule*

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<sup>62</sup> The updated version of the CoP published in 2021 is also included here.

<sup>63</sup> The final version of the DSA, published in the Official Journal of the EU (L 277/1) as Regulation 2022/2065, is included here; all articles have been updated according to this latest version.

<sup>64</sup> [https://ec.europa.eu/commission/presscorner/detail/da/IP\\_15\\_6243](https://ec.europa.eu/commission/presscorner/detail/da/IP_15_6243).

<sup>65</sup> [https://home-affairs.ec.europa.eu/sites/default/files/e-library/documents/basic-documents/docs/eu\\_agenda\\_on\\_security\\_en.pdf](https://home-affairs.ec.europa.eu/sites/default/files/e-library/documents/basic-documents/docs/eu_agenda_on_security_en.pdf).

<sup>66</sup> [https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/combating-discrimination/racism-and-xenophobia/eu-code-conduct-countering-illegal-hate-speech-online\\_en](https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/combating-discrimination/racism-and-xenophobia/eu-code-conduct-countering-illegal-hate-speech-online_en).

*of law framework, outside of democratic processes and, and so I know there's been a lot of criticism amongst civil society of the EU [CoC].”*

(Interview #3)

For instance, the CoC includes a yearly monitoring exercise, overseen and evaluated by the Commission and external partners, wherein signatories must respond to reports of illicit content in an expedite fashion (i.e., ideally less than 24 hours). One, then, cannot help but wonder whether these exercises and their results can be a reliable measure to gauge platforms' content moderation efficiency and, additionally, to legitimise their compound actions. Also, it is worth mentioning that these external partners could be considered as an earlier version of the “trusted flaggers”<sup>67</sup>, who were also found in the Recommendation against illegal content online and were formally introduced in the DSA.

#### 5.2.2.2. Tackling online disinformation: a European Approach

In keeping up with its multistakeholder rationale concerning the development of regulatory proposals, the Commission created the “High-Level Expert Group on Fake News and Disinformation” in January 2018<sup>68</sup>, which comprised “39 selected experts” from a variety of stakeholders (Gorwa, 2019, p. 10). The result of this cohort was a report, which, among others, suggested that the Commission should undertake the initiative to develop a Europe-wide CoP on Disinformation. The Commission has defined disinformation as “verifiably false or misleading information that is created, presented and disseminated for economic gain or to intentionally deceive the public, and may cause public harm” (EC, 2018a, pp. 3–4); importantly, genres like satire are excluded from this definition's scope.

The Commission devised the Code as a self-regulatory mechanism that would involve the participation of third-parties in the fight against disinformation, like fact-checkers (Gorwa, 2019a; Shattock, 2021), and would have four principal objectives: “improve transparency regarding the origin of information”; “promote diversity of information”; “foster credibility of information”; and “fashion inclusive solutions” (EC, 2018a, p. 6). The first signatories of the code were Facebook, Google, Twitter, Mozilla, and advertisers, while Microsoft and TikTok joined in 2019 and 2020, respectively<sup>69</sup>. Signatories are not obliged to comply with any of the suggestions made by the Commission but commit to a set of activities, like producing transparency reports and facilitating research on disinformation (EC, 2018a, p. 8).

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<sup>67</sup> For a discussion on the concept of trusted flaggers, see: Appelman and Leerssen 2022, Crawford and Gillespie 2016.

<sup>68</sup> <https://digital-strategy.ec.europa.eu/en/library/final-report-high-level-expert-group-fake-news-and-online-disinformation>.

<sup>69</sup> <https://digital-strategy.ec.europa.eu/en/news/code-practice-disinformation>.

It is also worth stressing something that Mr. Bennett brought up during our interview regarding Mozilla's role in platform governance more broadly and in the CoP more specifically. As mentioned in Chapter 4, it might be problematic to bundle together stakeholders who only ostensibly belong to the same stakeholder group. Mozilla is indeed a case in point, as it is a company owned by a non-profit institution (Mozilla Foundation) and often acts more as a member of the civil society rather than a representative of the tech industry:

*“On the case of platform transparency and disinformation, we were a founding signatory of the EU [CoP] on Disinformation in 2019. And that was that was quite a big milestone for us because it was the first such kind of instrument of its kind in the world, the first kind of brokered code of conduct where the signatory platforms would sign up to a set of commitments to address disinformation and misinformation on their platform. [It] was quite a big step forward because it facilitated some actual public facing disclosure and some understanding between the platforms and government regulators, as to what actually was happening in the online sphere and how we could better address it. And so that has been a major and starting point for our interventions on these issues, and since then the role that we have sought to play has **really been about holding the platforms to account**”* (Interview #3; emphasis added)

Nonetheless, the Code's original focus was on the 2019 EP election but since the pandemic's outbreak, it gradually shifted toward tackling disinformation related to Covid-19 (Shattock, 2021, p. 2). Moreover, it has received criticism due to “evident shortcomings in its implementation and scope,” most notably, because of the absence of requiring a standardised format for platforms' transparency reports, the lack of a stricter regulatory backbone, the fact that platforms were allowed to prioritise their own community standards over the Code's commitments, and others (Culloty et al., 2021).

The Commission responded to criticism by publishing its “Guidance on Strengthening the Code of Practice on Disinformation” (EC, 2021) under its broader “European Democracy Action Plan” (EC, 2020b). What is more, provided that the DSA will enable the European authorities to develop voluntary codes of conduct at Union level (EC, 2020a, art. 35), like the Code discussed here, platforms will be compelled to adhere to them, because this will be considered as “an appropriate risk mitigating measure” (EC 2020a, rec. 68). Therefore, with the DSA in effect, the revamped Code will progressively transform into a co-regulatory mechanism:

*“And I think on disinformation, we've had the first period of time of the code and now we're moving towards addressing these learnings through different commitments from the signatories, and once [the DSA] is adopted, the code will transition or can transition towards the regulatory framework for codes of conduct, which are set there.”* (Julie Owono, Executive Director of Internet without Borders/Member of the FBO, Interview #12)

#### 5.2.2.3. Recommendation on Measures to Effectively Tackle Illegal Content Online

In March 2018, the Commission unveiled its “Recommendation on measures to effectively tackle illegal content online” to supplement its strategy to govern online content found in platforms. The Recommendation was an expansion of a Communication that had been issued in 2017 in response to the series of terrorist attacks in the EU in 2017 and “the proliferation of terrorist propaganda online” (EC, 2018b, para. 5); the recommendation set out a timeline with actions that both authorities and platforms should take to “ensure the swift and proactive detection and removal of illegal content online” (EC, 2017, p. 20). The Communication was harshly criticised, primarily, due to the promotion and legitimisation of extensive use of automatic solutions to proactively remove illegal content, as well as to prevent it from re-appearing (EDRi 2018).

Nonetheless, in 2018, the Commission issued non-binding principles, in the form of recommendations, to tackle manifestly illegal content, i.e., any information that is incompatible with Union or one Member-state’s law (EC, 2018b, para. 4). Harmful but legal content, like mis- or disinformation was left out of the Recommendation’s scope. The Recommendation encouraged the involvement of “trusted flaggers,” a concept also found in the Commission’s “Code of Conduct on countering illegal hate speech” (EC, 2016) which involves third-parties “considered by a hosting provider to have particular expertise and responsibilities for the purposes of tackling illegal content online” (EC 2018b, para. 8). What is more, the Recommendation contained several references to “copyright” and “intellectual property,” which critics attributed to successful campaigns of “copyright lobbyists” (EDRi, 2018).

As a result, the Recommendation, among others, sought to incite platforms to act against illegal content, ranging from terrorist content to uncopyrighted use of content; to put in place accessible technological means of notifying platforms and interested parties; to publish details about their activities, as well as to notify law enforcement authorities in cases of terrorist content. Given that the Recommendation was simply a set of non-binding guidelines, the Commission did not introduce a way of enforcing them, something which is bound to change

with the DSA. Instead, the Commission's choice was to govern content through platforms' community standards and through public relations-related pressure (EDRi, 2018).

#### 5.2.2.4. Digital Services Act (DSA)

The DSA is the Commission's proposal for an overhaul of the EU's online content governance and regulation. The DSA, together with the Digital Markets Act (DMA), are envisioned to act as EU's competition regulatory tool, these two acts appear as the EU's holistic approach to regulate the digital economy in a harmonised way and, thus, to "[overcome] existing legal fragmentation and regulatory gaps" (Buri & van Hoboken, 2021, p. 7) caused by unilateral regulatory measures adopted by EU's Member-states. The DSA introduces a horizontal framework for all intermediaries concerning primarily the regulation of illegal online content<sup>70</sup>, albeit with more obligations for "Very Large Online Platforms" (VLOPs)<sup>71</sup>.

The Commission proposed the DSA in December 2020; the text was then adopted by the European Parliament in July 2022 and the Council of European Union in September 2022 (ten Thije, 2022). The DSA's final version was published in the Official Journal of the EU on 19 October 2022<sup>72</sup> and entered into force on 16 November 2022, just two years after it was proposed by the Commission<sup>73</sup>. This, in and of itself, demonstrates the EU's willingness to act fast despite common criticism regarding its authorities' reaction speed. This new regulation does not specifically address journalism or news media, as the Commission's strategy is to draft *ad-hoc* regulations to tackle sectorial issues.

The DSA, practically, can be seen as a successor to the 2001 e-Commerce-Directive (ECD), which *inter alia* protected intermediaries from liability for illegal activities, of which they had no knowledge, on their services (EC, 2001, arts. 14, 15). In other words, this "safe harbour regime," alongside the U.S. Section 230 of the Communication Decency Act, shielded platforms from online content regulation and, thus, had a huge impact on the development of the EU's digital market, while creating a "de facto transatlantic market for platforms with [UGC]" (Heldt, 2022, p. 70).

Furthermore, the DSA is a regulation aimed at introducing due diligence obligations for online intermediaries regarding how they tackle illegal online content and some forms of content that are characterised as "systemic risks," like "disinformation or manipulative and abusive activities" (EC, 2020a, para. 68), which ought to be tackled with respect to fundamental rights, including media freedom and pluralism. As such, the DSA's primary target might be

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<sup>70</sup> While illegal content is indeed at the heart of the DSA's scope (Art. 2), it is certainly going to affect how platforms moderate content and roll-out new features in an indirect way (Stokel-Walker, 2022).

<sup>71</sup> According to the Commission, VLOPs are intermediaries "with a reach of more than 10% of the 450 million consumers in the EU." Source: [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_22\\_2545](https://ec.europa.eu/commission/presscorner/detail/en/IP_22_2545).

<sup>72</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32022R2065&from=EN>.

<sup>73</sup> [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_22\\_6906](https://ec.europa.eu/commission/presscorner/detail/en/IP_22_6906).

illegal content but its impact will have broader consequences for content moderation: for instance, some experts point to the DSA's obligation for risk assessments for Twitter's slow roll-out of its new edit feature (Stokel-Walker, 2022).

In addition, the DSA, among others, maintains the prohibition on general monitoring obligation; provides rules for moderating illegal content; introduces due diligence transparency obligations (e.g., improved transparency reports, risk mitigation assessments, etc.); allows more opportunities to researchers to access platforms' data<sup>74</sup>; stipulates the creation and cooperation of new authorities<sup>75</sup> to implement and enforce DSA's obligations (i.e., the new Digital Service Coordinators or DSCs); and introduces co-enforceable regulatory backstops for self-regulatory frameworks, like the CoP (Buri and van Hoboken 2021; Heldt 2022).

## 6. The Role of Citizens in Platform Governance

### 6.1. Expanding Participation in Platform Governance

The EU has traditionally put much faith into the concept of multi-stakeholder governance, with various stakeholders playing a role in shaping and implementing regulation (Beyers & Arras, 2020; Saurwein & Spencer-Smith, 2020). The Commission introduced the procedure of public consultations in 2015 as part of its "Better Regulation Agenda" in a bid to increase citizen participation in policy- and law-making<sup>76</sup>. Indeed, policymakers and scholars have long been thinking of ways to take advantage of online technologies to increase political participation of citizens (Deligiaouri & Suiter, 2020). These consultations last for twelve weeks and, in principle, any European citizen who speaks an official European language may contribute; once the public consultation round is concluded, the Commission shares a summary of the findings, along with a file containing all contributions.

This chapter presents an empirical case study, which builds on the recent scholarly call to reconceptualise and reimagine platform governance (Papaevangelou, 2021; Suzor, 2020b), which was detailed in Chapter 4. As hinted earlier, it might be that scholars arguing in favour of a reimagination of platform governance are, in fact, pushing for a politicisation of the field by adopting more critical and radical approaches (Cammaerts & Mansell, 2019)<sup>77</sup>. Radical here signifies the need to embrace what critical scholars call "emancipatory" theories

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<sup>74</sup> Critics have pointed out that other stakeholders too, like investigative journalists and members of civil society groups, should be given equal access (Leerssen, 2021).

<sup>75</sup> Article 38 (2) of the DSA states that each Member-state will designate a Digital Services Coordinator (DSC) responsible for everything related to DSA, while Art. 47 stipulates the creation of the European Board for Digital Services comprised of DSCs, which will advise DSCs and the Commission (Heldt, 2022, p. 75)

<sup>76</sup> Commission's "Better Regulation Agenda":

[https://ec.europa.eu/commission/presscorner/detail/en/qanda\\_21\\_1902](https://ec.europa.eu/commission/presscorner/detail/en/qanda_21_1902).

<sup>77</sup> Notably, in October 2022, I participated in a workshop entitled "Radical Approaches to Platform Governance" in Dublin, where there was a unanimous consensus of the need to politically radicalise our approach to studying platform governance (UCD, 2022).

and politics like feminism, postcolonialism, decolonisation, critical-race theory, etc. (Fraser, 2017; Quijano, 2007; Ricaurte, 2019; Seeliger & Villa Braslavsky, 2022).

This endeavour is crucial given the fact that, as scholars studying digital or data colonialism have argued, a fundamental aspect of colonialism has been its capacity to ‘colonise’ imagination (Couldry & Mejias, 2019a), that is make alternatives inconceivable (Morozov, 2013). For instance, Ricaurte has argued in favour of the need to decolonise the dominant data extractivist model to “reimagine forms of data resistance as epistemic disobedience” (Ricaurte, 2019, p. 353). By extension, this is not very far from the infamous “TINA” (There Is No Alternative) dogma of neoliberalism (Queiroz, 2018), whereby “the order of the economic market” is translated into the society and, thus, promulgates individualism and represents the “inevitability of the [liberalisation] of trade and industry, deregulation of the economy, and the [privatisation] of state-owned enterprises” (Queiroz, 2018, p. 6).

While this thesis does not explicitly tackle the structure of platform governance through one of these angles, it acknowledges and considers them, accepting the overarching goals set to accomplish. Particularly, this chapter contributes to expanding our understanding of who gets to participate in governance deliberations concerning, primarily, the regulation of platforms. As elaborated in Chapter 4, this is one necessary step to take in order to commence accounting for stakeholders who have been systematically overlooked by dominant stakeholders and researchers. This should lead us to better informed policies and or, at least, empower us to stray off the beaten path in our conceptions of what more participatory and emancipatory platform governance structures could look like.

In this sense, the discussion of whom exactly we talk about when we talk about stakeholders is a difficult yet necessary to have (Gorwa, 2022). For instance, it is often taken for granted that citizens are represented by civil society organisations in governance deliberations (Kohler-Koch, 2010, p. 107; Regilme, 2018). However, “civil society guarantees only the existence of a public, not public consensus” (Flyvbjerg, 1998, p. 229). Thus, with the capacities given by online technologies, as well as by the European Commission’s strategy to integrate a varied gamut of public input, citizens can now directly participate in deliberations and provide feedback.

A case in point is the European Commission’s (hereinafter Commission) “Better Regulation Agenda”<sup>78</sup>, adopted in 2015, that aimed to increase the range of stakeholders participating in governance deliberations and, particularly, amplify the role of civil society (Deligiaouri & Suiter, 2020). As we will see in this chapter, a fundamental mechanism of this

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<sup>78</sup> [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_15\\_4988](https://ec.europa.eu/commission/presscorner/detail/en/IP_15_4988).

approach has been the Commission’s public consultations, where all relevant stakeholders, including citizens, are invited to voice their opinions about proposed policies and regulations.

Indeed, in the field of social and political sciences, scholars have talked about how global commercial online technologies may constitute a new structural transformation of the way in which our public spheres are shaped (Seeliger & Seignani, 2022); what role private social media platforms may play in creating social silos (Habermas, 2022), or in appropriating citizens’ participation in socio-political exchanges for profit (Staab & Thiel, 2022). Others have argued that such capacities may be employed to foster “deliberative e-rulemaking,” i.e., “the development of [a] law-making environment online which enables and facilitates public participation” (Deligiaouri & Suiter, 2020, p. 4).

This is not restricted to public authorities’ policymaking but extends to platforms’ own governmentality. Recently, as briefly mentioned earlier, a few online platforms have been experimenting with the idea of involving users in their decision-making processes regarding content moderation. For example, Facebook’s Oversight Board (FOB) also welcomes public comments for their cases (D. Wong & Floridi, 2022, p. 2)<sup>79</sup>.

For contextual clarity, the FOB was created to help Facebook answer some of the most difficult questions on the topic of free speech online: what to remove, what to allow, and why (Levy, 2022). The committee’s decisions to uphold or reverse Facebook’s decisions on content are binding, meaning that the platform has to implement them, unless that action constitutes a violation of the law. To guarantee the separation of the waters, Facebook does not fund the Committee directly, but through a type of legal relationship known as ‘fiduciary contract’ with an independent entity called Oversight Board Trust, that “[funds, manages, and oversees] the operation of the Oversight Board”<sup>80</sup>. So far, Facebook has allocated approximately \$300 million to the Trust and consists of 23 members.

Another similar example comes from Twitter with its “Community Notes”<sup>81</sup> project, which invites “contributors[to] collaboratively add context to potentially misleading Tweets”<sup>82</sup>. This is, effectively, an overhaul of the “Birdwatch” project, that Twitter was working on in recent years, which adopted a crowdsourced approach to content moderation, allowing users to “identify misleading or out-of-context information” explaining their rationale (Allison, 2021; Coleman, 2021). However, this process took place outside the platform, in a dedicated site under the same name. With Community Notes, though, this happens on the platform.

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<sup>79</sup> <https://www.oversightboard.com/news/267806285017646-the-oversight-board-is-accepting-user-appeals-to-remove-content-from-facebook-and-instagram/>.

<sup>80</sup> <https://www.oversightboard.com/news/1111826643064185-securing-ongoing-funding-for-the-oversight-board/>.

<sup>81</sup> The project formerly known as “Birdwatch” (Coleman, 2021).

<sup>82</sup> The program is currently available to US users. Source: <https://help.twitter.com/en/using-twitter/community-notes>.



Notably, this overhaul came shortly after Elon Musk bought the company and became its CEO (Malik, 2022). Practically, users who have access to this feature<sup>83</sup> can leave a “note” on any tweet and if enough users “from different points of view<sup>84</sup> rate that note as helpful” then said note will become publicly visible.

Well before these endeavours, other platforms, both for- and non-profit, e.g., Reddit or Wikipedia, have been operating a “community-led” approach to content governance trying to involve their users (Wagner et al., 2021). These capacities offered by technological advancements had also reinvigorated the interest in citizen participation in governance deliberations and politics more broadly. Therefore, while macroscopic approaches to (platform) governance, as the governance triangle demarcated in Chapter 4, are indeed useful because they simplify complex structures, we should also investigate instances of public participation that expand our way of theorising about platform governance by expanding the scope of enquiry into its comprising stakeholders; this is operationalised in this chapter by accounting for citizens’ role in governance processes, as well as on the impact that these experiments may have.

## 6.2. A Case Study on the European Commission’s Public Consultations (Case Study #1)

This chapter, then, does the above by studying the involvement of citizens in recent European efforts to regulate online content. More specifically, we analyse the users’ input to public consultations of three regulatory frameworks put forth by the Commission which have been fundamental for its strategy to online content governance: the “Code of Practice on Disinformation” (EC 2018a; Code), the “Recommendation on Measures to Effectively Tackle Illegal Content Online” (EC 2018b; Recommendation) and, finally, the Proposal for a Regulation on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC (EC 2020; DSA). These consultations are based on lengthy questionnaires that also include open-ended questions which, as our analysis demonstrate, have been ignored by the academia and policymakers alike. It must be mentioned that this analysis does not cover other important texts that did not have a public consultation, like the Code of Conduct on “Countering Illegal Hate Speech” (EC, 2016); however, they are taken into consideration in the broader discussion.

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<sup>83</sup> Everyone can sign up to gain access to this feature so long as they meet some minimum requirements, while Twitter is gradually rolling it out globally (Malik, 2022).

<sup>84</sup> Twitter’s Community Notes “assesses ‘different perspectives’ entirely based on how people have rated notes in the past” and “takes into account not only how many contributors rated a note as helpful or unhelpful, but also whether people who rated it” have “sometimes disagreed in their past ratings.” Source: <https://twitter.github.io/communitynotes/>.

Specifically, this case study's corpus consists of data from the public consultations on:

- “Fake news and online disinformation,” which ran from 13/11/2017 to 23/02/2018. The survey received 2986 replies: 2784 from individuals and 202 from legal organisations and journalists.
- “Measures to further improve the effectiveness of the fight against illegal content online,” which ran from 30/04/2018 to 25/06/2018 and received a total of 8,961 replies, of which 8,749 were from individuals.
- “Digital Services Act – deepening the internal market and clarifying responsibilities for digital services,” which ran from 02/06/2020 to 08/09/2020 and received 2863 replies, of which 1894 were from EU citizens.

As such, this part aspires to contribute to existing literature, on the one hand, on an epistemological level by providing an example of an alternative way to study a facet of platform governance and, on the other, on an informational level by sharing novel insights as regards citizens' discourse about content regulation.

All data were downloaded from the Commission's website as a spreadsheet, with all participants' information anonymised. These were made publicly available by the Commission itself. Both raw and formatted data are available at the repository of the *Open Science Foundation* for download<sup>85</sup>. Only replies given by EU citizens<sup>86</sup> were analysed for this case study, while all non-English texts were translated in English using the Commission's official translation tool; this is one of this case study's limitations, as it inadvertently fiddles with the nuance of the respondents' languages<sup>87</sup>. To summarise, the steps for the present analysis were as follows:

1. The open-ended questions and their replies were identified, and a separate file was built using this data (first saved as a .CSV and then as a .TXT, which is the compatible file type for IRaMuTeQ).
2. The data was translated using the Commission's official translation tool, and then formatted according to IRaMuTeQ's requirements, using the respondents' countries and each consultation dataset as an identifying variable.
3. A DHC analysis was conducted on the dataset.
4. Lists of words comprising each cluster (or words of interest more broadly) were created and their usage across datasets and countries were compared (Specific Words Analysis).

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<sup>85</sup> The data can be found here: [https://osf.io/b9ruj/?view\\_only=5e04f86b1be5476799b279cba23f3327](https://osf.io/b9ruj/?view_only=5e04f86b1be5476799b279cba23f3327).

<sup>86</sup> UK citizens were included in our corpus, as the UK was still part of the EU at the time.

<sup>87</sup> The official tool for translation of the Commission: [https://ec.europa.eu/info/resources-partners/machine-translation-public-administrations-ettranslation\\_en..](https://ec.europa.eu/info/resources-partners/machine-translation-public-administrations-ettranslation_en..)

5. A Labbé Intertextual Distance Index analysis was conducted to estimate the degree of similarity or difference of discourse (i.e., words or forms) among variables (i.e., countries).

### 6.2.1. Methodology of Case Study #1

To explore said problematics, more than thirteen thousand contributions of EU citizens were analysed - with each contribution containing several replies – to open-ended questions. Not all contributions have the same richness in data, as, for example, the DSA’s consultation had many more questions than the Code on Disinformation. A mixed-methods approach was carried out, combining computationally-assisted textual and CDA, as well as document analysis. The former refers to the analysis of users’ contributions to the public consultations, while the latter refers to the close reading of the produced regulatory frameworks. In so doing, I was able to understand both the citizens’ opinion on the regulations’ stakes and whether their input was integrated in the final texts. While the fundamental concepts underpinning each method were covered in the General Introduction, we briefly revisit them here.

Specifically, the combination of textual and discourse analysis of the citizens’ contributions was preferred as the optimal way of approaching this case study. The concept of discourse analysis is quite malleable but, in general, refers to the investigation of written or spoken texts (Peräkylä & Ruusuvuori, 2018). CDA enables us to address the (geo)political aspects of analysed texts to understand how they might “reproduce power and inequalities in society” (Peräkylä & Ruusuvuori, 2018, p. 1167). In other words, it allows us to “investigate how [discursive] practices, events and texts arise out of and are ideologically shaped by relations of power and struggles over power” (Mogashoa, 2014, p. 105).

The CDA was conducted using IRaMuTeQ (Ratinaud, 2009), an open-source software for computational textual analysis, which algorithmically dissects textual corpora into thematic clusters based on the linguistic principles of lexicometry, allowing us to explore and compare the discourse employed in different textual corpora (Chaves et al., 2017; Ratinaud, 2009). While the use of IRaMuTeQ remains somewhat experimental, some scholars have been integrating it in their research enquiries as a supplementary tool for critical discursive analysis (Ramos et al., 2019). As such, computational-assisted CDA should be considered in the frame of the recent “computational turn in the humanities and social sciences” (Rogers, 2019, p. 4), that has shaped the so-called digital methods (Rogers, 2019).

#### 6.2.1.1. Descending Hierarchical Classification (DHC)

In our textual analysis of the three datasets consisting of European citizens to the Commission’s Public Consultations, I focused on a Descending Hierarchical Classification (DHC) analysis

(also known as Reinert method). This, practically, splinters the corpus on hundreds or thousands of Text Segments (TSs) based on punctuation marks and the size of sentences and then, puts them into different thematic classes which are then depicted in dendrogram forms and thus, spatially representing their vocabulary similarities or differences.

The way that the clusters are visualised in the produced dendrogram represents their semantic vicinity. Put simply, if two clusters belong to the same sub-branch, this suggests that their TSs were often used together in the text or, even, that the same words were used but in a slightly different context; thus, this also allows us to observe and interpret clusters' relations. It should also be mentioned that this analysis is agnostic to the replies' provenance. In other words, the DHC clusters are formed by the totality of the dataset, without regard to the respondents' countries. For this reason, TSs containing characteristic words of each class (i.e., since they are hierarchically structured, those found higher are more strongly connected to that class's vocabulary and, thus, discourse) are quoted as a means of allowing us to distinguish provenance and, thus, providing a more qualitative aspect to our analysis.

Moreover, as mentioned earlier, citizens could be another significant governance cluster in the increasingly complicated platform governance, but they should not be considered as having a unanimous voice. In their replies, we find instances of extreme right-wing discourse, that often become hateful and racist; these were included in the DHC analysis, primarily to not skew the results, but they are scarcely used as quotes in this manuscript and only when they do not contain profanities.

Despite the DHC analysis helping us to investigate a corpus's key themes and its various discourses, it is only through combination with other types of analysis that we can infer a more holistic understanding of a text's nuances. This type of combination is not new; it was first carried out by Ratinaud and Marchand in their study of different methods for exploring the relationship between lexical classifications from different corpora. Their point of departure was that, given the numerous ways of collecting data we now have, researchers working on Humanities and Social Sciences are often presented with the conundrum of how to best approach heterogenic datasets (Marchand & Ratinaud, 2017, p. 71), like data deriving from the Commission's consultations which are based on large and diverse questionnaires.

In addition, they argue that while DHC permits us to thematically and qualitatively analyse various clusters of TSs that structure these corpora and interpret them to infer patterns of discourse, it would be beneficial to complement it with other types of analysis borrowed from the field of lexicometry, like the aforementioned (Marchand & Ratinaud, 2017, p. 72). Hence, it is only through triangulation that we can infer concrete conclusions (Flick, 2018). As a result, two other types of analyses were conducted to complement the DHC findings: a

Specific Words Analysis (SWA) of the corpus and a Labbé Intertextual Distance Index estimation (C. Labbé & Labbé, 2001) on the corpus's variables, i.e., countries.

#### 6.2.1.2. Specific Words Analysis (SWA)

SWA examines the frequency and uniqueness of specific words across a textual corpus and presents them on an aggregate lexical table constructed with the selected variables. The higher the value (in absolute terms), the more specific the form (i.e., a combination of words) or word is to the modality. The + sign means that the word is cited more by a group than by others, while the - sign means that the word is cited less by a group compared to others<sup>88</sup>. Likewise, this type of analysis allows us to compare specific words across different variables either individually or as a group called Tgens. This, in tandem with an DHC analysis, allows us to explore a specific word's contextual use and, thus, better understand its role in shaping a text's discourse.

Furthermore, following the methodology proposed by Marty, Ratinaud and Marchand (Marchand & Ratinaud, 2017; Marty et al., 2013), several Tgens were created based on the forms contained in the DHC-produced clusters and projected them onto the two different sets of corpora: (a) the whole dataset (i.e., the totality of countries per consultation), and (b) the five countries that contributed in every consultation (Belgium, France, Germany, Italy, and the UK; Table 1). Following the authors' methodology, I restricted the forms selected for the Tgens to those that had a "chi2 of connection to the classes of at least 15.2, which corresponds to a significance threshold < 0. 1" (Marchand & Ratinaud, 2017, p. 9). This allowed me to understand more accurately the citizens' discourse depending on their country of origin.

Table 1 - Top 10 countries by citizens' contributions to the Commission's consultations. Source: European Commission

<b>Digital Services Act</b>	<i>Germany</i>	<i>UK</i>	<i>France</i>	<i>Belgium</i>	<i>Italy</i>	Netherlands	Austria	Ireland	Spain	Sweden
<b>Disinformation</b>	<i>Germany</i>	<i>UK</i>	<i>France</i>	<i>Belgium</i>	<i>Italy</i>	Netherlands	Spain	Czech	Poland	Romania
<b>Illegal Content</b>	<i>Germany</i>	<i>UK</i>	<i>France</i>	<i>Belgium</i>	<i>Italy</i>	Ireland	Poland	Sweden	Finland	Ireland

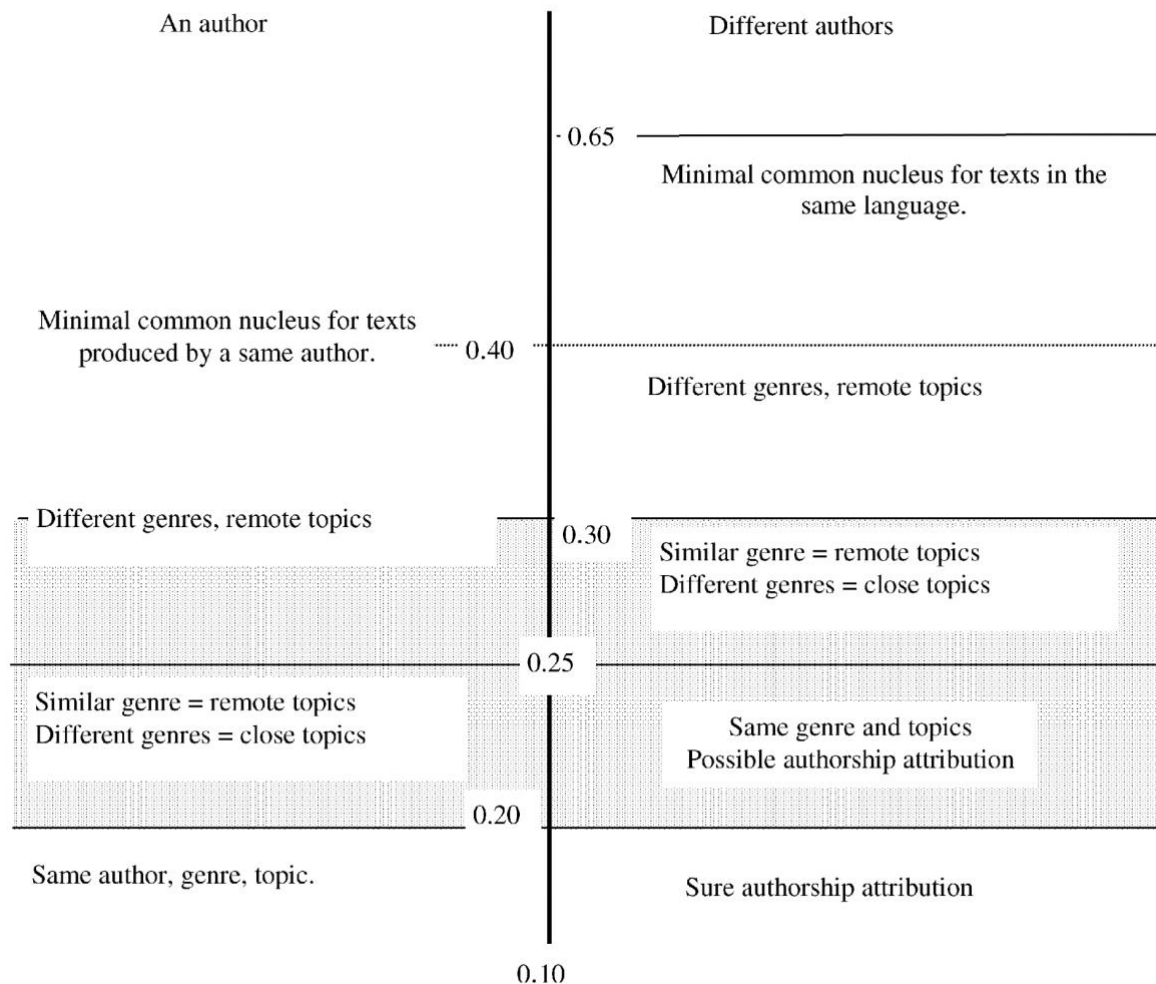
#### 6.2.1.3. Labbé Intertextual Distance Index (Labbé Index)

The Labbé index estimates the extent to which a set of texts is similar or different from a lexicological perspective. It should be noted that this was named after Cyril and Dominique Labbé, who have rigorously studied authorship attribution, an immensely popular sub-field amongst literary studies and linguistics (C. Labbé & Labbé, 2001). In their paper, Labbé and Labbé proposed a new way of calculating the "lexical connection" or "the intersection of two

<sup>88</sup> [http://iramuteq.org/documentation/fichiers/Pas%20a%20Pas%20IRAMUTEQ\\_0.7alpha2.pdf](http://iramuteq.org/documentation/fichiers/Pas%20a%20Pas%20IRAMUTEQ_0.7alpha2.pdf).

texts vocabularies” (2001, p. 213), one which allows us to attribute prices to texts based on the estimation of their lexical connection’s distance. The prices range from zero (0) to one (1), with the former being identical and the latter being different. What is more, through empirical studies they conducted, they introduced a standardised scale to help interpreting textual distance (Figure 4).

Figure 4 - Labbé Intertextual Distance Standardised Scale (Labbé and Labbé, 2001, p. 219)



Beyond the topic of authorship attribution, this methodology has also been applied to study and compare discourses of parliamentary speeches (D. Labbé & Monière, 2000), economic press articles and transcription of interviews (Bergeron & Labbé, 2004), as well as political parties’ online presence (Marchand & Ratinaud, 2017) to name but a few. In particular, the methodology proposed by Ratinaud and Marchand and its subsequent integration to IRaMuTeQ was what made this type of holistic analysis possible.

Nevertheless, as is also stated by the authors, this multi-modal approach is “delicate” (Marchand & Ratinaud, 2017, p. 10). So, one should have a clear goal of what they are trying to achieve to be able to trace the lexical connection of different corpora. It should further be noted that they tested their suggestion using a corpus that was built after the DHC-produced

clusters, using only active<sup>89</sup> forms (or words). Following suit, I did a pre-selection of only active forms during the data input step of the process. In so doing, I tried to mitigate any methodological risks and tried to replicate Ratinaud and Marchand's proposal to the extent of possible.

Furthermore, as the authors themselves note, this type of use might go against the recommendations of Labbé and Labbé, especially in relation to the texts' difference in size (Marchand & Ratinaud, 2017, p. 79). To this end, I also followed the authors' suggestion and only included forms that have a frequency of more than ten: i.e., they are met ten or more times in the corpus (2017, p. 79). This type of analysis allowed me, on a macro level, to compare all three datasets that derived from the public consultations' replies and, on a micro level, to compare the respondents' diversity relating to their country of origin. Last, the Labbé analysis is visualised by creating a topological representation of variables' similarity or divergence.

In summary, a multi-modal approach of linguistic tools provided by IRaMuTeQ was followed to understand citizens' discourse in the responses they gave through the Commission's Public Consultations. First, through a DHC analysis, we retrieve clusters representing the key themes identified. Second, the most important forms connected to the identified key topics were further analysed taking advantage of IRaMuTeQ's SWA; particularly, by creating Tgens we were able to compare words across the variables constituting the corpus. Third, we further zoom in on the nuances of divergence or convergence of the variables that comprise our corpus using Labbé's Intertextual Distance Index estimation.

### 6.2.2. Analysis of Three Public Consultations

First, we analysed the DHC-produced clusters and discuss emerging themes and patterns; this helps in having a broad understanding of each corpus's discourse. Second, we analysed the respondents' replies using Labbé's Distance to compare each country and, subsequently, how similar or different their citizens have replied to the Commission's Consultations; this helps in identifying key contributors that, *mutatis mutandis*, act as representations of national discourses in the specific context of the Consultations. Last, we studied the forms that compose each DHC cluster and contextualise them in order to identify patterns among respondents depending on their country of origin and to better understand their nuances; this helps in having a clearer picture of what was discussed, by whom (i.e., whose country's citizens) and whether others discussed it as well.

As a result, by embracing such approaches we can lead ourselves to unexpected results that shed light on topics that were previously considered difficult to investigate. At the same

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<sup>89</sup> Active forms in the context of IRaMuTeQ signify principal parts of speech, like verbs.

time, we ought to be critical of how we employ such tools, especially when it comes to automatic software, to avoid replicating ‘black boxed’ methodologies and falling into the trap of considering produced results as unchallengeable objective information. Thus, we should be wary that these are results produced according to the input data we provide the software with, as well as depended on the code with which the software is written. In this regard, the use of open-source software like IRaMuTeQ is in line with the demand of democratising academia and minimising obscure data analysis practices, often found in the industry, contributing to a broader act of resistance.

#### 6.2.2.1. Analysis of Public Consultation on fake news and online disinformation

The Public Consultation on fake news and online disinformation ran from 13/11/2017 to 23/02/2018 and received 2986 replies: 2784 from individuals and 202 from legal organisations and journalists; in this analysis we only included citizens’ replies. The largest number of replies came from Belgium, France, the United Kingdom, Italy, and Spain; the Commission also highlighted a relatively high participation from Lithuania, Slovakia, and Romania<sup>90</sup>. The following questions of the questionnaire were selected to derive data from:

1. If you believe that there are other reasons for the online spread of fake news, please indicate them.
2. Please specify which other categories of fake news are likely to cause harm to society.
3. Please explain, what do you think about the fact that the information that is displayed to you online is often personalised.
4. Why, in your opinion, closing of fake accounts and removal of automated social media accounts (based on the platforms' code of conduct) is not so effective?
5. You are welcome to comment on fact-checked information.
6. You are welcome to comment what social media platforms do to help users to check an article, before they share it online.
7. Please specify others best placed to take action against online disinformation
8. Please provide any comment and/or link to research that you consider useful to bring to the Commission attention.

It is worth noting that the feedback garnered from this consultation informed the Commission’s Code of Practice on Disinformation that was released in 2018<sup>91</sup>, which was revamped in 2021 following the release of the Commission’s Guidance on Strengthening the Code of Practice on

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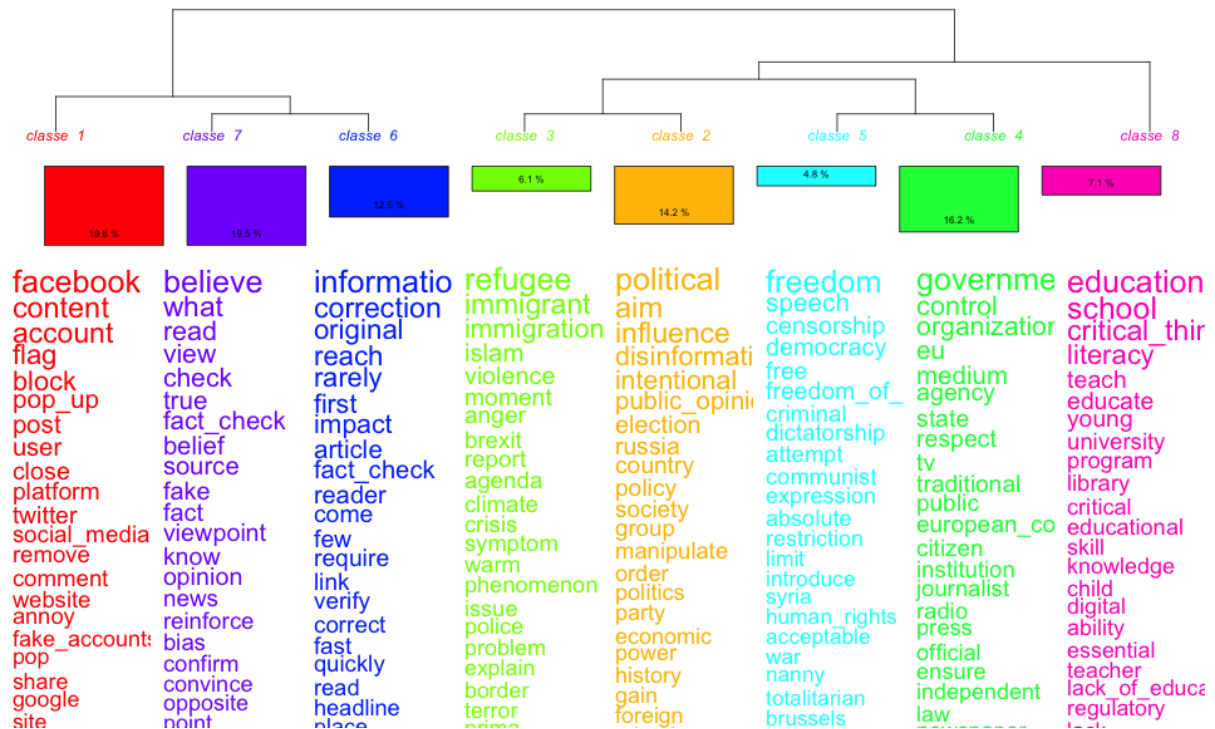
<sup>90</sup> <https://digital-strategy.ec.europa.eu/en/synopsis-report-public-consultation-fake-news-and-online-disinformation>.

<sup>91</sup> <https://digital-strategy.ec.europa.eu/en/policies/code-practice-disinformation>.



Disinformation<sup>92</sup>. The code mainly consists of self-regulatory standards aiming to fight the spread of online disinformation and fake news; the Code must be signed by interested parties as an indication of adoption (e.g., all major online platforms have signed it; TikTok was the last major platform to sign it in September 2020<sup>93</sup>).

Figure 5 - DHC dendrogram of citizens' input to the Code on Disinformation



In the following paragraphs, we zoom in on each cluster's constituting forms as illustrated in the classes in Figure 5.

Class 7 (19.5%; purple colour) contains mainly forms related to fact-checking processes and various biases that users or even moderators of social media may hold or reinforce. By taking a deeper look at this class, we can see much discussed concepts like “confirmation bias” and “filter bubbles” (Pariser, 2014), some of which have been criticised as overstatements and hyperboles that treat the internet as a homogenous single media entity (Dubois & Blank, 2018). In addition, it seems that people are torn apart over the efficacy of fact-checking; some argue that it is welcome but will do little to change a person’s news diet or behaviour. For instance, a French citizen argued:

<sup>92</sup> [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_21\\_2585](https://ec.europa.eu/commission/presscorner/detail/en/ip_21_2585); This is part of the European Democracy Action Plan (EDAP), which aims to complement regulations that will be brought forth by the DSA ([https://ec.europa.eu/info/strategy/priorities-2019-2024/new-push-european-democracy/european-democracy-action-plan\\_en](https://ec.europa.eu/info/strategy/priorities-2019-2024/new-push-european-democracy/european-democracy-action-plan_en)).

<sup>93</sup> The EU Commission recently shared the assessment report of the Code and announced measures of improvement, which will probably accompany the upcoming Digital Services Act. Source: <https://ec.europa.eu/digital-single-market/en/news/assessment-code-practice-disinformation-achievements-and-areas-further-improvement>.

*“Fact checked information usually go head-to-head against fake news. People who initially believed that fake news will only be more entrenched in their beliefs.”*

Some believe it amounts to censorship and should be avoided altogether, while others believe that instead of only allocating resources and funds to fact-checking, public authorities should be supporting public service media to combat disinformation, as this Austrian citizen argued:

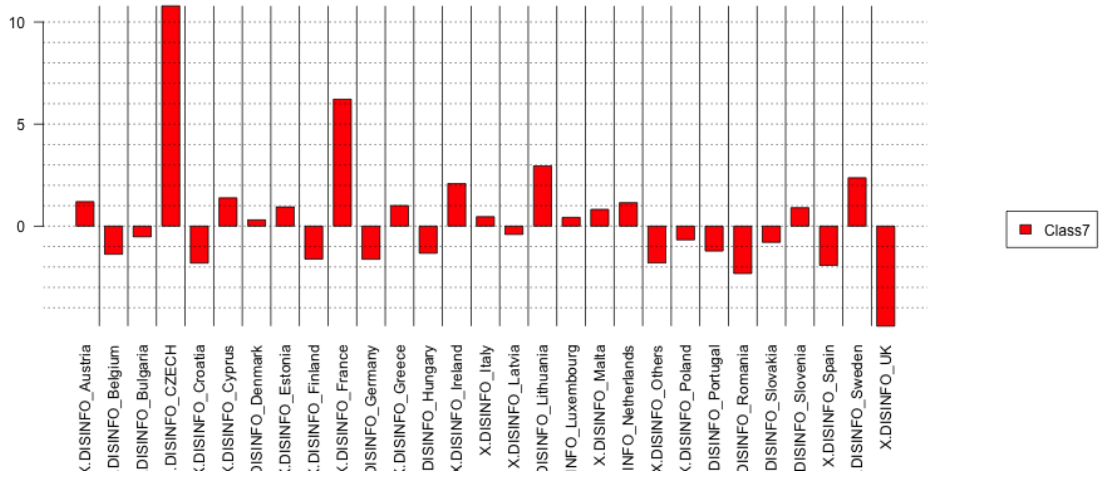
*“Only a strong public media landscape will be able to counter fake news. Therefore, the media should be supported by public authorities accordingly so that mainstream media can meaningfully compete with fake news ala Breitbart or Bild.de.”*

One of the most intriguing takes come from a UK citizen, who argued that labelling media sources through fact-checking procedures would not make a huge difference due to the nuances of news organisations’ agendas:

*“Categorisation of news organisations is unhelpful. For example, RT has an agenda, but boosts its credibility by being a very reliable reporter of some categories of UK news. Conversely the BBC is a comparatively reliable reporter of non-UK news but displays emphasis and omission distortions in its UK coverage.”*

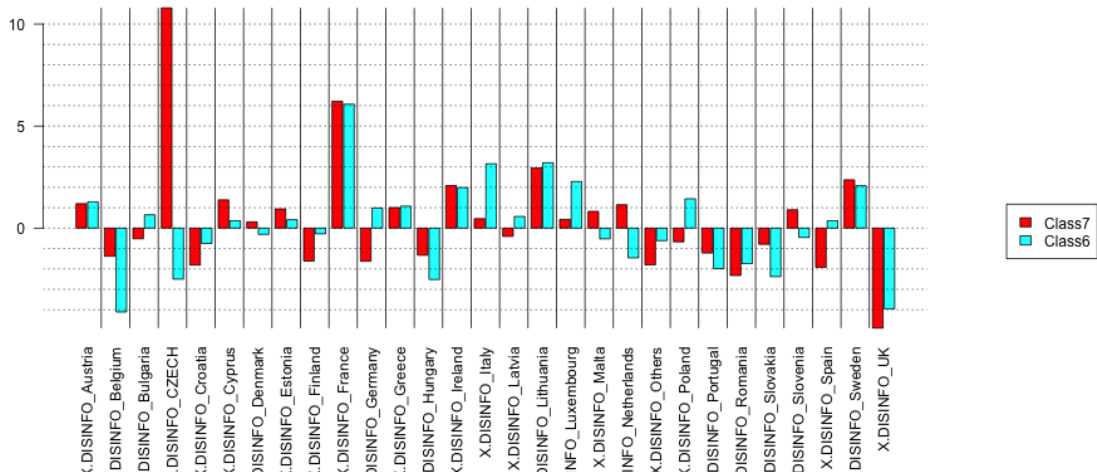
Finally, it seems that some citizens are also able to understand the concept of algorithmic amplification and suggest that we ought to “figure out how to disseminate the fact-checking content in a similarly viral way,” as a Czech citizen respondent noted. This cluster’s key themes were discussed most prominently in replies of Czech and French citizens. From a closer look into their answers, we understand that the primary concern expressed in this instance is fact-checking and potential biases that may exist in the process. Apart from these two peaks (Figure 6), all other countries partake in this cluster’s discourse.

Figure 6 - Tgen of Class 7 projected on all replies of the consultation on disinformation



Class 6 (12.5%; blue colour) does not differ much from Class 7 as it contains an almost identical discourse relating to fact-checking and, therefore, is considered as the expansion of that class (Figure 7). Except for Czech citizens’ replies, all other countries follow a similar pattern, which indicates further the close similarity between the two classes. Moreover, while this cluster’s themes largely overlap with the previous class, the huge outlier that is Czech Republic seems to be due to the focus that is placed on the verification of information disseminated online, which is extremely close to what fact-checking essentially constitutes but framed in a rather wider way.

Figure 7 - Tgen of Classes 6 and 7 projected on all replies of the consultation on disinformation



Class 1 (19.6%; red colour) contains references to major online platforms, like Facebook, Twitter and Google and involves takes on how should accounts, both fake and real, distributing fake news be treated and how should users be informed about coming across such falsified content. Prominent in this class are two solutions suggested by the industry and the Commission: (i) informing users of fact-checked information using pop-ups, and (ii) letting platforms know of falsehoods through flagging mechanisms; however, respondents are rather distrustful to both. As one Polish citizen said:

*“You can always use AdBlock and similar apps to block such pop-us; not that many people are going to “related articles” so this is not effective - especially if “related” sources are representing the same political side/wing”*

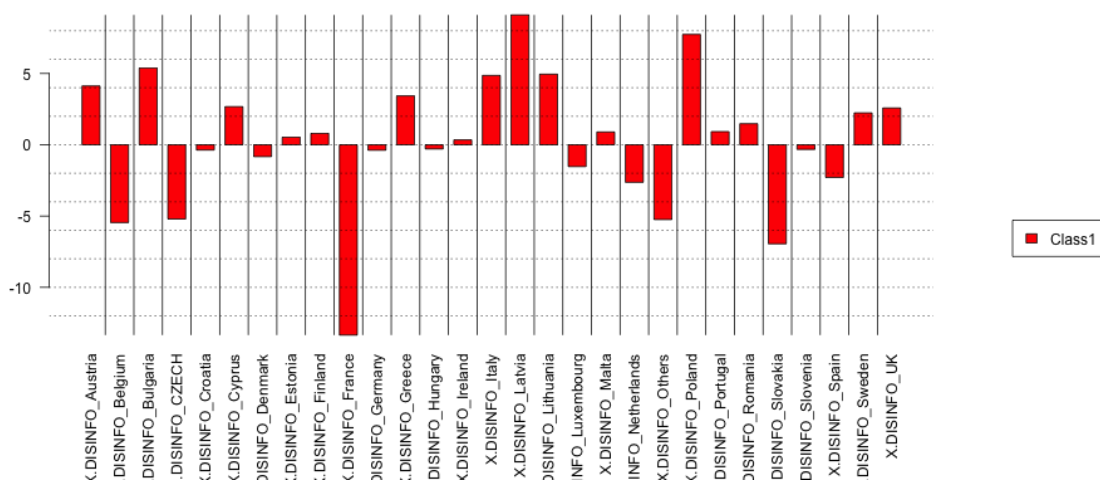
Interestingly, many respondents identified the danger of gaming the flagging mechanism, which echoes fears that have been voiced by academics and experts alike (Crawford & Gillespie, 2016; Naab et al., 2018; Smyrniotis & Papaevangelou, 2020). As a Latvian respondent put it: “anyone can flag a post as fake even if it's not. It's just a tool of cyber fight.”

However, not all agree that the use of fake accounts is inherently bad. For instance, a Polish citizen said that: “in countries where political opposition is persecuted, fake accounts are the only way to spread info safely.” While this may be referring to pseudonymity, it is still important to be wary of such complex issues when attempting to regulate online content.

Key themes found in Class 1 that were connected to content moderation, like platforms’ inaction against mis- and disinformation, as well as suggestions to combat such content through content flagging or pop-up messages, were most discussed in (in descending order): Latvia, Poland, Bulgaria, Luxembourg, Italy, Austria, Greece, UK, and Sweden. Conversely, they were vastly under-represented in France and moderately under-represented in Slovakia, Belgium, and Bulgaria (Fig. 8).

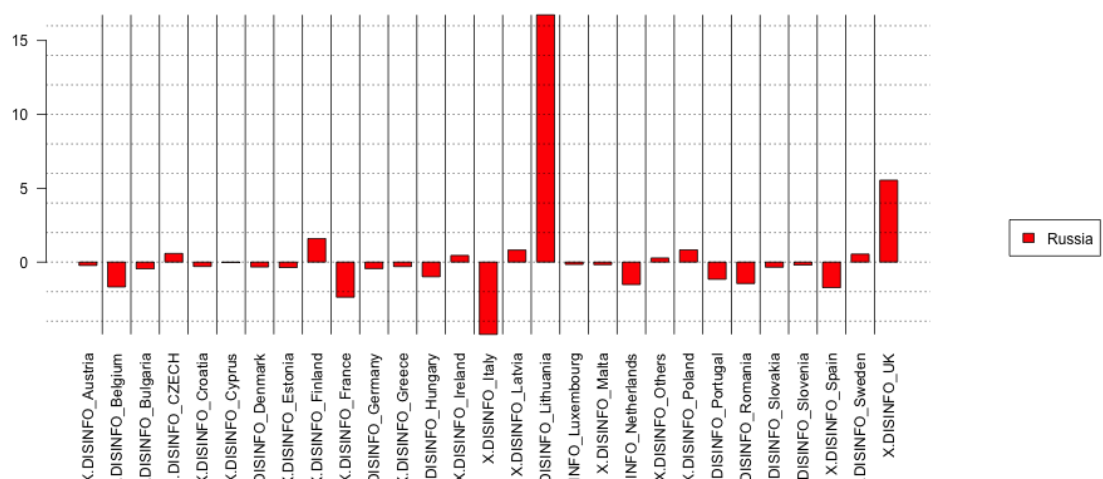
This is rather surprising given that France has been one of the leading countries in the endeavour to pass regulations for social media platforms. However, we ought not to forget that this analysis is comparative; thus, it does not mean that French citizens did not discuss at all such topics but that other countries, especially Latvia and Poland, were much more engaged in them.

Figure 8 - Tgen of Class 1 projected on all replies of the consultation on disinformation



Class 2 (14.2%; yellow colour) contains references to foreign interference, popular narratives of electoral manipulation and orchestrated “disinformation warfare” (Papaevangelou & Smyrniaios, 2022b; Zannettou et al., 2019). Unsurprisingly, Russia is one of the most potent words of the cluster. For instance, a German citizen commented that: “[Spreading false information aims at] destabilizing German society and European cohesion through Russian disinformation campaigns,” while another German citizen drew an interesting parallel: “Russian media like RT have a great interest in deceiving the population, similar to Breitbart on the US side.” Both opinions are echoed throughout the text segments included in this cluster.

Figure 9 - Tgen containing references to Russia in consultation on Code of Disinformation



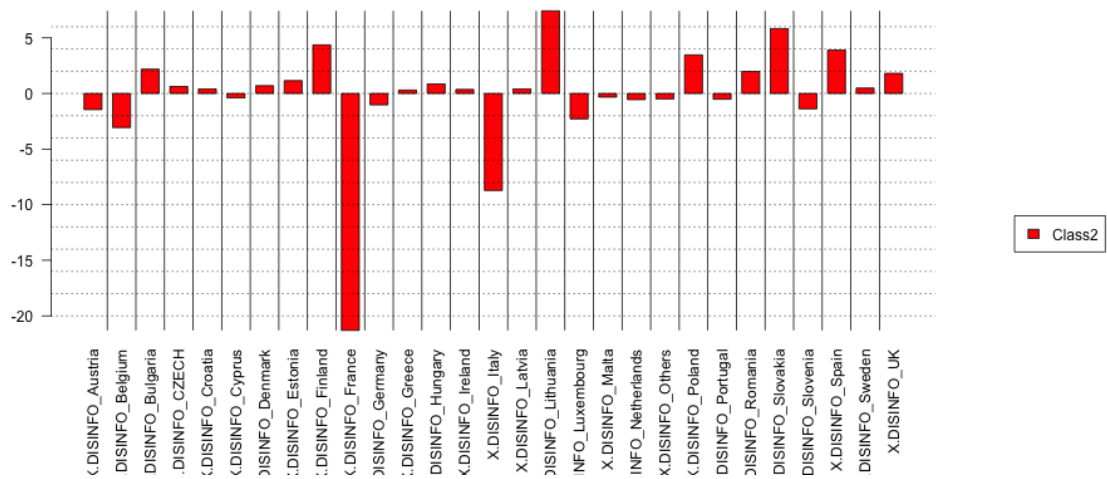
Interestingly, citizens from Lithuania and the UK seem to be amongst those with the most references to Russia (Tgen was constructed using forms relating to Russia, like Russian, Putin, RT, etc.). Here are two typical text segments from citizens of these countries. All in all, this class deals predominantly with issues of political exploitation of disinformation as means of manipulation, as well as with the dangers that such issues carry for democracy:

*“Fake news comes from Russian channels and social media accounts on a daily, constant basis, the initiators of which try to influence the attitude of the EU's former and former Soviet states (especially national minorities) towards Russia, its military conflicts in Ukraine and Georgia, and foreign and business interests.” (Lithuanian citizen)*

*“Russia spreads fake news & far right organisations & news sources. This is having a huge impact on society & democracy. Fake news demonizes immigrants & the EU. This must be combated with the truth at every opportunity.” (UK Citizen)*

Key themes found in Class 2 that were connected to foreign interference, manipulation of information and weaponisation of disinformation, were most discussed in replies of citizens from: Lithuania, Slovakia, Spain, and Estonia. Conversely, they were largely absent in replies from France and Italy (Fig. 10). Citizens of the Eastern Bloc were strongly interested in discussing such issues, which might indicate a pattern according to which citizens of countries that once lived in repressive regimes are overly concerned about individual freedoms, as well as about Russia’s influence. France is again a ‘negative’ outlier, which might demonstrate that French citizens were not preoccupied by fears of foreign interference; anecdotally, French President Emmanuel Macron was identified as a target of a foreign espionage program called “Project Pegasus”<sup>94</sup> in 2021; interestingly, some international thinktanks attempted to link the massive “yellow vests” demonstrations, that sprawled across France in 2018, to Russia, something that has been strongly contested by experts and analysts (Roth & Chrisafis, 2018)

Figure 10 - Tgen of Class 2 projected on all replies of the consultation on disinformation



Class 3 (6.1%; green colour) has a very similar discourse to that of Class 2 inasmuch as they both have references to the socio-political impact of disinformation on social media platforms. However, this cluster distinctively mentions delicate matters that have shaken the EU in recent years, like the refugee crisis, terrorist attacks and Brexit. Moreover, it includes references to the climate crisis and surrounding conspiracy theories, as well as many citizens with an explicit anti-Muslim rhetoric; as a matter of fact, all references to Islam are negative and seem to belong to a racist discourse. For instance, here is how a UK citizen puts it in a rather typical ‘Trumpian’ framing:

*“The delusion and arrogance of the left-wing establishment, in media, education and government, is staggering. For example, if one*

<sup>94</sup> <https://www.theguardian.com/world/2021/jul/20/emmanuel-macron-identified-in-leaked-pegasus-project-data/>.

*cites valid arguments against the violent and misogynistic religion of Islam, they are branded as 'Islamophobic'.*” (UK Citizen)

Elsewhere, citizens talk about the way that propaganda may be used as a weapon of targeting marginalised and vulnerable groups, as well as how simply fact-checking, which the Commission and social media platforms pushed hard at the time, is far from being a panacea:

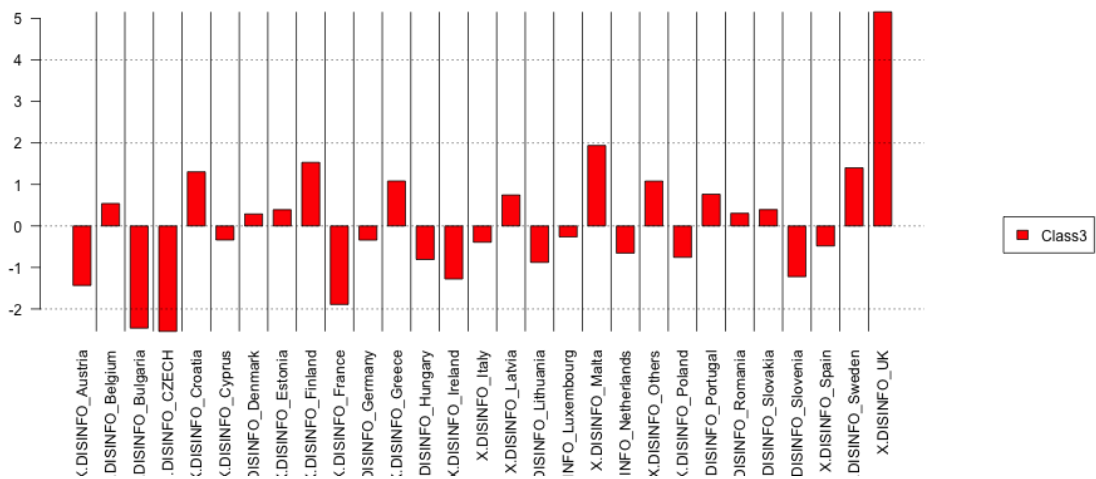
*“Most dangerous fake news is repeatable, sudden, aiming at the general feeling. They can’t be fought this way, since they aim at the long-lasting mood of their recipients, e.g. immigrants and xenophobic recipients with different titles, different pictures of refugees with titles like ‘million refugees in Germany’.*” (German Citizen)

*“Fake news act on the distorted general perception of a social phenomenon (e.g. immigration). Rectifying the single article is not enough to change the perception of the phenomenon.”* (Italian citizen)

Key themes found in Class 3 that were connected to dramatic and impactful events, like the terrorist attacks in the EU, Brexit, the refugee crisis, were by far most discussed in replies of citizens from the UK; other notable countries are Finland, Sweden, Croatia, and Greece. On the contrary, citizens from Austria, Bulgaria, the Czech Republic, and France had fewer references to these themes (Fig. 11). It should be noted that contributions from Malta were extremely few and, thus, is not accounted for here.

Overall, we can see that there is a high fluctuation in the frequency of references to this class’s key topics. Nonetheless, the UK is clearly a ‘positive’ outlier, which is undoubtedly tied to Brexit and the role that social media played in the referendum.

Figure 11 - T-gen of Class 3 projected on all replies of the consultation on disinformation



Class 4 (16.2%; dark green colour) contains an interesting discourse about how mis- or disinformation may come from governmental authorities and, generally, more mainstream or traditional media (Benkler et al., 2020). What is more, some respondents talk about media capture by governments (Schiffrin, 2014, 2021), as well as about how public service media have not been living up to the task. A characteristic TS comes from a Czech citizen who said:

*“Compared to the internet, I consider the dissemination of false news by the official media - TV, radio, printed newspapers and their online versions - to be much more serious. Unlike the internet, these media are considered credible, and their distorted and incomplete coverage has a greater impact.”*

Some citizens also blame the Commission’s way of structuring the questionnaire in such a way that does not leave space to criticise so-called traditional media; this critique was not included in Commission’s key findings<sup>95</sup>, but was merely noticed in the consultation’s executive summary in a rather downplayed fashion<sup>96</sup>. This might be reasonable given the scope of the Consultation and the Code of Practice. However, it sheds some light on people’s perception of what constitutes the problem regarding false information. A German citizen said the following:

*“In your questionnaire [Commission] you assume exclusively that social media generally disseminate false content. This is wrong! The problem lies much more in the area of public law and large corporate media. Here, information is mainly omitted or presented in an excessive manner.”*

Key themes found in Class 4 were more prominently discussed in citizens’ replies from Spain, Belgium, the UK, and Czech Republic, and were much more scarcely discussed in Italian, German, and Romanian respondents (Fig. 12).

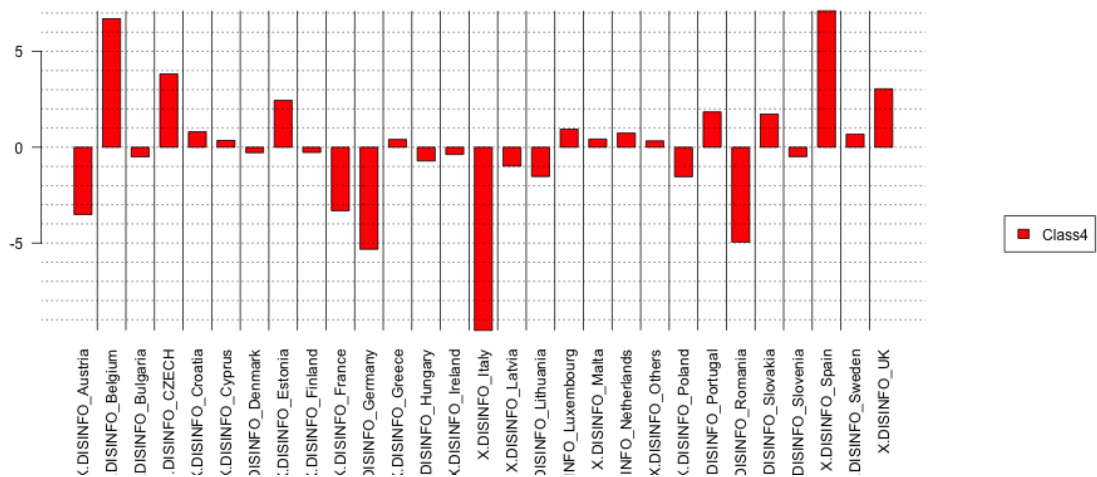
*Figure 12 - Tgen of Class 4 projected on all replies of the consultation on disinformation*

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<sup>95</sup> <https://digital-strategy.ec.europa.eu/en/synopsis-report-public-consultation-fake-news-and-online-disinformation>.

<sup>96</sup> [http://ec.europa.eu/newsroom/dae/document.cfm?doc\\_id=51810](http://ec.europa.eu/newsroom/dae/document.cfm?doc_id=51810).



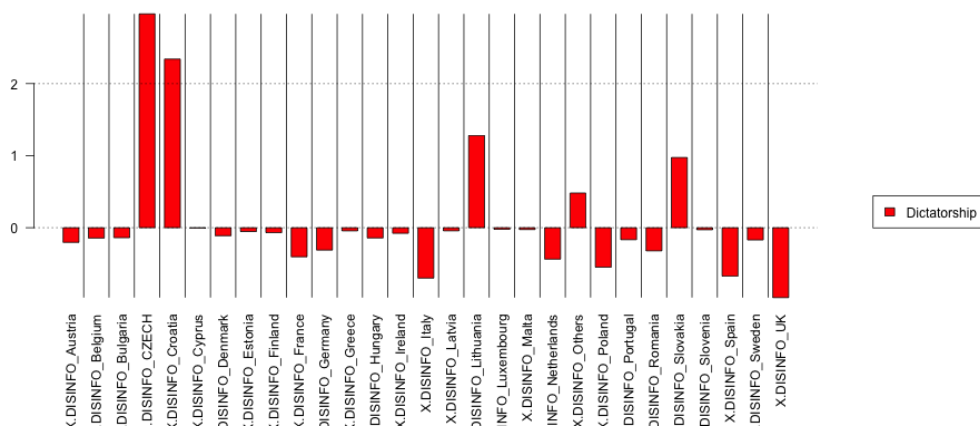


Class 5 (4.8%; light blue colour) contains citizens’ fear regarding freedom of expression and press freedom as being put to risk both by public authorities and platforms through fact-checking mechanisms. A Czech citizen commented:

*“Fact checking organisations are biased. Only comparison and verification done by reader can be effectively unbiased. Banning people on social media is a censorship.”*

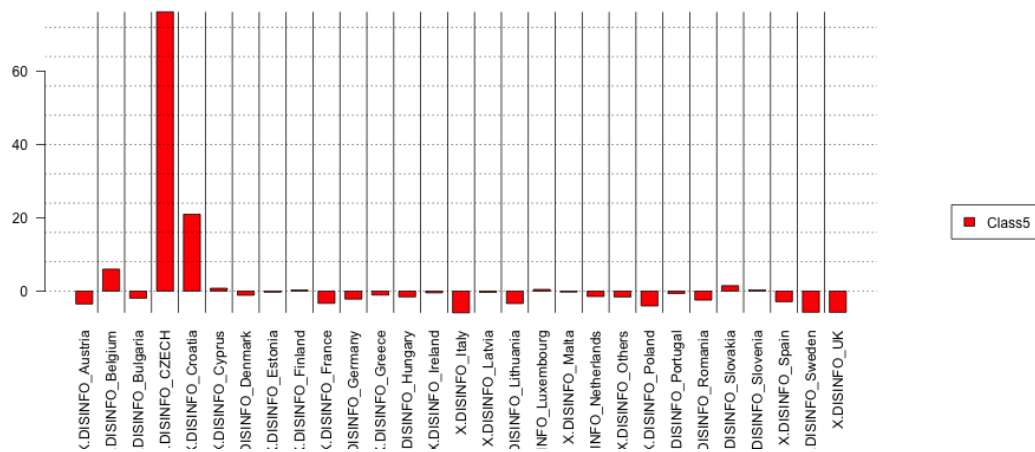
What is more, replies found in this clustering go as far as to talk about how trying to regulate information would constitute a form of dictatorship, thus showing the general lack of trust to governments from citizens. Interestingly, this discourse mainly stems from citizens of the Eastern Bloc in Figure 10.

Figure 13 - Frequency of “dictatorship” across all contributing countries



As seen in Figure 11, citizens from Czech Republic and to a lesser extent Croatia were vastly more interested in expressing their concerns and thoughts over freedom of expression and information in this consultation. We can also easily observe that Class 5’s projection on replies from Czech citizens is a ‘positive’ outlier.

Figure 14 - Tgen of Class 5 projected on all replies of the consultation on disinformation



Class 8 (7.1%; pink colour) is the cluster that contains citizens’ suggestion to fighting disinformation and, specifically, advance the value of education, media literacy and critical thinking as fundamentals in this endeavour. Many citizens believe that pertinent courses should be introduced as early as primary school in order to prevent young people from believing conspiracy theories and developing their critical skills:

*“I just think that on top of all the measures that you can implement, at the end of the day it goes back to people’s education and critical view. It is not possible to check everything.” (Italian Citizen)*

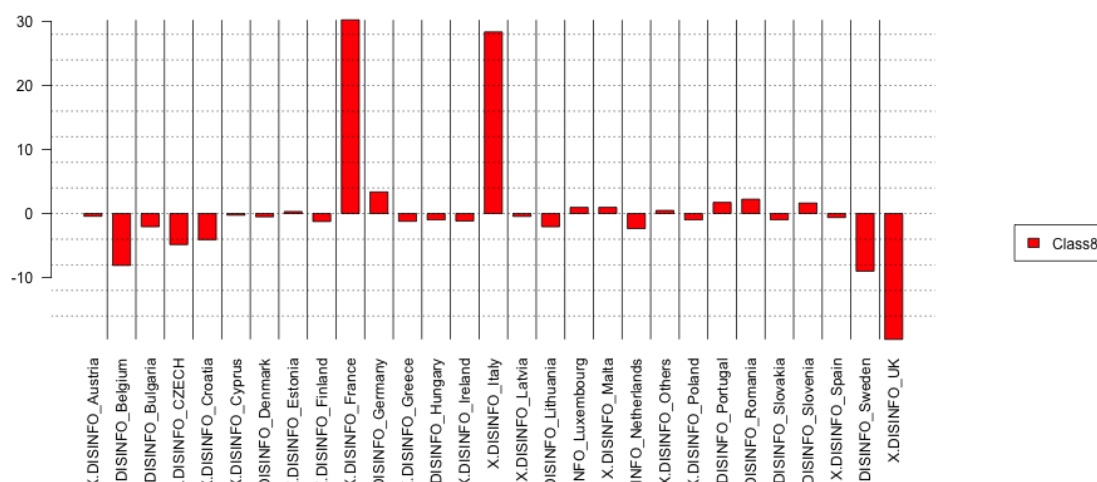
*“None of the proposed methods is appropriate, as they are easily replaceable, even if news feeds were restricted. In my opinion, only education, the general spread of a critical approach can be a solution in the long run, any prohibition cannot be effective in any way.” (Hungarian Citizen)*

As can be easily observed in Figure 12, French and Italian respondents were deeply interested in discussing issues related to media literacy and critical thinking. This may be partially explained by France’s strategy to promote media literacy with the introduction of the law on “rebuilding education” in 2015<sup>97</sup> and the launch of “digital schools”<sup>98</sup>. In the Commission’s report on Media Literacy in Europe in 2017, when asked about the most important media literacy skill, French respondents placed critical thinking first, something that is also found in this analysis as well (Nikoltchev, 2016, p. 188).

Figure 15 - Tgen of Class 8 projected on all replies of the consultation on disinformation

<sup>97</sup> <https://digital-strategy.ec.europa.eu/en/library/reporting-media-literacy-europe>.

<sup>98</sup> [https://www.lemonde.fr/campus/article/2016/02/05/trouver-les-171-premieres-formations-de-la-grande-ecole-du-numerique\\_4860226\\_4401467.html](https://www.lemonde.fr/campus/article/2016/02/05/trouver-les-171-premieres-formations-de-la-grande-ecole-du-numerique_4860226_4401467.html).



We now turn to the comparison of the key themes that emerged in citizens’ replies to the Public Consultation “on fake news and online disinformation” to the positions of the European Commission:

- Inaction of large social media platforms against mis- and disinformation, the burgeoning phenomenon of fake accounts, which in some cases might be used as a means of avoiding state censorship (Class 1). The Commission seems to be negatively biased against explicitly racist and bigoted replies; in other words, these are not tolerated and, thus, are excluded from the consultation’s feedback. Moreover, the Commission’s definition of disinformation does not include “clearly identified partisan news” and, generally, does not aim at tackling disinformation stemming from media. It, however, advises platforms to put in place mechanisms that enhance news pluralism, diversity, authenticity etc. (EC, 2018a, p. 7).
- Foreign interference and electoral manipulation, especially in relation to Russian-backed operations of manipulation of information (Class 2). This was not explicitly referred in the Commission’s CoP on Disinformation but was included in later texts, namely the DSA and the Media Freedom Act.
- Unprecedented events, like the refugee crisis, terrorist attacks, Brexit, as well as conspiracy theories regarding the climate crisis and the increasing racist discourse against vulnerable groups (Class 3). This was tackled, mainly, from the Commission’s CoC on Hate Speech rather than Disinformation.
- The fact that mis- or disinformation may come from governmental authorities and, generally, more mainstream or traditional media (Class 4). The Commission’s definition of disinformation does not include “clearly identified partisan news” and, generally, does not aim at tackling disinformation stemming from media. It, however, advises platforms to put in place mechanisms that enhance news pluralism, diversity, authenticity etc. (EC, 2018a, p. 7).

- Fears concerning freedom of expression and press freedom related to regulation of and by platforms (Class 5). Most respondents indeed want fundamental rights, like freedom of expression, to be respected both from platforms and public authorities. The Commission demands signatories to enforce the removal of fake accounts and making sure that they are not confused as human. However, the commission also recognizes the importance of using anonymous & pseudonymous accounts. What is more, the Commission – in line with Art. 10 of European Charter of Human Rights (EU, 2012) – should not delete content merely on the basis of being false.
- The shortcomings of fact-checking (Classes 6 and 7). The Commission introduced a so-called ‘network of independent fact-checkers’ but this yet to be realised yet. The only thing close to this is the Code of professional integrity for independent European fact-checking organisations<sup>99</sup>.
- Suggestions to tackle disinformation, namely through media literacy and critical thinking courses (Class 8). There is indeed a provision in the CoP on Disinformation committing platforms to partner with other stakeholders to promote media literacy & critical thinking (EC, 2018a, p. 7).

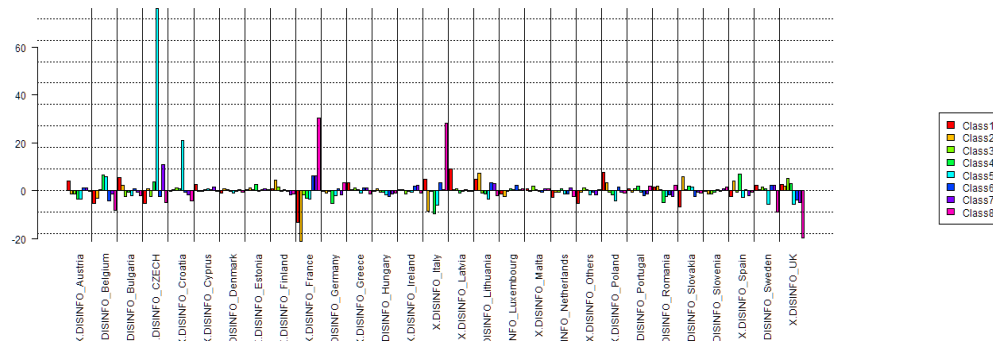
Seen from a distance (Fig. 16), we can identify some interesting patterns. First, we can identify the ‘positive’ outlier comprised of Czech respondents in relation to themes of Class 5, as well as the connection between French and Italian respondents and Class 8. Second, French respondents constituted a ‘negative’ outlier in relation to Class 1 and 2. As a result, some intriguing findings are that: (i) Czech respondent prioritised their concerns regarding freedom of expression, (ii) Italian and, especially, French citizens prioritised media literacy and critical thinking as the long-standing solution to disinformation compared to other short-term remedies like fact-checking or pop-up messages, and that (iii) although France was hurt by dramatic events that, among others, initiated regulatory endeavours, like the law against the manipulation of information<sup>100</sup>, citizens did not prioritised them in their feedback.

All in all, the consultation’s key findings seem to reflect what was touched upon by the citizens. However, the Commission’s agenda notably highlights some instances over others, while significantly downplays others. Additionally, it remains unclear whether the Commission deeply engages with the citizens’ replies in a qualitative manner, as we do in this chapter; we find this would add valuable nuance to the quantitative feedback retrieved from the survey. Last, as various respondents noted, some questions were phrased in a way that guided replies.

*Figure 16 - Tgens representing each DHC class projected on all contributing countries*

<sup>99</sup> <https://digital-strategy.ec.europa.eu/en/funding/call-proposals-integrity-social-media>.

<sup>100</sup> <https://www.gouvernement.fr/action/contre-la-manipulation-de-l-information>.

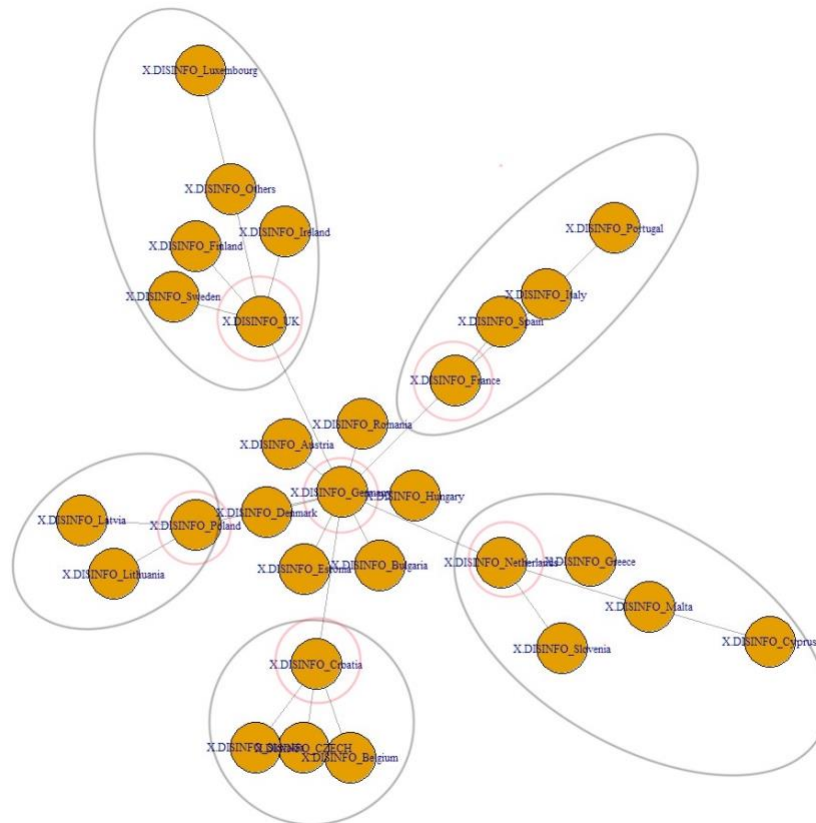


Finally, through the Labbé Intertextual Distance Index we can estimate the similarity of citizens’ replies to identify similar national discourses among EU member-states, including then-member UK. What is more, this analysis allows us to compare the lexicon used by each country’s respondents based on the forms that comprise the DHC clusters. In other words, this method builds upon the aforementioned classes to create clusters of countries and calculates their discursive similarity and, thus, ensuring methodological consistency. By visualising the Labbé index as a network (Fig. 17), we can extrapolate that:

- It further corroborates previous findings and that citizens of the Eastern Bloc follow a similar discursive pattern
- Five countries, namely the Netherlands (close to Class 4), France (Class 8), the UK (Class 4) and, to a lesser extent, Croatia (Class 5) and Poland (closer to Class 1) exhibit similar discursive patterns with numerous other countries, creating thematic clusters of countries.
- Germany (closer to Class 8) is placed at the centre of the graph, which suggest that its citizens discussed issues that overlapped with most of the other countries, showing a variety of themes.
  - Looking at the underlying figures that constitute the graph<sup>101</sup>, Germany and then, France’s prices are rather low in the Labbé index, meaning that their replies’ vocabulary is similar to most other countries.

Figure 17 - Labbé Intertextual Distance Index applied on replies of European citizens to the Commission’s Public Consultations on fake news and online disinformation

<sup>101</sup> Given the picture’s size, the matrix is not shown here, but is accessible online [here](#).



In summary, the key themes that emerged concern the problem of inaction and inadequacy in relation to content moderation, as well as fact-checking, the dangers and the problems of instrumentalisation of information through disinformation, the demonisation of vulnerable groups and conspiracy theories, the dissemination of propaganda by public authorities and traditional media and, last, the need to improve and promulgate media literacy.

Interestingly, in the Commission’s key findings of the Consultation, the role of fact-checking is rather highlighted as key in fighting disinformation<sup>102</sup>, with solely a mention of “limited efficiency” that begets reinforcing through a combination of other measures. However, as seen in detail in this section, fact-checking is framed by citizens as sugar-coating of the fundamental problem of mis- and disinformation and is treated with suspicion. What is more, the Commission completely obscures the rather prominent opinion of citizens in regard traditional media’s role in disseminating disinformation. It seems, thus, that the Commission focused more on social media, but still noted the importance of media literacy and independent journalism, as emphasised by citizens, in its synopsis and is also integrated in the final text.

<sup>102</sup> <https://digital-strategy.ec.europa.eu/en/synopsis-report-public-consultation-fake-news-and-online-disinformation>.

#### 6.2.2.2. Analysis of Public Consultation on measures to further improve the effectiveness of the fight against illegal content online

The Public Consultation on measures to further improve the effectiveness of the fight against illegal content online ran from 30/04/2018 to 25/06/2018 and received a total of 8,961 replies, of which 8,749 were from individuals<sup>103</sup>. Most were received from Germany, followed by the United Kingdom, the Netherlands, Sweden, and Finland; France, Belgium, Ireland, and Italy also had a notable participation. The following questions of the questionnaire were selected to derive data from:

1. Have you been a victim of illegal activities? If so, please share in what way this has affected you (e.g., effect of the availability of the content online, effect on your community, loss of revenue etc.).
2. Have encountered content you deemed illegal? Please specify.
3. What action did you take after encountering the content referred to above (Terrorist content, child sexual abuse material, pirated content, illegal hate speech, scam, or frauds)?
4. What happened to the content you had reported?
5. If your answers to the previous questions refer to multiple experiences with reporting content, please explain if there were substantial differences in particular occasions, relating to specific types of content or in your interactions with different platforms.
6. How were you affected by the illegal activities you pointed to in the previous answers?
7. On what grounds was your content blocked or removed?
8. Have you taken any action?
9. What was the follow-up on the dispute?
10. Please explain how the take-down or blocking of your content and potential follow-up actions have affected you.
11. Are there additional comments you would like to make? Please detail, in particular, if your answers refer to different experiences, different types of illegal content, etc.

Moreover, the Commission limited the deduction of the key findings of this consultation's survey, to quantitative results, which means that replies to open-ended questions, which constitute the corpus of our analysis, were largely disregarded. As a result, we will not conduct a point-by-point comparison for this Consultation but rather draw general conclusions. Finally, the consultation's feedback was used to inform the Commission's recommendations on measures to effectively tackle illegal content online<sup>104</sup>. These measures consist of self-

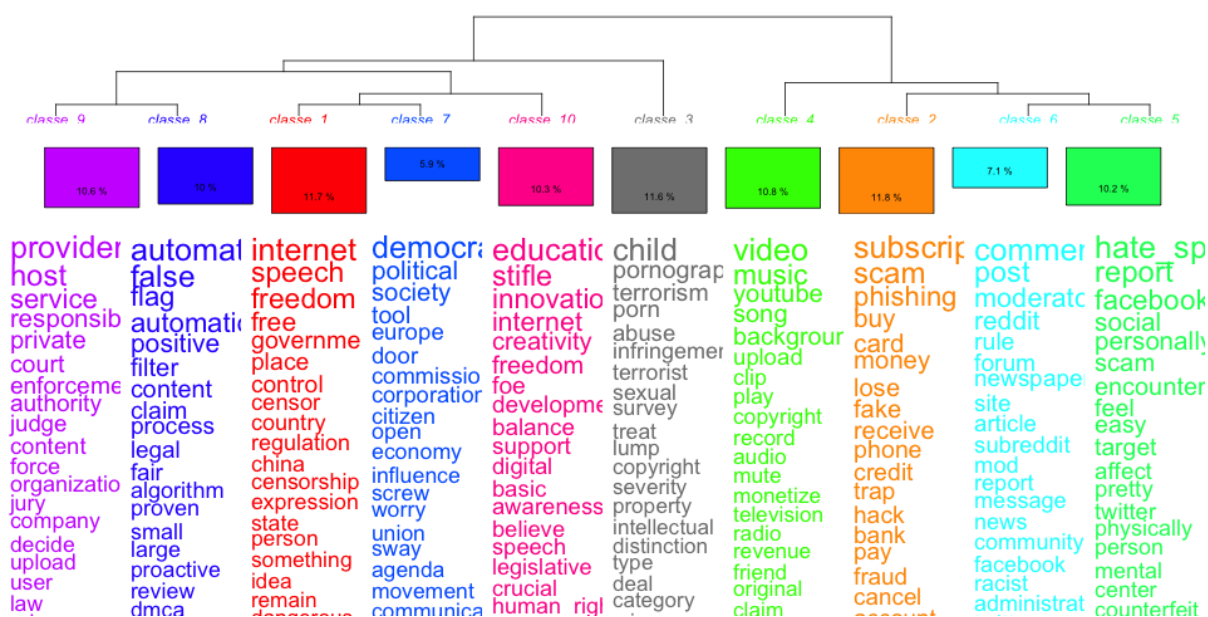
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<sup>103</sup> <https://digital-strategy.ec.europa.eu/en/summary-report-public-consultation-measures-further-improve-effectiveness-fight-against-illegal>.

<sup>104</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018H0334&from=EN>.

regulatory, as well as co-regulatory, guidelines and principles for online platforms, aiming to step up the fight against illegal content online in cooperation with national authorities, Member-states, and other relevant stakeholders.

Figure 18 - DHC dendrogram of the corpus's lexical classification



In the following paragraphs, we present each cluster's constituting forms and central theme:

Class 9 (10.6%; pink colour) contains an interesting discourse centred around the distrust of platforms by citizens to effectively police their services and make important decisions concerning what should be labelled as illegal content. They argue that there are public authorities to do this kind of work, like judicial authorities and law enforcement authorities:

*“Hosting service providers cannot and must not judge whether content is illegal; this can only be done by the judiciary and the public prosecutor's office. Only the reporting and deletion process should be optimized but here too via the public prosecutor's offices and not via the service providers.”* (German citizen)

Seen in tandem with Class 1 and the distrust of governments by citizens to come up and apply effective and safe regulations, we can understand both the extremely complex nature of policy-making and the fine balance that decision-makers should achieve, as well as the conflicting opinion of the public on what should be done and by whom. Moreover, some citizens also expressed their fears concerning the extra burden that small and medium-sized enterprises (SMEs) should have to cope with if mass upload filters based on automated solutions were to become an industry standard:

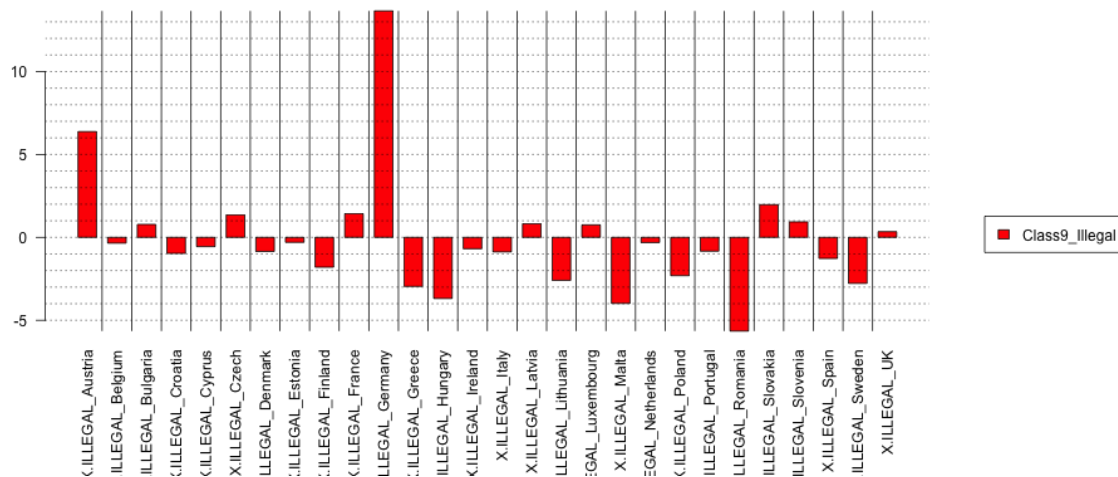
*“In particular private entities, like hosting providers, should not have to undertake that task as it is too difficult for many small enterprises*



who do not have the legal competence to judge the legality of information that has been uploaded” (German citizen).

This cluster’s key themes were predominantly discussed by German citizens (Fig. 19), which might not come as a total surprise given the country’s special relationship with issues of legality concerning hate speech. It was also one year prior to this consultation, in 2017, when Germany passed its controversial NetzDG<sup>105</sup> that, essentially, made content that was illegal offline to be illegal online as well but, also, forced digital intermediaries to take down such illegal content in a very limited time span (Heldt, 2020).

Figure 19 - Tgen of Class 9 projected on all replies of the consultation on the Recommendation



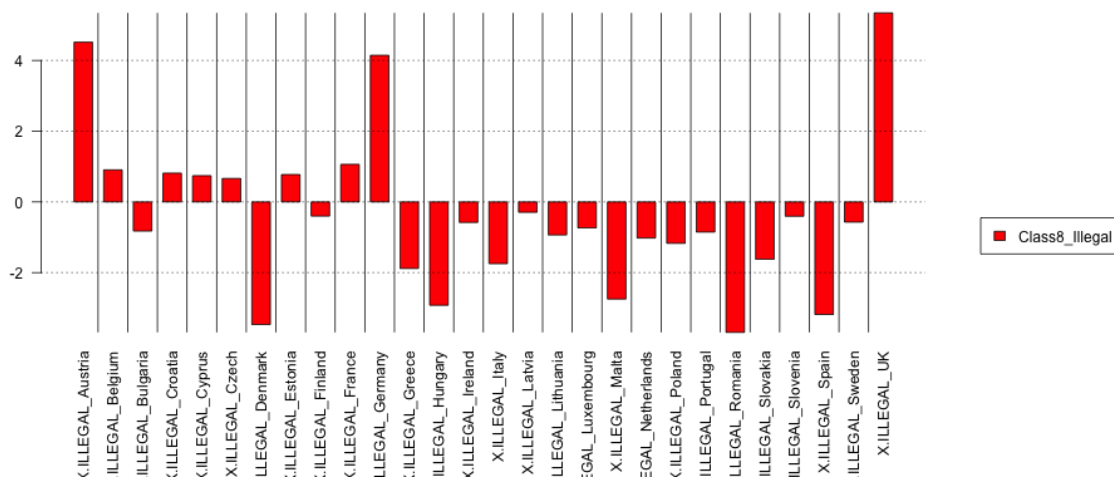
Class 8 (10%; purple colour) contains a very similar discourse to the one found in Class 9, which is to be expected given the fact that they both fall under the same branch. In addition to the expressed fear over the standardisation of automated solutions and upload filters, this cluster also includes references to automated flagging of legal content and, which might wrongfully label it as problematic or, even, illegal:

“Automatic flagging of content by the service providers is not effective enough and will lead to too many false positives making platforms unusable.” (German citizen)

Similar to Class 8, respondents who referred to such issues mainly came from Germany and Austria (Fig. 20). However, UK citizens seem to have also heavily engaged in discussing issues found in this cluster; this may be because the focus of this class was predominantly on automated content moderation solutions, whereas Class 9 touched upon the question of enforcement of policies and regulations.

Figure 20 - Tgen of Class 9 projected on all replies of the consultation on the Recommendation

<sup>105</sup> [https://www.bmjv.de/DE/Themen/FokusThemen/NetzDG/NetzDG\\_EN\\_node.html](https://www.bmjv.de/DE/Themen/FokusThemen/NetzDG/NetzDG_EN_node.html).



Class 1 (11.7%; red colour) contains forms related to fundamental rights, like freedom of speech and freedom of expression. It also contains expression of fear concerning governmental regulation that could lead to state censorship, like the concerns expressed in the Public Consultation on disinformation; additionally, China is one of the most common used examples throughout citizens' replies in relation to that.

What's more, it seems that citizens were more alerted regarding these issues due to the Commission's reveal of its draft on the new Directive on Copyright in the Digital Single Market<sup>106</sup> and, in particular, due to two controversial articles: 11 and 13 (15 and 17 of the adopted version). Briefly, the former prohibits online content providers from linking to news outlets/publications without the prior authority of the publisher, thus introducing so-called "neighbouring rights" for press publishers that allow them to assert remuneration from digital intermediaries for the use of their content but was unclear at first whether this would apply to all users<sup>107</sup>.

The latter, which was widely known as the "meme ban"<sup>108</sup>, forced online content providers to take down content that infringed copyright policies; because of the staggering volume of content uploaded every second on large platforms like YouTube, providers unavoidably rely on automated filters to police their services, which might have unexpected negative results on freedom of expression<sup>109</sup>. As a result, citizens used these two - especially the latter - to emphasise the need to have safeguards against the risk of freedom restriction:

*"Politicians want to control what information I consume via Article 13, so I won't get a varied flow of information anymore. When the day comes that a totalitarian government arrives, we'll all be*

<sup>106</sup> <https://eur-lex.europa.eu/eli/dir/2019/790/oj>.

<sup>107</sup> <https://www.mondaq.com/unitedstates/copyright/794676/eu-copyright-reform-article-11-link-tax>.

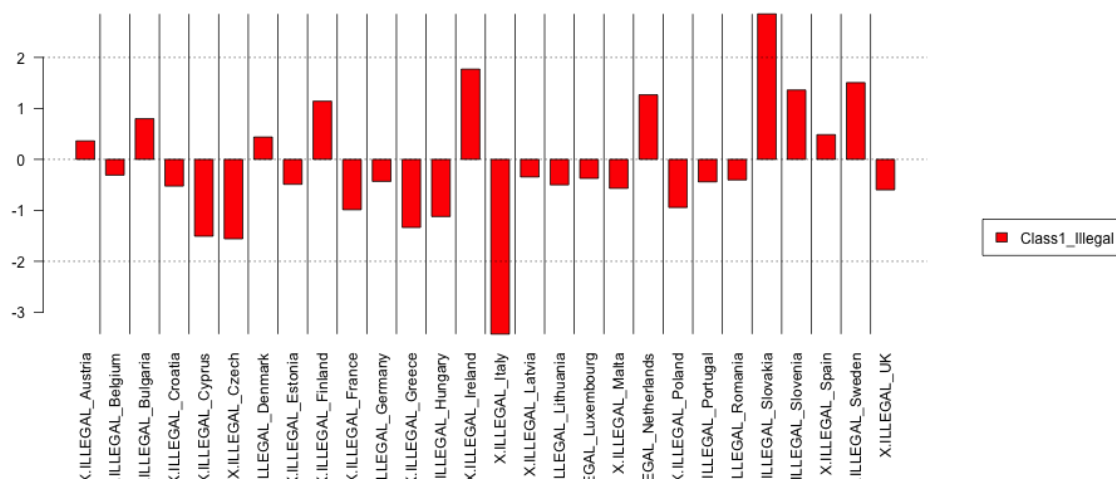
<sup>108</sup> <https://www.wired.co.uk/article/what-is-article-13-article-11-european-directive-on-copyright-explained-meme-ban>.

<sup>109</sup> <https://edri.org/our-work/eu-copyright-dialogues-the-next-battleground-to-prevent-upload-filters/>.

*screwed and it will all have started with Article 13, which is a regression which takes us back in time and will deter the freedom of speech completely” (Swedish citizen)*

This cluster’s key themes were brought up most prominently in replies from Slovakian citizens, while Slovenian, Swedish, Finnish, Irish and Dutch citizens also made notable references to the protection of fundamental rights (Fig. 21). In opposition, Italian citizens had very few, if at all, references to such issues.

Figure 21 - Tgen of Class 1 projected on all replies of the consultation on the Recommendation



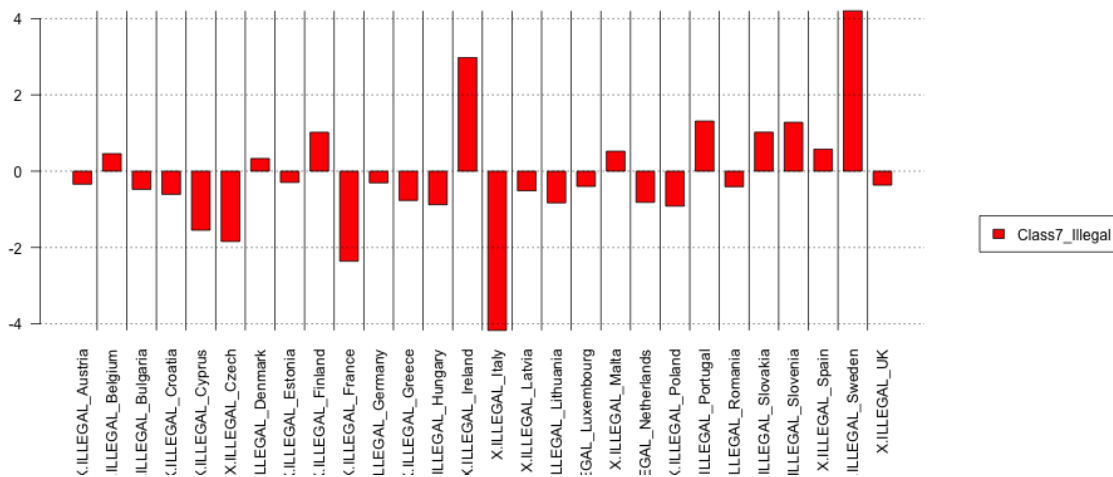
Class 7 (5.9%; dark blue colour), which is closely connected to Class 1, contains forms that refer to European institutions, namely the Commission and its regulatory proposals. Furthermore, in numerous replies we notice a sort of European exceptionalism, like a certain set of “European values” that are elevated compared to the American or Chinese “way of life”<sup>110</sup>. As a Swedish citizen commented:

*“With the recent developments in the United States and China, I feel that liberty and democracy is now facing its greatest threat since the end of the Cold War; it would be sad to see the European Union to undermine its own foundations at a time like this”*

Furthermore, this cluster’s discourse was found in the same countries as with Class 1; however, Swedish, and Irish respondents seemed more preoccupied with this theme than others (Fig. 22).

Figure 22 - Tgen of Class 7 projected on all replies of the consultation on the Recommendation

<sup>110</sup> It is worth to remember the controversy that sparked when, in 2019, President of the European Commission, Ms. Ursula von der Leyen, nominated Mr. Margaritis Schinas as Vice-Commissioner, responsible to protect the “European way of life.” More on that here: <https://www.politico.eu/article/meps-approve-margaritis-schinas-despite-protecting-european-way-of-life-controversy-european-commission/>.



Class 10 is closer to the two previously mentioned clusters (1 and 7), yet it is not very close thematically. Respondents here discuss primarily the value that can be found in educating users and citizens regarding the dangers that exist, primarily, with social media platforms and fraudulent content:

*“In other words, some bad things are going to show up and one is better off dealing with them through education and awareness. I consider the measures you are proposing to be draconian ill-informed and a big step in a very bad direction”* (French citizen)

However, by taking a closer look, another interesting discourse emerges, that of educational content that might not be distinguished from illegal content or illegal use by automated solutions:

*“In my case, I was using the music as part of an educational video uploaded for the class I was teaching; YouTube did not allow any music from that group other than from a big company even though it was covered under acceptable use”* (UK citizen).

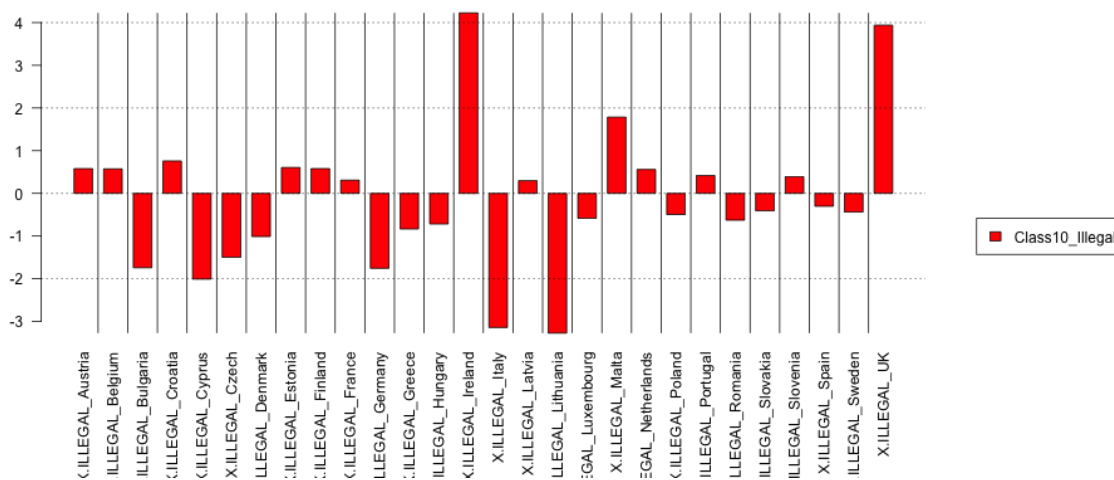
At the same time, it seems that respondents are also afraid that more rules and regulations could stifle innovation, which has also been a long-standing argument made by platforms against stricter rules<sup>111</sup>. As a Belgian citizen noted, “this is a very delicate subject; a poor legislation can stifle innovation and, sometimes freedom of expression<sup>112</sup>, in Europe for the forthcoming years.” Seen this way, we could make an argument about how the promotion of media literacy and education can be a neutralising argument against many of the problems that torment our digital public spaces and one that depoliticises the discussion without offering radical changes.

<sup>111</sup> <https://www.foxbusiness.com/technology/facebook-eu-hate-speech-rules>.

<sup>112</sup> In this cluster, the form “foe” stands for freedom of expression.

Nevertheless, it seems that European citizens believe that building a strong public awareness concerning problematic content and, particularly, deceitful content that aim to deceive, would help alleviate many problems that Internet users face today. Finally, the two English-speaking countries of our dataset, Ireland, and the UK, were much closer to this class’s themes, whereas Italy and Lithuania were the ‘negative’ outliers (Fig. 23).

Figure 23 - Tgen of Class 10 projected on all replies of the consultation on the Recommendation



Class 3 (11.6%; grey colour) contains references to explicitly illegal content, like child pornography, sexual abusive content, terrorist content, etc. Here it seems that citizens are, by and large, in favour of stricter legislation that would prohibit such content from being widely circulated through online service providers, albeit with some reservations:

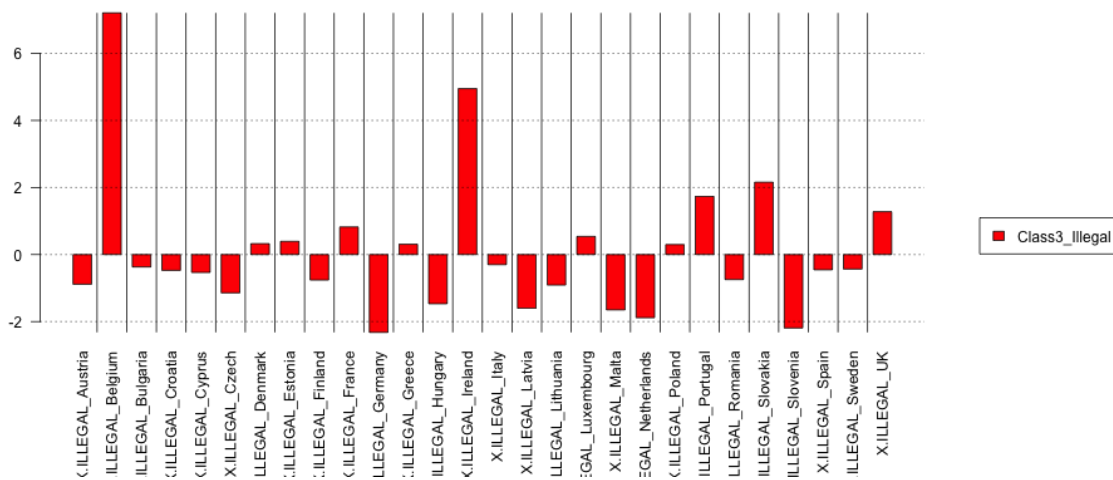
*“While unifying copyright laws for all countries in the EU would be beneficial, there is a different issue at play here: we can justify a system created to filter out content such as child pornography as it is clearly illegal and harmful; however, such a system would probably result in more things being banned” (UK Citizen)*

At the same time, respondents were also critical of the way that the Commission framed the question regarding this type of illegal content because they felt it was forcing a single response to various types of illegal content, like pirated or uncopyrighted use of content:

*“There is a clear mix between criminal content, e.g. child abuse or terrorism and illegal content, e.g. fraud or phishing, as well as a grey zone, e.g. copyright infringement; this survey should be restructured” (Swedish citizen)*

Belgian and Irish citizens’ replies were much closer to this cluster’s key themes as can be seen in Figure 21. Overall, we can see that apart from these two ‘positive’ outliers, the rest of the cohort did not have many references to this cluster’s theme.

Figure 24 - Tgen of Class 3 projected on all replies of the consultation on the Recommendation



Class 4 (10.8%; light green colour) contains references to content creators on popular social media platforms, like YouTube, whose revenues are directly tied to the use of copyrighted audio-visual content. So, in this cluster we find forms like video, music, monetisation, etc. It, basically, makes visible the economic dependency of content creators on large online platforms and the need for a truly level playing field.

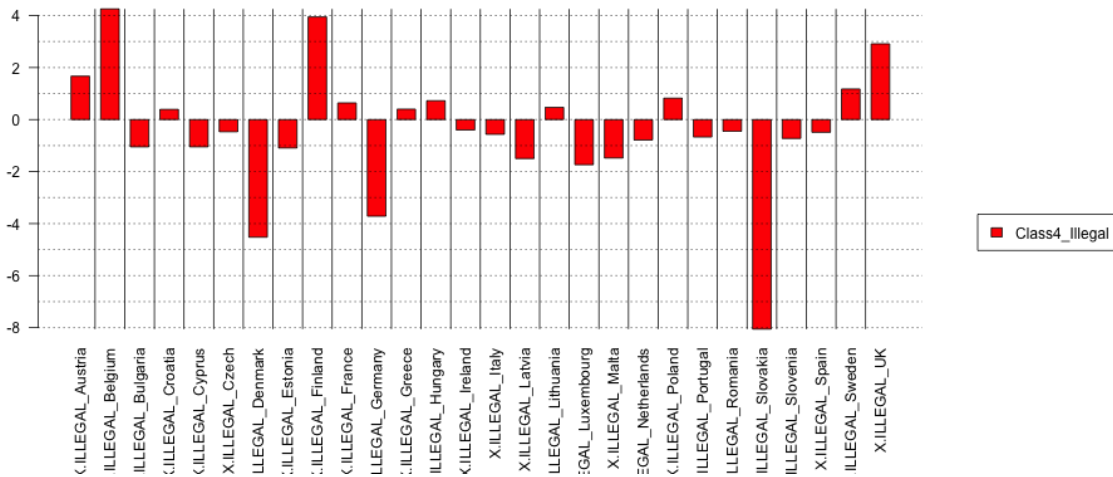
What’s more, by digging in a bit further, another intriguing discourse is revealed, one that relates to how copyright strikes, i.e., demonetisation or removal of content due to copyright reasons, may be weaponised from copyright holders or opposing voices to remove undesired content, similar to how citizens in the previous consultation argued that content flagging might be exploited as a means of restricting freedom of expression (Caplan & Gillespie, 2020; Crawford & Gillespie, 2016):

*“Copyright is used to suppress freedom of expression many critical videos on YouTube are demonetized or deleted simply because they don’t please copyright managers” (Belgian citizen)*

*“It is extremely annoying as a content creator on YouTube to have all of my videos demonetized from day 1 on which they are uploaded because I have to fight every time with the YouTube algorithm to prove that my content falls under fair use; I lose most of my revenue because when monetisation is reallocated on my video most of the viewers have already seen it, so I lose a lot of money because of false copyright claims” (French citizen)*

Belgian, Finnish, and British citizens seem to have engaged more in issues revolving around this cluster’s theme (Fig. 25); on the contrary, the obvious ‘negative’ outlier here is Slovakian citizens, with Danish and German citizens following. Indeed, after going through all 27 replies made from Slovakian citizens, not one had mentioned issues or worries over the content creator or self-entrepreneurial economy. Beyond these countries, the rest of the respondents referred to issues of this class in a rather balanced way.

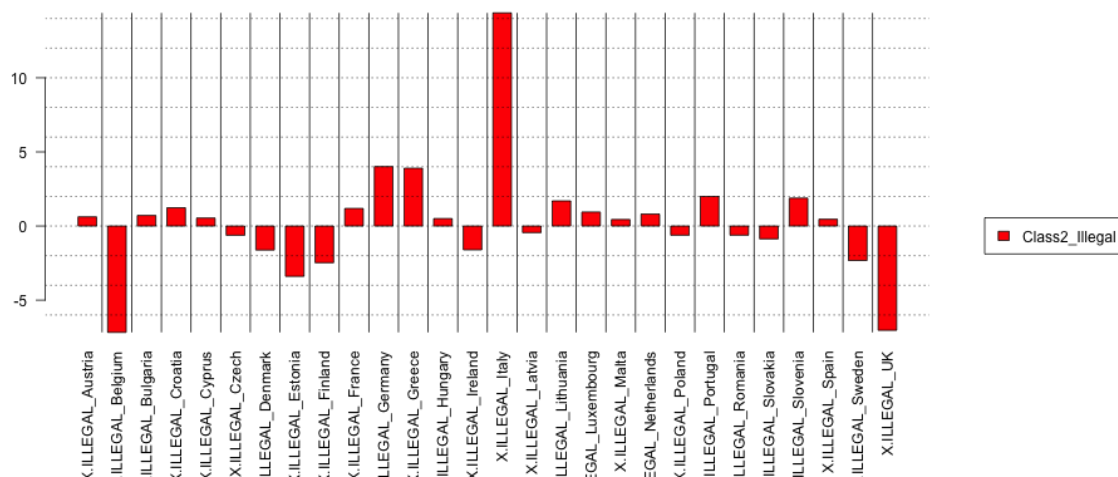
Figure 25 - Tgen of Class 4 projected on all replies of the consultation on the Recommendation



Class 2 (11.8%; orange colour) contains references to fraudulent content and ways in which people can get scammed or be tricked online. Here, we also find references to so-called ‘dark patterns’<sup>113</sup> that trick people into buying subscription services. However, people do not believe that legislating against such practices would help; instead, they believe that media literacy would be much more beneficial, as well as that it is a matter of individual responsibility to not fall prey into such traps, as an Austrian citizen put it: “if you lack the common sense to not fall for scams frauds etc., you shouldn’t use the internet in the first place not at all.” Interestingly, Italian citizens are the blatant ‘positive’ outlier in this instance (Fig. 26), showing a greater interest in relation to such phenomena.

Figure 26 - Tgen of Class 2 projected on all replies of the consultation on the Recommendation

<sup>113</sup> <https://www.vox.com/recode/22351108/dark-patterns-ui-web-design-privacy>; Interestingly, the Internal Market and Consumer Protection Committee (IMCO) of the European Parliament added an amendment to the DSA concerning a ban on dark patterns, which was not included in the original text proposed by the Commission (<https://www.europarl.europa.eu/news/en/press-room/20211210IPR19209/digital-services-act-safer-online-space-for-users-stricter-rules-for-platforms>).



Class 6 (7.1%; light blue colour) contains references to content moderation on user-generated content of online services providers, with mentions of very large platforms, like Facebook, but also smaller ones, like Reddit. Interestingly, citizens expressed a rather positive opinion with regard to the way in which Reddit governs its content moderation system, where other users become moderators of its communities (also known as “sub-reddits”)<sup>114</sup>. As a Greek citizen put it:

*“Forums like Reddit that self-moderate are quite good and fast at keeping threats like hate speech down to a low level among subforums; big social media, e.g., Facebook, or hosting sites, e.g. YouTube, seem slow and somewhat inefficient”*

In addition, in this cluster we also find references to comments section of news sites and how these are moderated; indeed, it is often the case that not much attention is paid to how these digital spaces are moderated<sup>115</sup> compared to the scrutiny that social media platforms face:

*“Hate speech is unfortunately found on newspaper comment sections or on Twitter, especially racism and homophobia; however, this is an issue regarding harassment and Twitter in this case won't acknowledge this as a problem”* (Portuguese citizen)

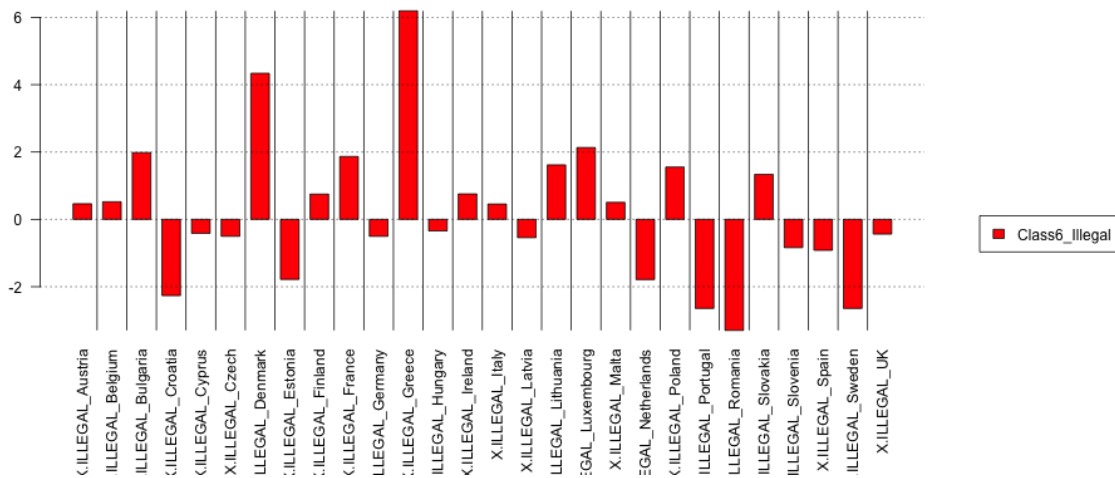
<sup>114</sup> Civil society organisations have been advocating for a shift in platform governance to more ‘crowdsourced’ systems, similar to those of Wikipedia and Reddit, in relation to content moderation (cf. the study done on behalf of The Greens/EFA group in the European Parliament by Wagner *et al.*, 2021).

<sup>115</sup> News sites are legally shielded when it comes to their comments section, as the European Court of Human Rights has judged in the past (<https://www.theguardian.com/media/2016/feb/02/news-sites-not-liable-for-insulting-and-rude-reader-comments-says-echr>); additionally, the DSA draft also includes a specific provision (14) excluding them from legal obligations. However, these sites wish to moderate user-generated content for business reasons and often rely on automated solutions, as major platforms do (cf. Rieder and Skop, 2021).



Greece is the ‘positive’ outlier in relation to this cluster’s theme, with Denmark following closely after (Fig. 27), but other than that we see a rather balanced distribution of relevance across the respondents’ countries.

Figure 27 - Tgen of Class 6 projected on all replies of the consultation on the Recommendation

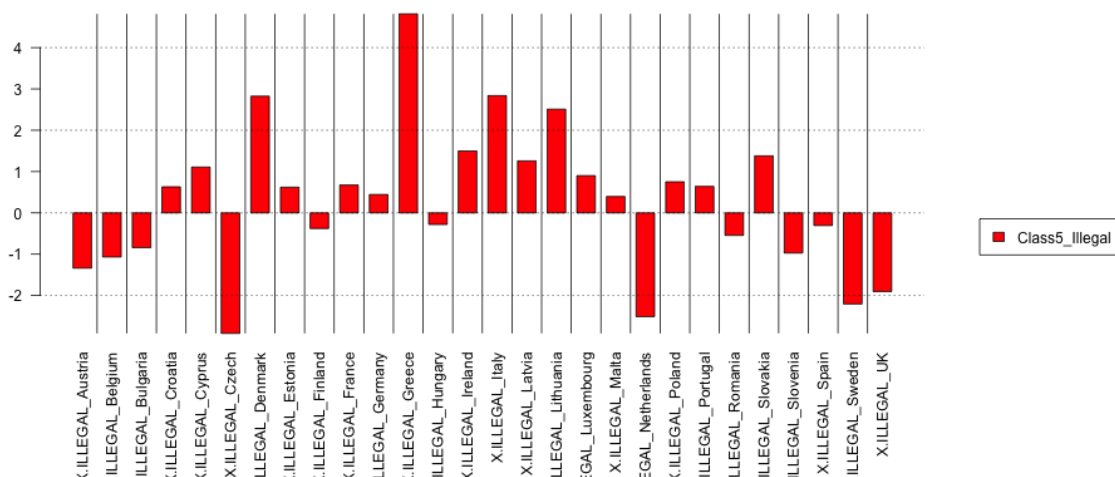


Class 5 (10.2%; dark green colour) is very closely related to Class 6, as we see mentions of popular social media platforms, like Facebook and Twitter, but in this instance, the discourse revolves around toxic content found in these platforms, without excluding criticism regarding their inertia to diligently remove such content:

*“I have seen a lot of illegal content and most of it categorize as hate speech; Facebook, Google and YouTube do a really bad job [moderating it], while reporting is not easy and they usually remove the content only if it's from somewhere that does not give them a positive source of income” (Italian citizen)*

The graph of this cluster’s thematic relevance (Fig. 28) is very close to the previous, with more respondents having discussed similar topics and Greece being again the ‘positive’ outlier.

Figure 28 - Tgen of Class 5 projected on all replies of the consultation on the Recommendation



We now turn to the comparison of the key themes that emerged in citizens' replies to the Public Consultation "measures to further improve the effectiveness of the fight against illegal content online" to the positions of the European Commission:

- Fears that regulation could lead to state censorship and restriction of fundamental rights (Class 1). Indeed, there exists a reference in the Commission's Recommendation relating to the need of platforms to respect fundamental rights (EC 2018b, Chapter 1)
- Online frauds and so-called 'dark patterns' that online services use to trick people; citizens seem to value individual responsibility more over statutory rules (Class 2). These were not covered by the Recommendation but were included in the DSA explicitly (EC, 2020a, art. 23a)
- Explicitly illegal content, like child pornography or terrorist content, as well as criticism of the way that the Commission structured the survey conflating copyrights issues with serious crimes (Class 3). Recital 10 of the Recommendation refers to that many times, namely about automatic detection of such content, expedite removal of web pages with such content etc. What is more, its third chapter is wholly devoted to terrorist content. However, the Commission seems to have listened to feedback and avoided conflating such illegal content with copyright. For this reason, they refer to dealing with copyright infringements as part of the new Copyright Directive and the DSA.
- Content creator economy and the lack of a level playing field between influencers and platforms, as well as how copyright strikes could be weaponised as a means of silencing critical voices (Class 4). The Commission's position is the same as described in Class 3.
- Deleterious content, like hate speech or racist slurs, found on social media platforms and the lack of effective content moderation (Class 5). The Commission did not include a provision against hate speech in this recommendation; they effectively referred to its CoC on Hate Speech.
- Limitations of content moderation systems that large online platforms use and how smaller community-led platforms, like Reddit, police better their services; citizens also discussed the comments section of news sites as digital spaces that need better moderation (Class 6). The Commission encouraged the use of automated solutions to detect online illegal content, which in many cases has been met with criticism, but seems inevitable in the landscape of scaled content moderation. It should also be mentioned that the DSA introduces checks and balances regarding this procedure.
- I also noted a discussion criticising European institutions, namely the Commission and its regulatory endeavours, as well as a sort of European exceptionalism (Class 7).

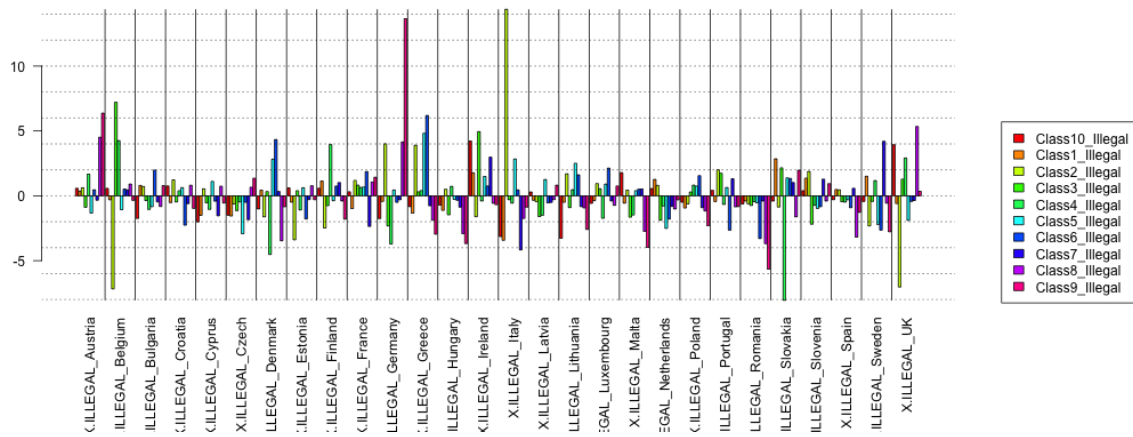
- Concerns over automated flagging of legal content that may target legal content and, thus, restrict freedom of expression (Class 8). The Commission’s position is the same as described in Class 6.
- Worries over letting online service providers to deem what constitutes illegal content and what does not, especially when it comes to placing upload filters; at the same time, citizens also expressed distrust of governments to come up with balanced and effective regulations, while they were in favour of involving judicial authorities in this process (Class 9). The Commission has decided to leave sectorial decisions to national governments, as is evident in recital 19 of the Recommendation.
- Promoting education, media literacy and general awareness of how to spot and avoid possible fraudulent content; citizens seem to favour this remedy instead of stricter regulations due to fears that these could stifle innovation and freedom of expression (Class 10). This is a recommendation outlined in the CoC on Hate Speech and the CoP on Disinformation but does not exist in the Recommendation.

Finally, by zooming out and taking a look at the projection of each cluster on the whole dataset (Fig. 29), we notice some interesting patterns: (i) German respondents have the strongest connection to Class 9, which might be related to the fact that Germany was one of the very first countries to have passed a law demanding platforms to take expedited action against illegal content and which increased fears that platforms could put sweeping upload filters in place just to avoid penalties, (ii) Italian citizens have the strongest connection to Class 2, which might be related to the fact that Italy has a rather low level of media literacy<sup>116</sup> and people are either falling victim to such fraudulent practices at an increased rate and/or are worried about how to best tackle this phenomenon, and (iii) with the exception of Classes 3, 4 and 9, all other thematic clusters have more-or-less a balanced distribution amongst countries; what is more, we cannot observe the same pattern concerning countries of the Eastern Bloc that was identified in our previous analysis.

*Figure 29 - Tgens representing each DHC class projected on all contributing countries*

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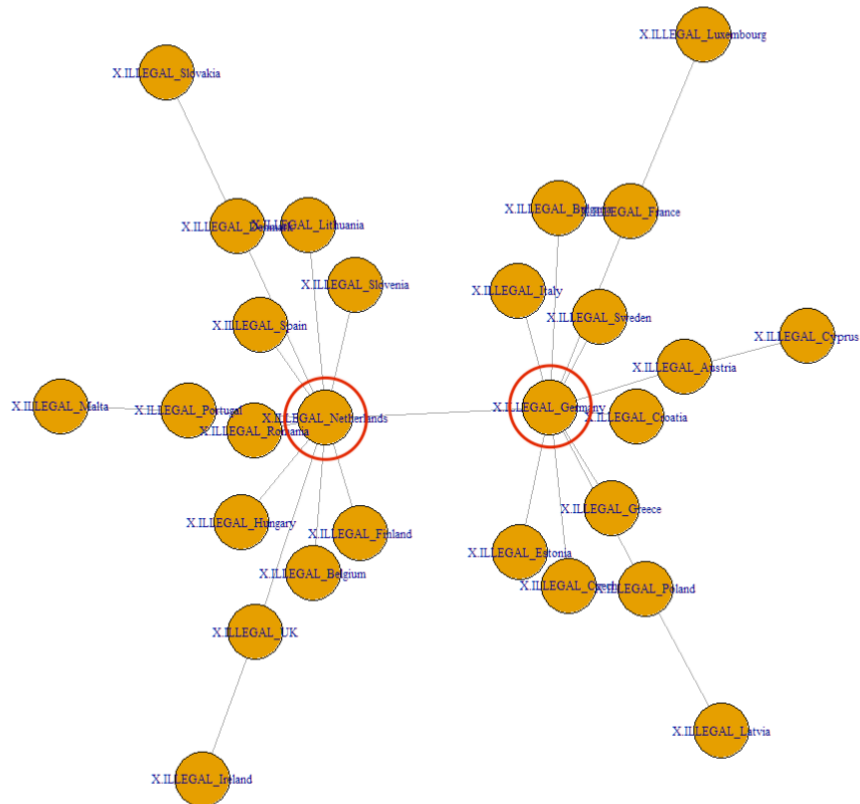
<sup>116</sup> In a recent study conducted by the Open Society Institute of Sofia, Italy was ranked as #21 among European countries, placing it in a position where its people have higher potential to suffer from “the negative impact of fake news and misinformation” (see more here: [https://osis.bg/wp-content/uploads/2021/03/MediaLiteracyIndex2021\\_ENG.pdf](https://osis.bg/wp-content/uploads/2021/03/MediaLiteracyIndex2021_ENG.pdf)).



Concluding, through the Labbé Intertextual Distance Index we can estimate the similarity of citizens' replies to identify similar national discourses among EU member-states, including then-member UK. What is more, this analysis allows us to compare the lexicon used by each country's respondents based on the forms that comprise the DHC clusters. In other words, this method builds upon the classes to create clusters of countries and calculates their discursive similarity and, thus, ensuring methodological consistency. By visualising the Labbé index as a network (Fig. 30), we can extrapolate that Germany, alongside the Netherlands this time, still holds a central position when it comes to feedback provided to the Commission, as was the case with the analysis of the previous dataset on disinformation; it should be emphasised once again that these two were also among the countries with the most contributions to the consultation.

Closing, we can argue that citizens are largely unsure and, even, confused as to what should be done about illegal content. Yet, they do not seem to trust either governments or digital platforms to come up with ways to effectively curb it, while they are in favour of judicial authorities' involvement in determining what constitutes illegal content and what not. As a result, citizens wish for a more flexible, co-regulatory approach to dealing with such material. Moreover, they demand for a more nuanced framing of the matter at hand to avoid conflating criminal content, like child pornography, with potentially illegal content, like the uncopyrighted use of audio-visual material.

Figure 30 - Labbé Intertextual Distance Index applied on replies of European citizens to the Commission's Public Consultations on measures to further improve the effectiveness of the fight against illegal content online



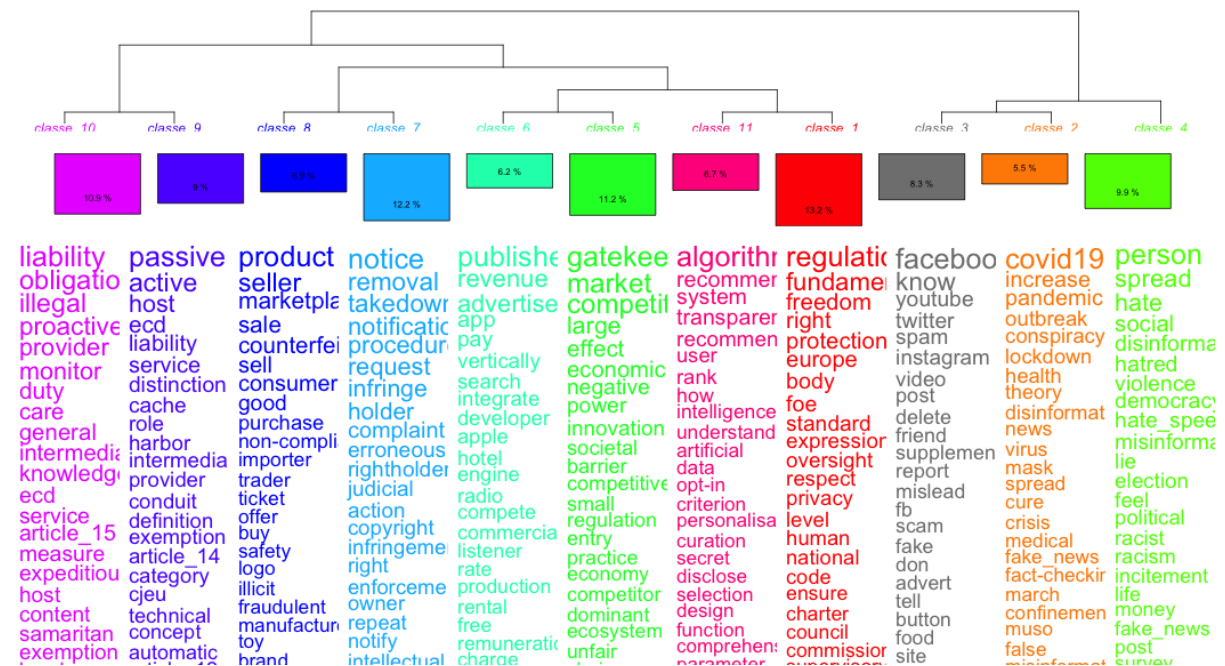
### 6.2.2.3. Analysis of Public Consultation on Digital Services Act – deepening the internal market and clarifying responsibilities for digital services

The Public Consultation on “Digital Services Act – deepening the internal market and clarifying responsibilities for digital services” ran from 02/06/2020 to 08/09/2020 and received 2863 replies: 2128 individuals, of which 1894 were EU citizens; all other replies came from relevant stakeholders and, as with the other two datasets, in this analysis we only included EU citizens’ replies – we did not exclude UK citizens for reasons of methodological consistency. It should be noted that due to the way in which the Commission has structured the survey’s results (as an Excel file) more than half of the replies (1582) did not include a specific user type (e.g., EU citizen or business representative); to avoid losing valuable data, these were included in our analysis.

As a result, it is possible that some of the findings presented here are derived from people who have participated in the consultation without divulging their affiliation. In any case, the textual analysis will provide us with hints of their profiles; this also demonstrates the lack of stricter safeguards from the Commission’s side in relation to its consultations, which could lead to skewed results or manipulating the received feedback. The largest number of replies

came from Germany, the United Kingdom, France, Belgium, and the Netherlands<sup>117</sup>. Last, the consultation on DSA had the largest number of questions of the three datasets and which covered the focal points of both previous consultations (illegal content and disinformation). For this analysis, we analysed replies to more than thirty open-ended questions, as this was by far the largest survey<sup>118</sup>; for reasons of size, they were not included in this part.

Figure 31 - DHC dendrogram of the citizens' input to the Consultation on the DSA



It should be noted that the analysis showed that eight of eleven classes (all except for Classes 2, 3 and 4) appear to relate more to non-citizen stakeholders who might or might not have vested interests. This is further evidenced by the accompanying Tgen graphs of each class that show that these classes are connected to Belgium, which is known to be as the heart of policy-making and, subsequently, lobbying:

Class 10 (10.9%; pink colour) contains references to obligations that platforms should or should not carry as regards to user-generated content they host, also known as ‘intermediary liability’. We can quickly observe that this class is comprised of a highly technical vernacular that is often used by experts of the field, which might be an indicator of the respondents’ profiles. As noted in this analysis’ introduction, it might be that this consultation did not only attract simple citizens but also experts who did not divulge their affiliation.

In this class we also find mentions of Article 15 of the ECD (EP & EUCO, 2001), which prohibits Member-states from imposing general monitoring obligations on online

<sup>117</sup> [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12417-Digital-Services-Act-deepening-the-Internal-Market-and-clarifying-responsibilities-for-digital-services/public-consultation\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12417-Digital-Services-Act-deepening-the-Internal-Market-and-clarifying-responsibilities-for-digital-services/public-consultation_en).

<sup>118</sup> All replies were translated in English using the Commission’s official translation tool: [https://ec.europa.eu/info/resources-partners/machine-translation-public-administrations-ettranslation\\_en](https://ec.europa.eu/info/resources-partners/machine-translation-public-administrations-ettranslation_en).

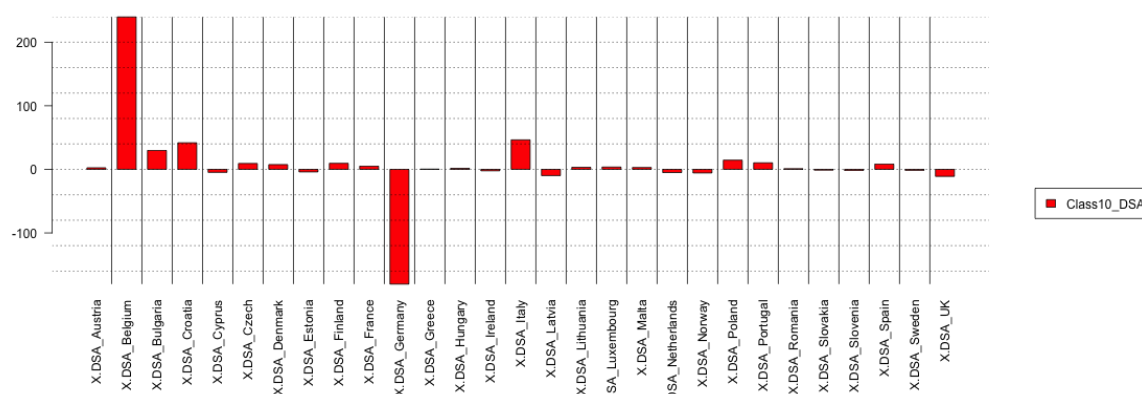
service providers<sup>119</sup>; we also find mentions of so-called “Good Samaritan” clause, which posits that intermediaries should not lose liability if they engage in voluntary proactive measures to monitor and tackle potential illegal activity<sup>120</sup> - which they would normally lose under Article 14 of the ECD because they would then have knowledge of such content and, thus, liable for not acting<sup>121</sup>. Consequently, given the complexity of the issue, we can understand that this cluster might be indeed comprised of contributions made by experts rather than regular citizens.

Interestingly, by zooming in on some of these contributions, some citizens also criticised the fact that the vocabulary used to discuss such issues is often inaccessible:

*I think many people need a good and easy to understand glossary. Mere conduits, caching- and hosting services: I understand it as normal services which are necessary for saving data, leading them through or in between servers and computers and saving or hiding some data for some time – regular work, but I am not sure and it. Perhaps the consequences, benefits, disadvantages should be explained to people with more examples (German citizen)*

Belgian respondents engaged much more in discussing issues pertaining to this class (Fig. 32), potentially because many citizens did not divulge their affiliation and, as such, they could be representing an organisation based in Brussels, which the heart of policy-making processes. Apart from Germany, which is this cohort’s ‘negative’ outlier, all other respondents had a balanced connection to this class’s themes.

Figure 32 - Tgen of Class 10 projected on all replies of the consultation on DSA



Class 9 (9%; purple colour) is practically identical to the previous class since the constituting forms refer to the same technical policy issues, like ECD’s Article 14 that, as explained earlier,

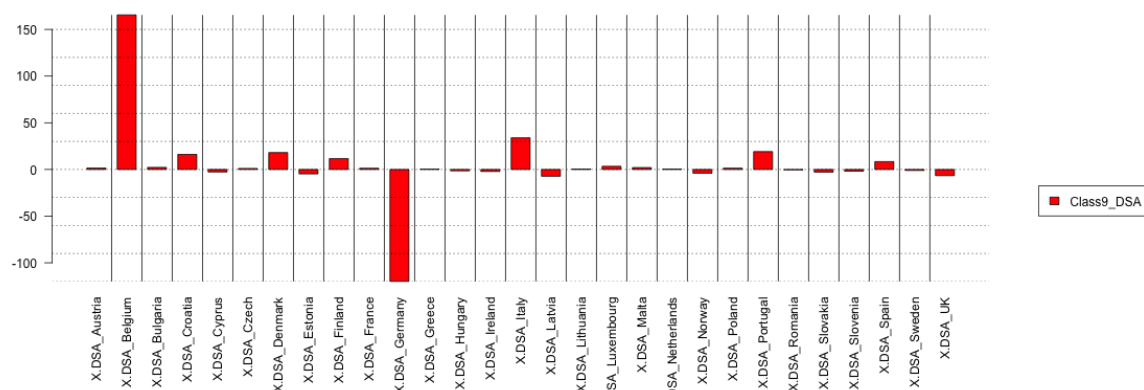
<sup>119</sup> <https://www.law.kuleuven.be/citip/blog/to-monitor-or-not-to-monitor-the-uncertain-future-of-article-15-of-the-e-commerce-directive/>.

<sup>120</sup> <https://verfassungsblog.de/good-samaritan-dsa/>.

<sup>121</sup> This has come to be called as “safe harbour” principle: <https://op.europa.eu/en/publication-detail/-/publication/7779caca-2537-11e9-8d04-01aa75ed71a1/language-en>.

introduced “safe harbour” protections. This is further proved by the TGen graph (Fig. 33), which exhibits the same pattern as Fig. 32. As a result, we will treat Classes 10 and 9 as one.

Figure 33 - Tgen of Class 9 projected on all replies of the consultation on DSA



Class 8 (6.9%; dark blue colour) refers primarily to issues more related to the obligations that the DSA envisions for online marketplaces (e.g., Facebook Marketplace, Amazon, eBay, etc.). Among others, marketplaces will be obliged to remove illegal goods, be able to verify their business traders and sellers and, overall, provide more transparency about the marketplace’s processes<sup>122</sup>. Here, again, we find a discourse that is more connected to business representatives and/or organisations that contributed to the consultation and their affiliation was not mentioned in the survey’s results. For instance, a reply made by a French respondent – which will not be quoted in length here due to space restrictions - resembled more a position paper rather than a typical citizen’s contribution:

*“It is necessary to increase the number of employees of the administrations (European and for each country) which control products. Consumer protection and online safety must feature prominently as guiding objectives of the reform of the e-Commerce Directive. Ensuring consumer and fundamental rights protection should be among the main objective of the reform of the e-Commerce Directive [...] Digital services particularly relevant for consumer protection which should fall under the scope of the DSA include online marketplaces, e.g. eBay.”*

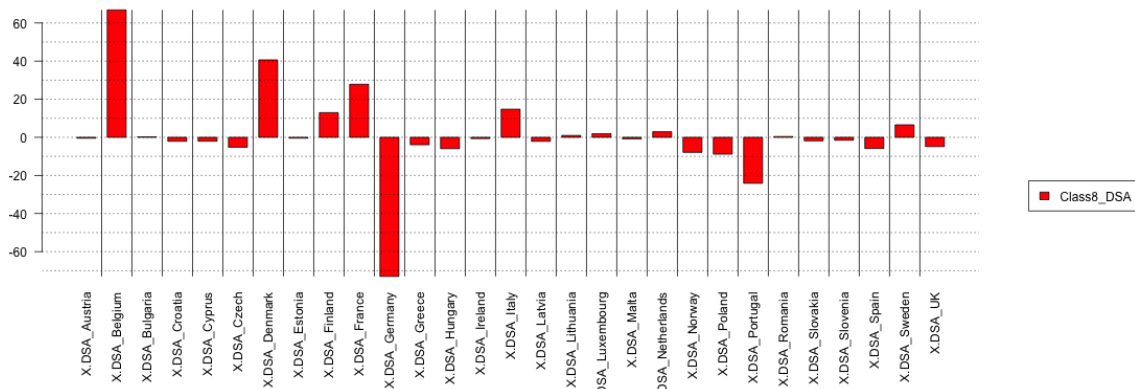
This is further corroborated by the Tgen graph below (Fig. 31) that, once again, illustrates Belgian respondents as the ‘positive’ outlier. Consequently, we believe that this emerging pattern is an oversight from the Commission’s part in relation to how it structured its

<sup>122</sup> [https://ec.europa.eu/commission/presscorner/detail/en/QANDA\\_20\\_2348](https://ec.europa.eu/commission/presscorner/detail/en/QANDA_20_2348).



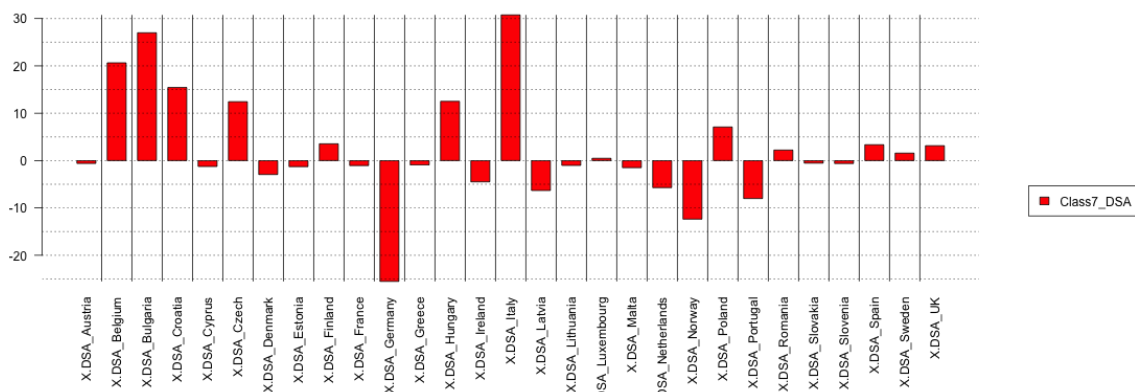
consultation’s findings, as well as to the fact that it allowed stakeholders with vested interests to participate without explicitly divulging their affiliation.

Figure 34 - Tgen of Class 9 projected on all replies of the consultation on DSA



Class 7 (12.2%; light blue colour) contains references to illegal content and, primarily, copyright infringement and pirated content. It also contains notification mechanisms that should exist for copyright holders to let platforms know of such content and take it down. Again, the issue seems to be that this class consists almost exclusively of replies made by stakeholders other than ‘simple’ citizens. While in this cluster’s graph (Fig. 35) Belgian respondents are not the sole noticeable ‘positive’ outlier, by zooming in on the feedback provided, we can discern that the discourse remains rather expert-like.

Figure 35 - Tgen of Class 7 projected on all replies of the consultation on DSA



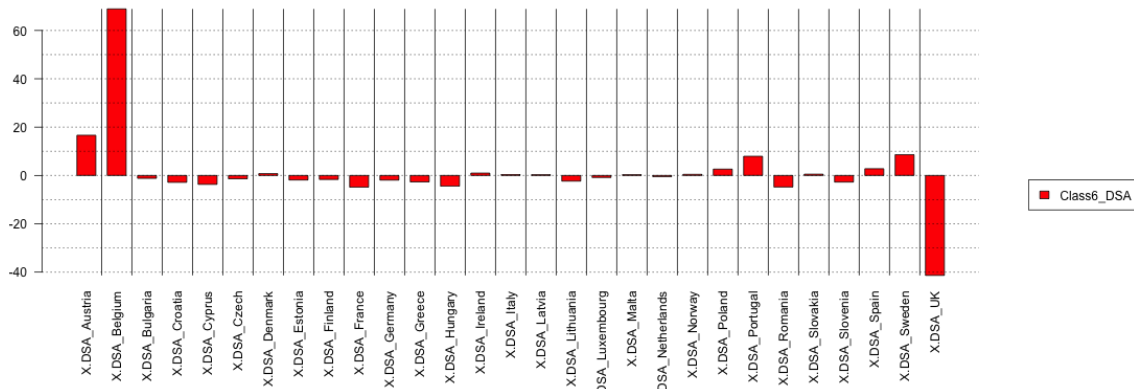
Class 6 (6.2%; turquoise colour) contains references to the dominant position that large online platforms enjoy in today’s market, especially in relation to the access that they have to a gargantuan volume of data that can be used for advertising and revenue purposes, as well as the lack of level playing field between them and smaller players. The discourse here still pertains closer to non-citizen stakeholders; as can be also seen in Fig. 36, most forms relate to Belgian respondents:

*“It is simply not a question of if transparency and accountability should be continuously evolved instead it is how to do in the most impactful manner the existence of the rich third-party digital advertising infrastructure at the disposal of publishers of all sizes does enable the smaller players to compete with the vertically-integrated platforms and large publishers themselves (Polish citizen)*

In addition, this class also includes mentions of need for publishers to receive remuneration from platforms based on the ancillary rights introduced with the adoption of the new European Copyright Directive<sup>123</sup>, specifically referring to negotiations between a leading French publishers’ association (APIG) and Google<sup>124</sup>; this will be discussed in more detail in the next part (Case Study #3):

*“In a recent instance of abuse in the media sector, a major search engine was subjected to an injunction by the French competition authorities following a complaint by press publishers to force the company to engage in fair and honest negotiations around the use and remuneration for such uses of press publications in application of the recently adopted directive 2019 790” (Belgian citizen)*

Figure 36 - Tgen of Class 6 projected on all replies of the consultation on DSA



Class 5 (11.2%; dark green colour) is very closely related to the previous class in that it contains a similar discourse regarding large online platforms’ dominant market position. As a result, we see mentions of them as “gatekeepers,” according to the definition provided by the DSA’s sibling policy proposal, the DMA<sup>125</sup>. Respondents suggest that this creates an unhealthy environment for competition and new entrants – again in a non-citizen stakeholder fashion:

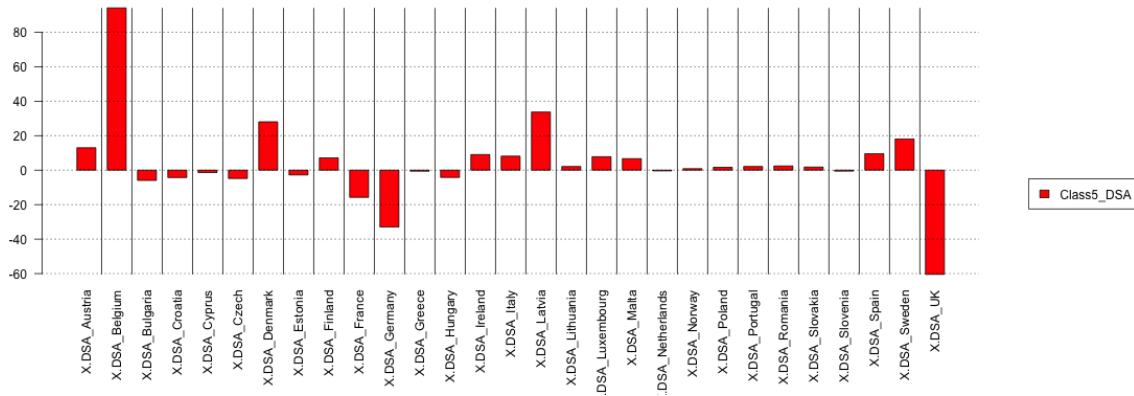
<sup>123</sup> <https://eur-lex.europa.eu/eli/dir/2019/790/oj>.

<sup>124</sup> <https://www.france24.com/en/business/20210121-google-and-french-publishers-sign-landmark-copyright-agreement>.

<sup>125</sup> [https://ec.europa.eu/info/strategy/priorities-2019-2024/europe-fit-digital-age/digital-markets-act-ensuring-fair-and-open-digital-markets\\_en](https://ec.europa.eu/info/strategy/priorities-2019-2024/europe-fit-digital-age/digital-markets-act-ensuring-fair-and-open-digital-markets_en).

*“Today gatekeepers often also stifle innovation and prevent the success of new entrants; for example, Facebook acts as gatekeeper to 2.5 billion social network users” (Belgian citizen)*

Figure 37 - Tgen of Class 5 projected on all replies of the consultation on DSA

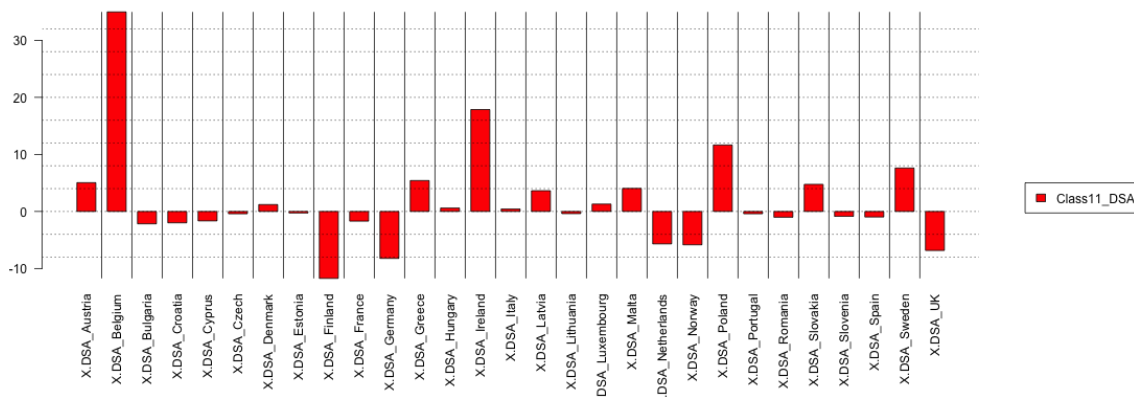


Class 11 (6.7%; magenta colour) contains forms referring to key components of how major online platforms work, like algorithmic recommender systems and personalisation of content. This cluster also contains an interesting discourse concerning the liability that platforms carry regarding these automated mechanisms:

*“These systems are recommending infringing content to good faith users online; to this end, algorithmic recommender systems could play an important role in the fight against illegal content online and online intermediaries should be held accountable for the algorithms that they develop and implement” (French citizen)*

Unsurprisingly, non-citizen stakeholders seem to dominate this class as well, with most replies coming from Belgian respondents (Fig. 38).

Figure 38 - Tgen of Class 11 projected on all replies of the consultation on DSA

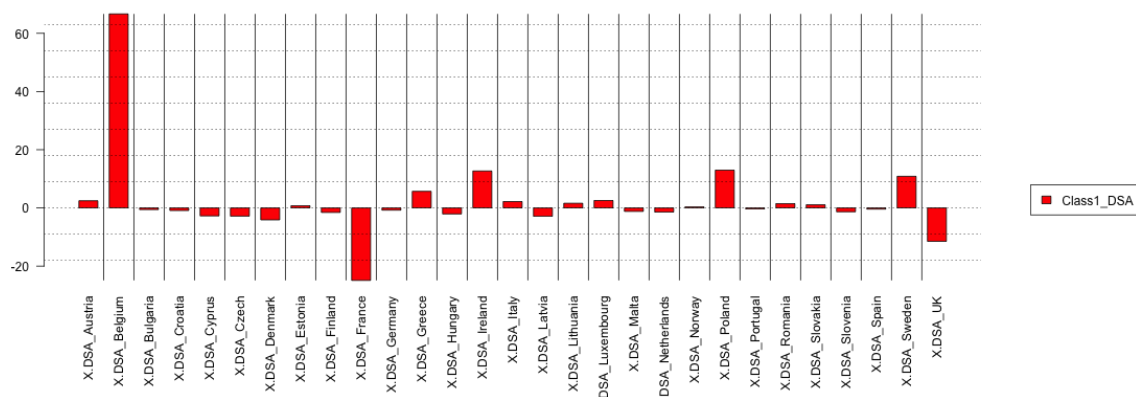


Class 1 (13.2% red colour) contains references to potential regulatory remedies for the problem of illegal or harmful content, as well as mentions of the need to protect fundamental rights, like freedom of expression, as we saw in both two previous datasets. While non-citizen stakeholders

still dominate the discourse in this cluster – Belgian respondents are still by the far the most ‘positive’ outlier in Fig. 39), there are some hints of ‘simple’ citizens’ contributions. For example, a UK citizen was in favour of stricter regulations to prevent bad-faith actors from taking advantage of disinformation and other types of harmful content:

*I don't want my children to grow up in a world where online content cannot be trusted, and elections can be bought or whole societal groups can be demonised through disinformation. We need laws and regulations to prevent this disinformation and manipulation and protect the future. (UK citizen)*

Figure 39 - Tgen of Class 1 projected on all replies of the consultation on DSA



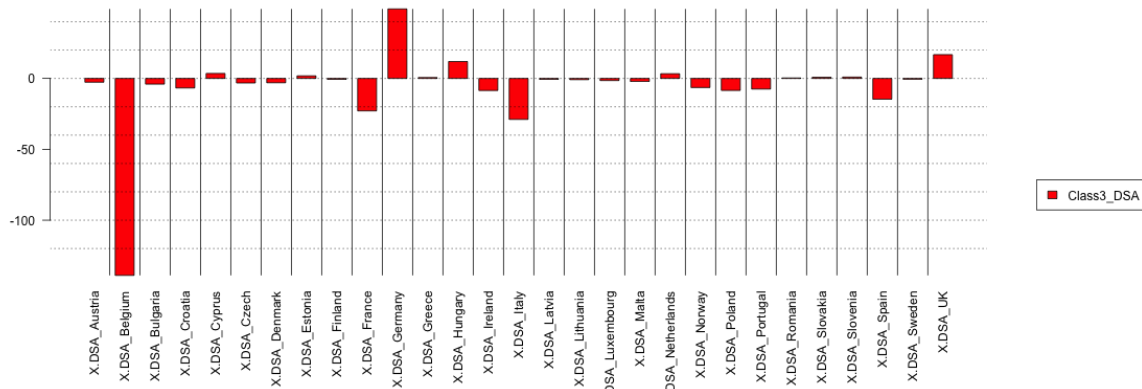
Class 3 (8.3%; grey colour) contains references to platforms’ inadequacy to appropriately police content on their services. It is the first class to be discussed in this section whose replies have a clear connection to regular citizens, echoing the discourse we found in the two previous datasets. Here, citizens argue that mis- and disinformation flourish in large social media platforms, while in many cases they take the form of legitimate content or, even, advertising material and, thus, by-passing platforms’ moderation policies:

*“As general point of departure, it is not clear to consumers how algorithms work and discriminate; consumers do not receive appropriate information. However, it is not only a matter of transparency but also about the design of the platforms themselves. For example, it is not easy to distinguish an ad from a regular post on Instagram” (Danish citizen)*

As we can see in the Tgen graph below (Fig. 40), only German citizens discussed such issues. They were constantly the ‘negative’ outliers of every Tgen graph until this point, where we now find Belgian respondents, who were constantly the ‘positive’ outliers. This reversal must be because this class (and the following that are branched together in the DHC analysis) belong,

primarily, to citizens; in addition, German citizens had the most contributions to this consultation as well.

Figure 40 - Tgen of Class 3 projected on all replies of the consultation on DSA



Class 2 (5.5%; orange colour) has references to the new coronavirus pandemic, including remarks concerning conspiracy theories and misinformation that circulate on social media platforms. Respondents also allude to the shift that the pandemic brought about with regard to content moderation; for instance, they mention the fact that, due to public health restrictions, human moderators could not access their workplaces and, thus, platforms had to rely more on AI and automated solutions:

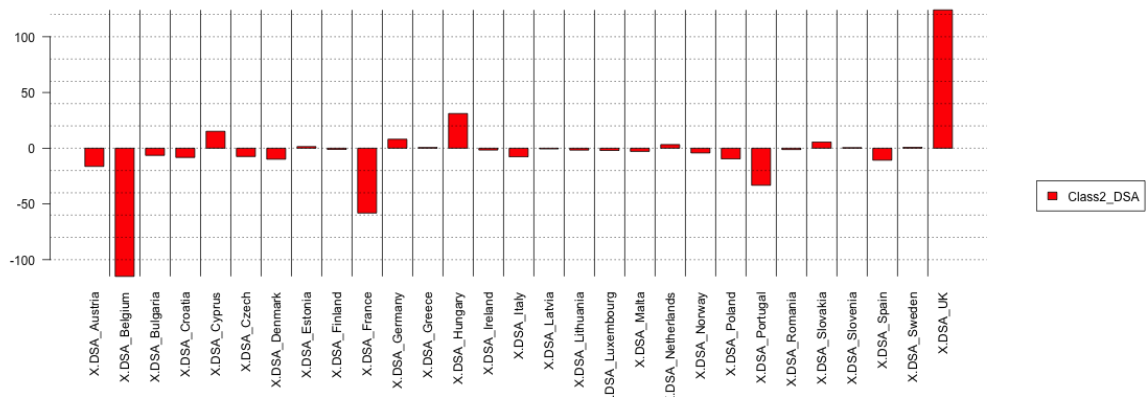
*“The ability of large platforms to moderate content has been significantly impacted by COVID-19, especially by limiting the use of human moderators; they have slowed or even stopped their human moderation in certain markets and have relied on artificial intelligence systems instead” (Belgian citizen)*

As a result, users reported that they saw an increase in harmful content ever since the pandemic outbreak:

*“I have witnessed an explosion of anti-COVID-19, anti-mask, anti-test, anti-vaccine, etc. messages since the outbreak of the pandemic to the point that, at some point, it seemed impossible to talk about anything else on Facebook” (French citizen)*

It ought to be noted that this class represents a tiny fraction of the replies provided, as it accounts for only the 5.49% of the whole corpus. Nonetheless, like the Class 3, it seems to be closely connected to ‘regular’ citizens compared to other classes, not only thematically but also because of the contributing countries: as can be seen in Fig. 41, Belgian respondents constitute the ‘negative’ outlier, while UK citizens are the most prominent country in this instance.

Figure 41 - Tgen of Class 2 projected on all replies of the consultation on DSA



Class 4 (9.9%; light green colour) contains a similar discourse to the previous class, but with a distinct focus on toxic content, like hate speech, racism, as well as content that aims at manipulating democratic processes and elections:

*“Democracies are a fundamental component of our society and they are under attack: if we take some recent and major examples, such as the 2016 Brexit referendum, the US presidential election or the 2019 European Parliament election, we witnessed how vulnerable public opinion is to manipulation polarisation and disinformation”* (Austrian citizen)

This class resembles the discourse found in the two other consultations and, primarily, the one on disinformation. Citizens seem to appreciate the fact that the Commission is actively seeking out feedback concerning regulations of such important phenomena:

*“Many of the issues raised in the consultation are important and desperately needed; I'm glad the European Union is seeking input. I would like to specifically highlight my concerns regarding the amounts of misinformation and hate currently present across social media”* (Czech citizen)

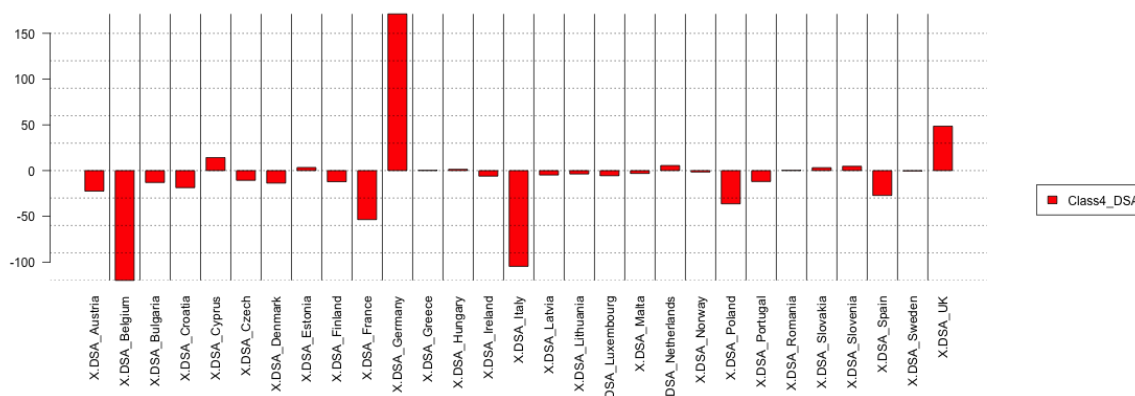
What is more, in this cluster we also find a critique of inadequate content moderation policies and actions from platforms to address such content:

*“Facebook takes as little action to remove or prevent such content as they feel they can get away with; YouTube is also slow and inept. Both providers appear to rely on algorithms that have a high tolerance for racism and Nazism content that appears in my timeline with no explanation”* (UK citizen)

German respondents seem to have the stronger connection this cluster's themes, as seen in Fig. 42, which might be partly explained by the fact that German citizens had the most contributions

to this consultation, as noted in this analysis' introduction. Moreover, as with the two previous classes, Belgian respondents – who, by and large, were mostly non-citizen stakeholders – remain disconnected from key issues touched upon by citizens; additionally, Italian respondents also constitute one of the two ‘negative’ outliers.

Figure 42 - Tgen of Class 4 projected on all replies of the consultation on DSA



We discerned eight classes that exhibited a non-citizen or expert stakeholder discourse. This is most likely due to insufficient safeguards concerning the identification of contributors' affiliations, which can skew the feedback received.

- Expert stakeholders highlighted those possible regulatory remedies regarding illegal or harmful content, as well as the need to protect fundamental rights, like freedom of expression (Class 1). This is explicitly echoed in many parts of the DSA. For instance, Article 12 on Terms and Conditions of platforms, the DSA stipulates that fundamental rights should be inscribed within these and, consequently, apply any action, like content moderation, with regard to these. Yet, this covers only platforms. So, this could be conceived more as a plea towards regulatory authorities.
- In the clusters identified as containing expert discourse, respondents characterised VLOPs' dominant market position to make them market gatekeepers (Class 5). While this was tackled explicitly by DMA, which defines obligations for platforms that qualify as gatekeepers, the fact that both the DSA and the DMA introduce asymmetrical obligations depending on the company's size and market position, essentially, tackles the point raised here.
- In the same vein, expert stakeholders found that platforms' power over data, especially in relation to advertising and revenue purposes, as well as copyrights, especially regarding news content, to be monopolistic (Class 6). What was said in Class 5 applies here as well.

- Expert stakeholders stressed the need for copyright holders to have a fast-track way to let platforms know of copyright infringements and illegal or unauthorised use of content in order to remove it (Class 7). While there is not an explicit reference to this in the DSA, the text introduces the concept of “trusted flaggers” (Article 19) who will, essentially, notice platforms of content that need to be acted upon in an expeditious way.
- Expert stakeholders asked for new obligations to remove illegal content for platforms that run online marketplaces and to make their mechanisms transparent (Class 8). This is practically true because social media platforms’ obligations will also apply to marketplaces. Additionally, Article 22 introduces the obligation of identification of traders (“Traceability of Traders”) to ensure that platforms have adequate information on users conducting business on their platforms.
- Expert stakeholders emphasises that there should be more safeguards for platforms to police their services from illicit content without losing the ‘safe harbour’ principle that was established with the ECD (Classes 9 and 10). This is echoed throughout the DSA which is “without prejudice to the [ECD]” (EU & EUCO, 2020a, p. 3).

Moreover, we also discerned three classes that exhibited a more ‘regular’ citizen discourse, where citizens discussed:

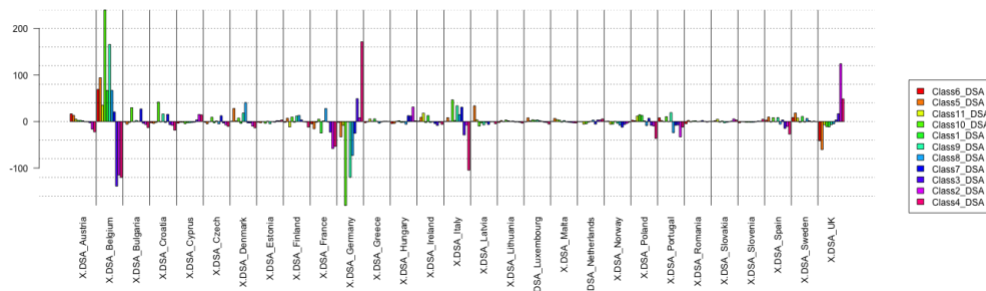
- The impact that the coronavirus pandemic has had on content moderation and the proliferation of conspiracy theories, disinformation, and other problematic content (Class 2). Recitals 68 and 71 of the DSA refer to disinformation, among others, as systemic risk on society and, even, include specific references to “extraordinary circumstances” like the coronavirus pandemic. Moreover, Article 37 has a provision on a special ‘crisis’ protocol meant to deal with ‘infodemics’ (Siapera, 2022) during aforementioned periods. What is more, the DSA also introduces the capacity to the Commission and the Board, as explained in the previous chapter, to introduce CoC to deal with sectorial issues if needed (Article 36).
- The inadequacy of large online platforms to effectively police content on their services and protect their users, especially relating to advertisements (Class 3). This is, effectively, what the DSA aspires to do: introduce due diligence obligations for platforms way of governing online content. Also, the DSA tackles the transparency of advertisements with Articles 24, 30 and through more sectorial CoC (Article 36). The issue of political advertising is tackled primarily in the CoP on Disinformation.
- The spread of deleterious content that target vulnerable groups, like racist, hateful, and misogynistic content, as well as of manipulative content aimed at meddling with



democratic processes (Class 4). Recitals 63 and 68 refer to manipulative and abusive techniques of systemic risks on society, like disinformation, while Recital 68 refers to the issue of fake accounts and disinformation, which is instrumentalised by malicious actors to reap profits. Yet, there is not a clear position on the content highlighted by citizens as the DSA targets, primarily, clearly defined illegal content (i.e., “what is illegal offline is illegal online” (Chini, 2022); whatever does not fall in this category (e.g., sexist discourse) is left for self or co-regulatory codes. Last, as regards illegal content, trusted flaggers (Article 19) are expected to play an important role.

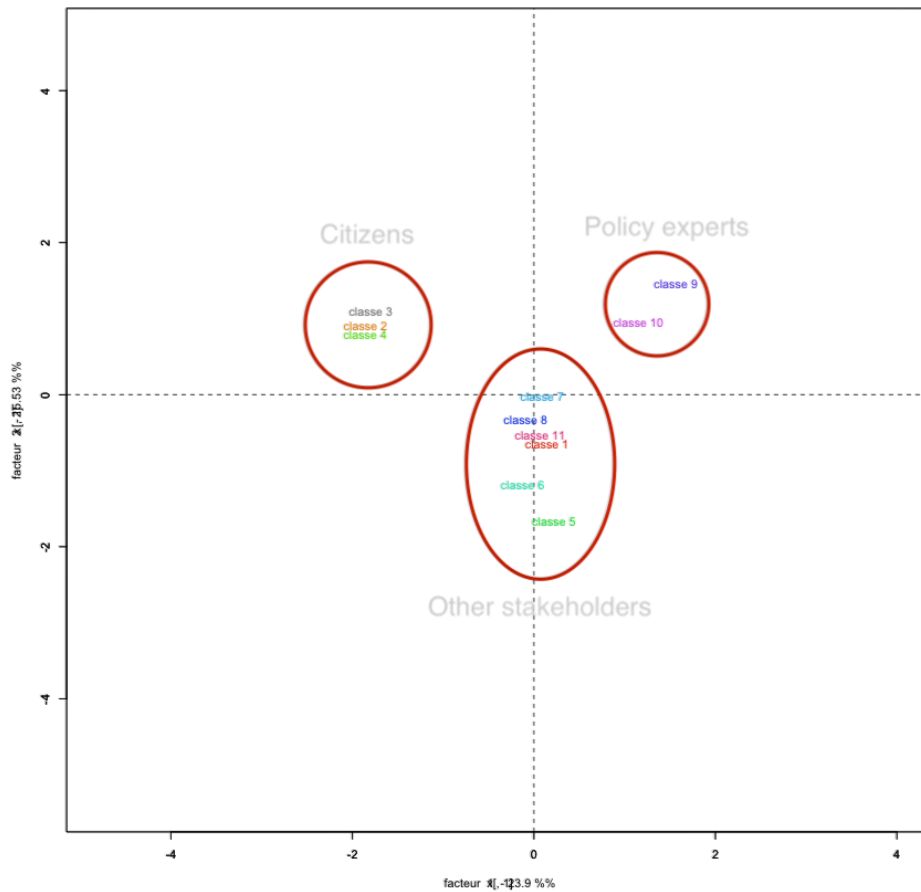
Finally, in Figure 40, by projecting all classes on the whole dataset of the consultation on the DSA, we can infer the following: (a) Belgian respondents constitute both the ‘negative’ and the ‘positive’ outliers of this graph, in particular with regard to classes that we deemed did not pertain to ‘regular’ citizens’ discourse (i.e., all but Classes 2, 3 and 4); (b) German respondents were the ‘negative’ outlier in relation to classes that were connected to non-citizen stakeholders, but the ‘positive’ outlier in relation to citizen-related thematic clusters (i.e., Classes 2, 3 and 4), while the same could be said for UK citizens as well.

Figure 43 - Tgen of all classes projected on all replies of the consultation on DSA



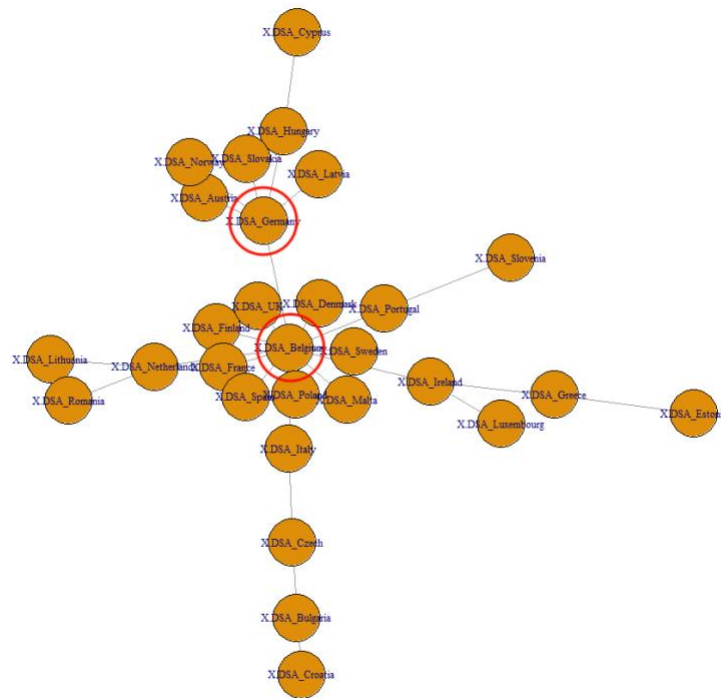
Furthermore, in the “User type” column of the Excel file provided by the Commission, we find 1,582 unlabelled rows (of 2,862) and only 727 rows of EU citizens (including 72 replies from UK citizens). So, to avoid having a small corpus, we decided to analyse all 2,309 records. Thanks to our multi-modal analysis, we did not miss citizens’ discourse, as represented in Classes 2, 3 and 4 (Fig. 44). As a result, our analysis has demonstrated a weak point of the consultation process, as well as a problem that lies with the way in which the Commission structured and shared the received feedback: non-citizen stakeholders’ replies were either categorised as citizens, in spite of the existence of the respective categories for various types of stakeholders or were not categorised at all. This might skew the feedback received, which makes analysis like ours quite useful to understand it in a holistic way.

Figure 44 – Spatial representation of the classes’ using Correspondence Analysis



Finally, through the Labbé Intertextual Distance Index, we can estimate the similarity of citizens' replies to identify similar national discourses among EU member-states, including then-member UK. This analysis allows us to compare the discourse adopted by each country's respondents based on the forms that comprise the DHC clusters. In other words, this method builds upon the aforementioned classes to create clusters of countries and calculates their discursive similarity and, thus, ensuring methodological consistency. By visualising the Labbé index as a network (Fig. 45), we inferred that, Belgian respondents played indeed the most central role in setting the overall feedback's main thematic points, which were also heavily discussed by other respondents, as can be seen by the fact that they have 'gathered' around the node of Belgium. Additionally, Germany, which was strongly connected to DHC clusters containing a more typical citizens' discourse as discussed earlier, shows a stronger divergence to Belgium and is also the second largest pole in the network in relation to other discursively close countries.

*Figure 45 - Labbé Intertextual Distance Index applied on replies of European citizens to the Commission's Public Consultations on Digital Services Act – deepening the internal market and clarifying responsibilities for digital services*



Concluding this section, we recapitulate the principal points of feedback that citizens conveyed to the Commission via three consultations on three key regulatory initiatives. A DHC analysis was conducted on all three datasets to obtain a complete picture of the corpus to highlight the principal discursive themes emerged from the dataset (Figure 44).

- One recurring theme has been platforms’ inadequacy or, even, inaction to decisively weed out malignant content, like mis- and disinformation; citizens complained that this has worsened ever since the coronavirus pandemic outbreak. As discussed earlier, a potential remedy to this could be “Crisis Protocol” introduced in Article 37 of the DSA, as well as the Strengthened CoP on Disinformation (EC, 2021).
- Citizens repeatedly expressed concerns regarding foreign manipulation of information that have posed a threat to democratic processes, like the 2016 US Presidential Election or the Brexit referendum. As the DSA will treat henceforth such content as “systemic risks” (Recitals 68 and 71), DSA obliges platforms to respond to such conducting systemic risk assessments (Recital 57; Article 26).
- Respondents continuously prioritised the need to protect fundamental rights, namely freedom of expression and freedom of information, against abuse of power both by platforms and governments; this sentiment was accompanied by distrust towards both governance stakeholders as key decision-makers.

- Citizens also emphasised the importance of media literacy and education in relation to online harms as a long-term remedy as opposed to stricter rules that could stifle freedom of expression.
- There was a consensus to outright ban explicitly illicit content, like child pornography or terrorist material, but with sufficient safeguards against potential collateral censorship of legitimate content. This is, effectively, already in effect either through (supra)national laws and is further reinforced with the DSA.
- Some respondents also communicated the lack of level playing field among content creators, rightsholders and platforms, as well as how copyright strikes could be instrumentalised to censor unwanted content; the latter was also mentioned as a risk in relation to flagging content. The DSA, as a matter of fact, further empowers rightsholders as it allows them to become trusted flaggers (Article 19). Initially, the concept of trusted flaggers, as framed in the Recommendation, did not expand to rightsholders and, primarily, focused on experts on issues like terrorist content, child sexual abuse etc.
- Many citizens also criticised the Commission for the consultation’s format, namely: for not allowing more nuanced responses, for bundling copyright infringement with dangerous material as examples of illegal content, as well as for only focusing on social media’s role on disinformation, while online disinformation is spread by traditional media as well.
- Last, I discerned a discourse pertaining to that of expert stakeholders, which is full of legal and expert terminology, exhibiting the fact that the public consultations’ process is not without problems.

Complementing the DHC analysis with a closer reading, i.e., looking at citizens’ replies and comparing specific words across countries, we additionally noted that:

- Citizens of the former “Eastern Bloc”<sup>126</sup> were strongly interested in discussing issues of foreign interference, manipulation of information and weaponisation of disinformation, which might suggest that people who once lived under repressive regimes are overly concerned about individual freedoms, as well as about Russia’s growing influence<sup>127</sup> (Figure 2). A characteristic example is the following reply from a Lithuanian citizen in the public consultation on the Code: “Fake news comes from Russian channels and social media accounts on a daily, constant basis, the initiators of

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<sup>126</sup> Primarily but not exclusively: Bulgaria, the Czech Republic, Slovakia, Hungary, Poland, Romania, Ukraine, Lithuania, and Croatia.

<sup>127</sup> The study was conducted in 2021, well before the illegal invasion of Ukraine from Russia.

which try to influence the attitude of the EU's former and former Soviet states (especially national minorities) towards Russia, its military conflicts in Ukraine and Georgia, and foreign and business interests.”

- German citizens were consistently the most active respondents in the consultations (Table 1). Notably, UK respondents came in second in all consultations, with French and Belgian participants following; as such, the process of public consultations is yet another area which will be impacted by Brexit.
- Many citizens also criticised the Commission for the consultation’s format, mainly for: not allowing more nuanced responses, bundling copyright infringement with dangerous material as examples of illegal content, as well as focusing only on social media’s role on disinformation without regard for traditional media’s role. This can be understood as a way of negotiating power and exercising agency by citizens in a different from the envisaged way.
- Replies of non-citizen stakeholders, like civil society groups, were either categorised as those of citizens, despite the existence of the respective categories for various types of stakeholders, or were not categorised at all, which can skew the feedback received.

### 6.2.3. The Unfulfilled Promises of Public Deliberation

The empirical evidence detailed in the previous sections demonstrate that, far from an ideal and harmonised European landscape, citizens prioritised nationally sensitive themes. For example, citizens from countries that had a more visceral experience with Russian state-backed disinformation, were much more vocal regarding the dangers thereof, as well as more critical of the EU’s inaction to decisively act against it. What is more, the lack of trust shown by citizens to those holding power, i.e., governments, European institutions, rightsholders, platforms, to effectively regulate online content governance, suggests that co-regulatory frameworks are more fitting for multi-stakeholder systems.

However, the question of power asymmetry persists. For instance, “Big Tech” companies are increasingly becoming dominant lobbying forces within the EU<sup>128</sup>, which makes their position much more influential compared to that of other stakeholders, who do not have the same capacities to compete with them in terms of advocacy.

Furthermore, the analysis also brought to the surface the shortcomings of the way in which the Commission has been receiving input for its regulatory proposals by citizens. Most importantly, the qualitative aspect of citizens’ feedback was largely ignored. For instance, by

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<sup>128</sup> According to non-profit Corporate Europe Observatory, “Big Tech [...] dominates the top 10 highest spending companies in 2022.” Source: <https://corporateeurope.org/en/2022/09/ranking-lobbying-activities-who-spends-most>.

looking at the summary reports produced by the Commission for all three of the examined consultations<sup>129</sup>, we seldom – if at all – find mentions of the open-ended replies given by individuals. A striking example is that, in the summary report for the DSA, despite the fact citizens provided most of the feedback, the Commission presented companies, non-governmental organisations and public authorities as the largest respondent groups.

This was also echoed by MEP of the European Free Alliance (EFA) Patrick Breyer (Interview #5), who doubted the value of the consultations' current format: "I don't think many citizens have participated in the consultation, it's a tool used more by stakeholders than citizens. I don't think it's a good format for citizens to participate, and it's at an early stage, it's very guided, so the Commission asks questions. It's not very suited for citizen participation." Ms. Natale (Interview #6) also stressed this aspect of the public consultations, arguing that while they are necessary to take place, they nonetheless "[depend] on the quality of the questions asked and [...] how accessible they are to citizens, whether or not they fulfil their brief of involving citizens." What is more, she also raised an interesting criticism of the Commission as an "ivory tower" meaning that is "quite far removed" from the issues concerning citizens, which also impedes participation. Instead, she suggested looking at initiatives like "citizen assemblies" as more representative actions.

As a result, we can infer that these consultations might not be more than a vehicle for legitimating decision-making and regulatory proposals. Additionally, we discerned the use of a more sophisticated vernacular. By conducting a SWA and Labbé analysis on the forms comprising these clusters, we showed that most of the respondents using such terminology was from Belgium contributing to the consultation on the DSA, which suggests that, on the one hand, some respondents may have been misclassified as individuals instead of representatives of vested interests and, on the other hand, that those who are closer to decision-making centres, like Brussels, are better equipped to engage with complex topics. Thus, my analysis also demonstrates that there exists a problem of inclusivity related to the representation of respondents, a phenomenon that has come to be named the "Brussels bubble," as Ms. Kayali (Interview #4) put it, suggesting that those who do not belong into that sphere of insiders have a harder time of being heard by decision-makers.

In addition to this, citizens' criticism of the consultations' process itself, as expressed in their replies, further indicates the agonistic nature of governance deliberations. In other words, the fact that citizens see such opportunities to express themselves on topics going

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<sup>129</sup> <https://digital-strategy.ec.europa.eu/en/library/summary-report-open-public-consultation-digital-services-act-package>; <https://digital-strategy.ec.europa.eu/en/library/synopsis-report-public-consultation-fake-news-and-online-disinformation>; <https://digital-strategy.ec.europa.eu/en/library/summary-report-public-consultation-measures-further-improve-effectiveness-fight-against-illegal>.

beyond the surveys' scope, may demonstrate the lack of substantial and accessible gateways through which they can be heard. Ms. Kayali (Interview #4) claims that there are “cynics” who argue that “the Commission already knows what it wants to do” as “the saying goes: the Commission has already written the law before the consultation starts.” So, she continues, “the consultation is just for show.” Yet, she stressed their importance as a tool for journalists and interested parties to understand what stakeholders have to say.

Again, it seems that consultations are more useful for expert stakeholders than citizens and, as such, “they are [not] really capable of producing anything that even comes close to something like a representative kind of opinion display” (dr. Bernhard Rieder; Interview #7). What is more, a few interviewees mentioned the fact that these solutions are cost-efficient, which would also explain why the Commission, chiefly, takes into consideration the quantitative part of the surveys. MEP Breyer, in addition, suggested that the EU authorities should open to citizens by organising public debates on specific topics to diffuse knowledge and break the expert bubble. As he noted, “many stakeholders are organising such events, but there is no framework for an exchange of all groups of specialists with citizens.”

This was a position shared by almost all of my interviewees when asked about the public consultations: they are useful in getting an idea of where stakeholders stand regarding a debate and for citizens to express themselves, but the feedback received is seldom taken in account – especially that of citizens.

As we discussed earlier, the public sphere was envisioned by Habermas as a mediating space of deliberation where the (civil) society could convene with the state (Seeliger and Sevignani 2022; Habermas 1989), and, in traditional governance systems, civil society represents citizens (Kohler-Koch, 2010). By extension, one could argue that the space created by the Commission with these consultations resembles a public sphere. So, by taking these consultations as its case study, this chapter, on the one hand, set out to investigate how effective and inclusive were these spaces created by the Commission and, on the other hand, to understand what it is that EU citizens say regarding online content governance. It aspired, thus, to contribute to the broader endeavour to reimagine and reconceptualise how we study platform governance.

However, the EU's strategy to advance a more participatory governance through the public consultations seems to ignore citizens' qualitative input and, thus, the feedback received can be severely limited. Additionally, the sheer number of participants of these processes was tremendously low, which de facto poses a problem of communicating the need for people to be more actively engaged in such deliberations, as well as of the process in and of itself. As such, this case study challenges the celebrated Eurocentric approach that holds EU as a role

model in developing and enforcing regulatory frameworks and invites scholars to critically reflect on the EU's own contradictions.

Additionally, it is important to underline that citizens should not be considered as a homogenous stakeholder group with a common voice, as that would gloss over the nuances of the different people comprising this group, including their origin, sex, class, employment status, etc. Indeed, these public consultations are yet another field of political contestation, even if semi-public and indirect.

Moreover, this case study also helps us better appreciate recent attempts of organisations that have been trying to integrate users' input in some of their procedures concerning content governance. For instance, non-profit organisations, like ARTICLE 19 (2021) or the Public Policy Forum in Canada (2021), have proposed building "Social Media Councils," which are multi-stakeholder bodies to convene interested parties including citizens, primarily, around issues of online content governance. These could be likened to the "citizen assemblies" that were brought upon in some interviews. While the effectiveness of such undertakings is not yet clear, we should continue to enquire them, challenge their claims, while keep exploring and studying alternative structures that will enable a more inclusive, and "radical [transparent]" platform governance (Josefa, 2022).



# PART III - Negotiating Power Over Our Public Sphere: The Relationship Between Online Platforms and News Media Organisations in Platform Governance

The domination of online infomediaries (Smyrniaios & Rebillard, 2019) could not have left the news media unaffected, which used to be the custodians of public deliberation. As Nielsen and Ganter succinctly explain: “In less than 15 years, publishers had gone from a situation in which they were the gatekeepers, where audiences went directly to them, to a situation where they had to deal with a digital intermediary that delivered a large share of their online audience” (Nielsen & Ganter, 2022, p. 37). Among others, this has also exacerbated phenomena like disinformation due to the difficulty of moderating content at scale (Gillespie, 2020) and the algorithmic amplification of harmful content (Keller, 2021; Noble, 2018).

This last part revolves around another facet of platform governance, that of the relation between news media organisations and online platforms. This is an undertheorised space, especially in relation to platform governance, in the sense of theorisation about how power is negotiated between these stakeholders in modern deliberations that shape how our digital public spheres are governed. Moreover, as news media organisations have developed a strong asymmetrical dependency on dominant platform companies, similar power relations have also been developed, with the former often found at a disadvantageous position to negotiate fairer treatment in lack of resources (Nielsen & Ganter, 2022; Schiffrin, 2014, 2021).

Furthermore, online platforms have been playing an important role in driving traffic to news media websites (Nielsen & Ganter, 2018); while, as Nielsen and Ganter have noted, this tendency has been in decline since 2016 with users changing their consumption practices and news organisations changing their strategies (Nielsen & Ganter, 2022, p. 3), these companies still play a prevalent role. For instance, according to the analytics company *Parse.ly*, in the period between August 2021 and 2022, direct referrals to news media sites accounted for approximately 30%, search for approximately 27-29%, and social for approximately 13-14%; even taken with a grain of salt, these figures show that search engines and social media platforms account for an important amount of traffic that drives users to news media sites. Companies like Google and Facebook have, thus, “become enormously important online gatekeepers” (Nielsen & Ganter, 2022, p. 4).

In this dissertation, we are not going to look at how newsrooms are employing new technologies, like AI, to grow their audiences; there is a developing scholarship dealing with these specific issues (Danzon-Chambaud, 2021; Salaverría & de-Lima-Santos, 2021). Conversely, this thesis is interested in studying the “[platformisation] of news” (Nieborg & Poell, 2018), i.e., how the production and distribution of news has increasingly become “dependent on the tools, advertising revenue, and data and governance standards of GAFAM platforms” (Nieborg and Poell 2018, 4278). Platforms have been impacting the way that news is produced and distributed either directly (e.g., Google’s suite of tools for journalists<sup>130</sup>) or indirectly (e.g., producing content to be served through Google’s Accelerated Mobile Pages<sup>131</sup>; AMP). They have also challenged “the privileged position news media organisations have historically occupied” (Nielsen & Ganter, 2018, p. 1602), effectively jeopardising journalists’ “traditional gatekeeping” capacity (Napoli, 2019, p. 54).

Although, as was discussed in Part I, news media organisations and publishers have a different kind of leverage that derives from their capacity to sway public discourse and the pressure they can exert to both platforms and policymakers. This, certainly, plays a role in making them an important stakeholder in platform governance and, consequently, a target of capture by said stakeholders (Nechushtai, 2018; Papaevangelou, 2023c; Schiffrin, 2014, 2021).

This part consists of two chapters and four case studies. First, the first chapter of this part (Chapter 7) provides a review of relevant literature engaging with the study of the relationship between the news media organisations - including publishers - and platforms. In this chapter, we discuss Case Study #2, which introduces the concept of funding intermediaries, who are stakeholders that facilitate or assist major platforms’ funding for journalism activities. Specifically, the case study draws data gathered by Google (GNI) and Facebook (FJP) that cover a period of three years of funding projects across the globe. This provides us with an empirical overview of the political economy of the many layers of dependency on platforms that journalism has developed and how the former has facilitated this process.

Subsequently, I delve into Case Study #3, which examines the aftermath of the adoption of the new Copyright Directive in the EU and, particularly, how it gave way to a round of long negotiations between French publishers and dominant technological platforms; the case study draws on data from a document analysis of relevant texts and interviews. This enables us to conceive, on the one hand, how regulatory interventions can often be quite broad in their framing, allowing incumbent actors to interpret them as they wish and, on the other,

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<sup>130</sup> <https://journaliststudio.google.com>.

<sup>131</sup> <https://developers.google.com/amp>.

how policymakers, in lieu of aspiring to untangle the structural dependencies described earlier, are instead augmenting the risk of further reinforcing them.

The second chapter of this part (Chapter 8) zooms further into the complicated relationship between news media and platforms and, particularly, addresses the issue of content governance. In other words, it surfaces the contestation taking place in that relationship concerning how, mainly, editorial content, i.e., content produced by journalists, is governed, as well as how the governance of editorial content is contested by the online platforms' governmentality, e.g., through their affordances, content moderation policies, etc. This chapter is predominantly empirical, providing findings and conclusions inferred through two case studies.

Case Study #4 reveals a little-known incident that occurred in Greece in early 2021. It involved Facebook making a series of unclear content moderation decisions, which impacted over a dozen Greek reporters and journalists covering a sensitive political issue. This case study draws data from interviews, news reports, and Facebook's communication material. Case Study #5, on the other hand, sheds light on the negotiations surrounding the privileged treatment of news content by social media's content moderation systems during the drafting of the DSA. This involved discussions among lobbyists from the European news industry, regulators, governments, civil society organizations, and platforms. Both Case Study #4 and Case Study #5 focus on issues related to content moderation and editorial autonomy on social media platforms, illustrating significant implications for the news media industry and its stakeholders, as well as the importance of transparency, accountability, and effective regulation in ensuring editorial autonomy and the respect for fundamental rights.

## 7. The Dependency of Journalism on Platforms

### 7.1.1. Media in Crisis

A recurring argument of the news industry has been that platforms have usurped online advertising revenues, especially by employing anti-competitive business practices (McCabe & Wakabayashi, 2020). As succinctly put by Pierre Petillault, the General Director of French publishers' association Alliance of the general information press (APIG), "major platforms, and primarily, Google and Facebook, have captured the press's advertising revenue" (Interview #18). This also corroborated by regulators, like the Australian Competition Authority that effectively proposed the development of the NMBC (ACCC, 2019). According to Reuters, Google and Facebook collectively generated \$607 billion in advertising revenues between 2018-2021 (Coster, 2021).

Generally, there was a large consensus among interview participants that there is a dire need to come up with new ways of funding journalism in an era where platforms dominate the advertising market, which is characterised by opaqueness (Interviews #10, #18). MEP Breyer painted a vivid picture: “they [i.e., platforms] suck away the revenue from advertisers from the traditional media, because these platforms can offer what they call targeted advertising or behavioural-based advertising” alluding to what Shoshanna Zuboff has called “surveillance capitalism” (Zuboff, 2019; Interview #5). Interestingly, the Commission staffer I spoke to, told me that the DMA will deal, to a certain extent, with issues related to “data access and portability of data and then the way that they treat other users,” which “will very likely also speak to the concerns of the media” (Interview #11).

On the other hand, Owen Bennett and Anna Mazgal, Senior EU Policy Advisor of Wikimedia, painted a slightly different picture, coming from their background as policy managers in large (Interviews #3, #15), albeit non-profit, platform companies, perhaps in a way to act as a “neutral broker” (Interview #3). Specifically, they acknowledged that there is a significant problem in the online advertising space, primarily as regards online disinformation and respect of privacy, but were more reluctant to attributing the detriment of publishers’ revenues solely to platforms.

For instance, Mr. Bennett, on the one hand, affirmed that “the economic changes that have been wrought by the internet have had a detrimental effect in many respects on the business model of publishers and they really have changed the economics of the publishing industry” (Interview #3). On the other, though, he stressed that, prior to the dominance of platforms, “newspapers and media outlets were gatekeepers of advertising, so therefore they could extract quite a high price to place advertisements” but “this no longer exists [...] in the sense that there’s now far more opportunities to advertise and also there is no limitation on space.”

So, he also asserts that it has also been a structural transformation that has brought this kind of impact, along with publishers’ inefficiency at “optimising their advertising systems” instead of “simply [outsourcing] this task to large ad networks like Facebook or Google” (Interview #3). This was also echoed by Ms. Mazgal, who emphasised that publishers were basically reliant on the advertising business model well before the advent of large online platforms and did not really think through the transition to the digital world, including the transition to online advertising models (Interview #15).

Laura Kayali, tech journalist at Politico EU, attempted to strike a balance between these positions:

*"You have arguments for both [positions], because on the one hand, some say that platforms compete with publishers on ads advertising money, but on the other hand you have those who say that platforms have increased traffic of news organisations and findability of articles online"* (Interview #4)

Importantly, she was among the few interviewees to underline the positive externalities wrought by online platforms in relation to journalism, namely the increase of visibility and reach. Ms. Natale's position reflected that same approach: "I think it's a very difficult question to give a singular answer to whether it's positive or negative because, for example, [regarding] traditional media you can make an argument that in terms of access, the [VLOPs] give them a lifeline if you look at the news snippets scenario" (Interview #6). This has been a recurrent argument made by platform companies, primarily to defend themselves against proposed regulatory interventions.

Indeed, it would be short-sighted to blame them as the sole reason for journalism's crisis. As Pickard has written: the "systemic market failure has created a wide range of problems, from the loss of local journalism to a lack of affordable and accessible internet services" (Pickard, 2020b, p. 68). Winseck goes even further arguing that "there is a crisis of journalism [but] GAFAM+ are not to blame for it, and [in fact] most media sectors thrive" (Winseck, 2022b, p. 230).

Moreover, Renate Schroeder (Director of European Federation of Journalists) Interview #19) characterised the crisis a "tremendous market failure in journalism" because "working in the public interest is not having a business model anymore" as "whatever they [i.e., publishers] put online, the advertisement revenue goes to the big platforms." Thus, she connects public interest values to an unsustainable business model in the current online advertising landscape (Napoli, 2019, pp. 25–27), echoing others' arguments (Neff & Pickard, 2021) that we must "find a new way of supporting publicly or privately journalism" (Interview #19).

We would also be remiss not to acknowledge the fact that, in many cases, struggling news organisations would have had to either let people off or shut down entirely if not for platforms' financial aid, especially during and after the Covid-19 pandemic (Papaevangelou, 2023c). Wout van Wijk (Executive Director of News Media Europe, Interview #13) told me that advertising budgets and income for the sector went down "tremendously" after the COVID-19 pandemic, despite "audiences [turning] to public service media and information offered by [them]" during that same period (Interview #21). Mr. Petillault acknowledged that

the “publishers were in a very bad [shape] before the health crisis economically, but the crisis has accelerated the deterioration, so they need money” (Interview #18).

In the past few years, the discussion around remuneration of news publishers from digital platforms, like search engines and social media, has reignited public interest. What was once seen as ineffective or even impossible is now gaining traction in several countries, with perhaps the most prominent examples being France and Australia. Mr. Petillault told me that “press publications are exploited on/by Google and Facebook; there’s no revenue in for them” (Interview #18). He also admitted that it was, partially, due to an early naïveté exhibited by the press with the digital transition of press and news media, whereby publishers were “[putting] a lot of articles online for free” to “gather massive audiences” without realising that “the money wasn’t going into the pockets of the publishers.”

Unsurprisingly, public authorities in the Global North have embraced the news industry’s discourse and started framing online platforms as an existential threat for news media and as the primary reason for its financial demise. As Mr. Bennett framed it:

*“That’s why you see the interventions in Europe with the Copyright Directive or the interventions in Australia; these are essentially efforts to solve this. They’re really trying to reshape the economics of the advertising market between publishers and between platforms and, to be honest, I don’t think we’ve yet found a proper solution to this issue, I think we can agree on the problem definition, like, I think that one can say that publishers today simply are not necessarily making enough money to support a free and pluralistic media”* (Interview #3).

Currently, policymakers in many countries are drafting or passing legislation seeking to regulate the relationship between press publishers and, mainly US-based technological companies; we will examine some of them in the next chapter. This is primarily due to the news industry’s need for new revenue streams, given the structural decline in traditional resources such as subscriptions and advertising. The digital platforms’ enormous profits make them an ideal target for regulation that seeks to develop sustainable business models for journalism, especially since Google and Meta<sup>132</sup> have been already funnelling money into the news media industry worldwide through their programs *Google News Initiative*<sup>133</sup> and *Meta Journalism Project*<sup>134</sup> (Fanta & Dachwitz, 2020; Papaevangelou, 2023c; Schiffrin, 2021).

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<sup>132</sup> Formerly known as Facebook.

<sup>133</sup> <https://newsinitiative.withgoogle.com>.

<sup>134</sup> <https://www.facebook.com/formedia/mjp>.

At any rate, a significant power asymmetry exists between platforms and publishers even though the latter often rely on the former for many of its activities (Nielsen & Ganter, 2018, pp. 1612–1613, 2022, p. 2; Sebbah et al., 2020). Mr. Petillault illustrated the following process when asked about their relationship as publishers with platforms:

*"[There is a] risk of capture of revenues and dependence on both economic and operational factors. That is, dependence on platforms in terms of revenue and access to readership and the public. Moreover, there is a kind of vicious circle phenomenon: the more revenue falls, while the bulk of the news production is maintained, or even increases, the more you are finally in a scissors effect, which means that you are all the more dependent on the platform and the few euros it grants you as part of the sharing of advertising revenue and makes you all the more dependent"* (Interview #18)

Consequently, policymakers have a role to play in addressing this level of asymmetry is crucial and can have positive outcomes for media pluralism and media's sustainability. As Mr. Bennett told me, "it is important that EU digital policy is confronting these questions and addressing them" (Interview #3). However, we ought to be critical of the solutions introduced by these policies, as they might end up "regulating dependency" and further entrenching these asymmetrical relations (Papaevangelou & Smyrnaioi, 2022c; Sebbah et al., 2020).

### 7.1.2. The Platformisation of Journalism

This chapter adopts an interdisciplinary approach to tackle the phenomenon of platformisation of journalism and explore the increasingly complex relationship between news media organisations and platforms (Poell et al., 2022b). This chapter draws from relevant literature that has engaged with the complex issue of the relationship between news media organisations (or publishers) and platforms. Hence, it is situated at the scholarly intersection, where different scholarly fields converge, namely critical media studies, platform studies, journalism studies and regulation scholarship. In the following pages, we will unpack some of the concepts used in this chapter through a review of the relevant literature, as well as provide some useful contextual background.

As made clear in the introduction, this thesis specifically focuses on digital communication platforms with distinct characteristics of social networking sites, namely platforms that are important for cultural production and the dissemination of information, including news (Nielsen & Ganter, 2022, p. 13), like Alphabet (Google, YouTube) and Meta

(Facebook, Instagram, WhatsApp). These platforms have practically reconfigured the means of production and distribution of, as well as access to, cultural products, including news (Nieborg & Poell, 2018; Smyrniotis & Rebillard, 2019).

A plethora of scholarly work has, in recent years, engaged with the increasingly complex relationship between journalists and platforms. Some researchers have tackled the issue from the perspective of editorial autonomy in light of online platforms' algorithmic and automated content curation (DeVito, 2017; Simon, 2022), others from the perspective of integrating platforms' services in their editorial processes (Nielsen & Ganter, 2018) and what implications this holds for journalists' dependency on platforms (Meese & Hurcombe, 2020; Nielsen & Ganter, 2022; Schiffrin, 2021; Sebbah et al., 2020), while some have studied how journalists have been negotiating their (in)dependence from platforms' tools and infrastructures (Chua & Westlund, 2022; van Drunen & Fechner, 2022).

Furthermore, Nielsen and Ganter (2018; 2022) have demonstrated, through extensive empirical research, how this is a deeply asymmetrical relationship, as platforms may affect, potentially, every slice of the journalistic praxis (e.g., production and dissemination of news). They have also showcased how publishers may become too dependent on the services provided by platforms due to the "fear of missing out," and how this may open them up to risks because of unpredicted and sudden changes to platforms' algorithms or interests (Caplan & boyd, 2018; Nielsen & Ganter, 2018, p. 1613, 2022, pp. 141, 150). At the same time, they have also indicated how platforms may themselves depend on publishers to exercise "platform power," which is relational to their capacity to "maintain relations and sustain them over time" (Nielsen & Ganter, 2022, p. 22).

As such, the relationship between platforms and news media organisations is "marked by a tension to cooperate and an uneasiness [...] of becoming too dependent on the former" (Simon, 2022, 4). Hence, many use the term "frenemies" to describe their connection; indeed, their relationship seems to be in a constant negotiation of power, which "resides implicitly in the other's dependency" (Emerson, 1962, p. 32). For instance, in interviewing relevant stakeholders, Nielsen and Ganter collected accounts of journalists and news industry executives, who – early in the previous decade – felt that they were benefitting from sharing their content through social media and search engines (2022, p. 6); idem for platforms' executives, who have "insisted on mutual benefits," albeit in the form of "mutual self-interest" (2022, p. 126). As they note, "when platforms successfully enable potentially mutually beneficial interactions between large numbers of different individual users and various third parties, they create markets that can realize such gains from trade" (Nielsen and Ganter, 2022: 106).



Likewise, Chua and Westlund have observed the same situation as well (2022, p. 66), but also note a recent attempt from publishers to “counterbalance” their dependence on platforms by reconfiguring their resource investment on platform services to “wrangle back control of their audiences, data and revenues” (Chua & Westlund 2022, p. 82); this development has been noted by other scholars as well (Meese & Hurcombe, 2020). DeVito (2017) has written about the “algorithmic values” that govern Facebook’s News Feed, i.e., “a system of criteria” used to fuel algorithmic curation of the information presented in our social feeds (2017, 2). DeVito’s empirical work showcase the departure from the gatekeeping role that traditional media played prior to the domination of online intermediaries, albeit in a “semi-transparent manner” (2017, 4) to a situation where, in line with the Silicon Valley’s “solutionist” mindset (Morozov, 2013), algorithms are viewed as “the solution for the journalistic bias problem” (DeVito, 2017, p. 4).

Overall, we could frame the above literature as contributions to understanding the negotiation of power between journalists and platforms. In the next section, we touch upon the notion of capture, how it is understood in this thesis and how it relates to this part.

## 7.2. Media and Infrastructural Capture

As we discussed in Chapter 4 (4.4), capture refers to the phenomenon of creating strong dependencies between the regulators and the regulated, or more generally, the those who hold power and those who hold those in power to account. These dependencies dilute, thus, the role of oversight that watchdogs have. Epistemologically, capture is also a rich concept, which allows us to enquire into manifestations of power, wherein dependencies and contestations among stakeholders emerge clearly. As such, we would benefit from studying capture not just as a normative concept that speaks to influence and dependency, but also as a lens to analyse platform power. In the following paragraphs, we will briefly review some key approaches to defining capture.

The concept of capture, as already mentioned, derives from the economic theory of “regulatory capture” (Stigler, 1971) which was effectively a way of claiming that regulation might be designed by or for industry stakeholders instead of prioritising public interest. More relevant to this chapter is the concept of media capture, which has been used to inquire similar situations in the media ecosystem, primarily concerning journalists not holding state power to account, especially in times of crises (Schiffrin, 2014). More generally, it refers to situations where media refrain from scrutinizing certain topics and/or stakeholders due to capture by

vested interests, often in the form of economic dependency, and which end up promoting their “political agenda” (Schiffrin, 2018, p. 1036; Simon, 2022, p. 9)<sup>135</sup>.

However, media capture should not be solely understood as a risk to editorial processes, which can still “operate *independently from* platform companies” (Poell, Nieborg, and Duffy 2022, 9; emphasis theirs). Indeed, it also should be considered as a concept used to describe a situation, wherein media actors are working to ensure the preservation of the status quo, often with potential benefits to governments or corporations (Schiffrin, 2014). Subsequently, media capture does and should not exclusively refer to ensuring positive publicity or less scrutiny from journalists, but also to a deeper kind of capture with existential stakes for journalism.

Consider, for instance, how even in a European Member-state like Greece, the government instrumentalised the pandemic crisis to fund thousands of news outlets through an opaque process, stirring a ruckus as many oppositional media were ostracised (The Manifesto, 2020). As Mr. van Wijk told me, “There are many [examples] from the not so distant past, where basically types of funding are being traded for some type of influence” (Interview #13). He also noted how the perception around state funding, though, may change depending on the cultural context, giving the following example: “in the Netherlands, they do not want to have to do anything with it, whereas my Irish Member, for instance, is actively asking the government for funding.”

Subsequently, relevant to studying platform governance is the concept of “infrastructural capture,” which was used by Nechushtai to describe “situations in which an organisation tasked with [scrutinising] another [organisation], institution, business, or industry is incapable of operating sustainably without the resources or services they provide” (Nechushtai, 2018, p. 1046). So, infrastructural capture enables us to analyse the risk of dependence of news media on platform infrastructure and tools (Nielsen & Ganter, 2022, p. 150). Nechushtai’s main focal point was to examine the relationship between news organisations and digital platforms, arguing that it has evolved from “parasitic” (Siapera, 2013, p. 13) to “symbiotic” (Nechushtai, 2018, p. 1052).

Notably, some media scholars argue that, more recently, this relationship has evolved from “symbiotic” to “dependent” (Sebbah et al., 2020) to highlight the asymmetrical power that platforms exert on news organisations (Smymnaios & Rebillard, 2019). As Mr. Petillault noted: “We are in this problem of capture of revenue by certain players in a very opaque market” (Interview #18). The concept of infrastructural capture, then, helpful in analysing the consequences of media organisations’ dependency on platform infrastructure with clear perils

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<sup>135</sup> For an extensive discussion on the different facets of media capture, see Schiffrin 2021 and Schiffrin 2018.

for editorial autonomy, as well as for the production, distribution, and consumption of editorial content.

To better understand this concept, we also ought to briefly unpack the notion of infrastructure, particularly in relation to media and platforms. Plantin and Punathambekar have proposed studying digital platforms through an “infrastructural optic” based on “media infrastructure studies,” inviting us to consider “the social, material, cultural, and political dimensions of the infrastructures that undergird and sustain communication networks and media cultures across the world” (Plantin & Punathambekar, 2019, p. 166).

Subsequently, we extrapolate that infrastructure does not necessarily need to be tied to materiality. As Larkin has theorised, infrastructures are “built networks that facilitate the flow of goods, people, or ideas and allow for their exchange over space” (Larkin, 2013, p. 328) and they have critical cultural and political value (2013, p. 330). In other words, we should think of infrastructures as multifaceted assemblages that consist of many dimensions: material, political, cultural, analytical, and others. As a result, something can be built to function as an infrastructure, but it can also transform into one. That is what Plantin et al., imply when posing the rhetorical question of “What is Google, then: a platform? An infrastructure? Is it sequentially or simultaneously both?” (Plantin et al., 2018, p. 294).

It is important to emphasise that news organisations have not only become more dependent on platforms’ “material benefits” (Nechushtai, 2018, p. 1049), like access to audiences or funding, but, as the next case study suggests, on their networks. Instead, we have now reached a situation, wherein platforms are also capturing network of relations, a form of network capture. Put simply, network capture combines the notion of network governance (Caplan, 2022; Sørensen & Torfing, 2005) with that of capture to signify how platforms are organising the engagement of external actors and organisations, similar to how the “funding intermediaries” found in next our case study helped Google and Facebook to carry out their funding activities.

This is a reciprocal, interdependent relationship, with platforms relying on media stakeholders to facilitate their funding activities, while news organisations rely on tools, services, and network capacities provided by platforms: “it is predominantly a relationship of mutual dependence; platforms need press publishers” (Interview #13). Thus, we are currently in a situation of co-dependency between news organisations and platforms, with the latter preserving asymmetrical influence over the former and, at the same time, needing the former to fend off strict regulation and/or remedy their public image. We also have to consider that many news media organisations have resorted to platform funding due to increased state

capture, especially in countries with limited media pluralism and freedom, drop in revenues, as well as lack of more transparent and controllable sources of funding.

At any rate, as we will see in Case Study #2, funding intermediaries are not simply collaborators of platforms but stakeholders in the broader news media ecosystem and platform governance. Thus, their involvement in platforms' funding process has implications for the news industry's role in platform governance, as well as for platforms' strategy of platformisation and, potentially, capture.

### 7.3. The rise of funding intermediaries in funding programs of platforms for news media organisations (Case Study #2)

Academics, civil society organisations and investigative journalists have been trying, in recent years, to track how large online platforms have been funding news media organisations, a phenomenon often discussed as part of the increasing capture of the industry (Bell & Owen, 2017; Nechushtai, 2018; Schiffrin, 2014, 2021). This case study offers novel insights into Facebook and Google's recent funding for journalism programs, FJP and GNI respectively (Papaevangelou, 2023c). Specifically, the case study draws data from a corpus of 6,773 beneficiaries, who were identified as having received funds from either Google or Facebook in the period between 2017 and early 2022. The dataset was constructed from communication material found on websites of platforms and organisations that have participated in a funding program.

Through this analysis, we identified the funding intermediaries that we mentioned earlier, who are key stakeholders that facilitated the development and realisation of platforms' funding programs. More specifically, funding intermediaries are defined as essential actors of the news ecosystem that offer privileged access to platforms through partnerships formed as part of their funding projects. The concept of funding intermediaries, alongside the concept of network capture and the empirical data about platforms' funding, provide us with a multifaceted framework and toolbox to delve into platforms' strategy to capture and platformise journalism. The recurring crises of the news industry, as delineated in the previous section, have both exacerbated the need for more funding and have legitimised platforms' intervention in lack of an appropriate publicly accountable response. As a result, platforms' funding for journalism may also have significant and unexpected consequences for the news ecosystem and platform governance, which makes studying such manifestations of power all the more appropriate.

### 7.3.1. From DNI to GNI: Google's decade-long funding for journalism

In the previous decade, Google emerged as an important funder of journalism. A study of the German media landscape went as far as naming the company “[a] media patron” (Fanta & Dachwitz, 2020). The same study also demonstrated how Google started experimenting with its programs in France in 2013 before expanding them to the European Union (hereinafter EU) in 2015 and, finally, to a global level in 2018. This was due to political pressure by the French government, to which Google responded by setting up a €60 million fund to support press publishers’ innovation projects in 2013, which was the “blueprint” for the Digital News Initiative (DNI) and the Google News Initiative (GNI) (Fanta & Dachwitz, 2020, p. 89).

The initial plan of the French government was to impose a new tax on Google that would compensate media whose content was indexed in the search engine. So, under the risk of a possible regulation, Google agreed to pay French news publishers, albeit on its own terms; a pattern that would dictate all similar future deals and negotiations. DNI was, thus, a “response to specific regional pressures in Europe [...] and an attempt to improve relations with publishing partners” (Nielsen & Ganter, 2022, p. 127). We will re-examine this in more detail in the next part.

It is important to note that the type of political pressure and lobbying at the time differed greatly from today, as it was much more explicit. A case in point is when former Google’s CEO, Eric Schmidt, was welcomed by former French President, François Hollande, at the Elysée; a journalist association representing publishers was also part of these negotiations (Smyrnaiois and Rebillard 2019, 46). The initial plan of the French government was to impose a new tax on Google that would compensate media whose content was indexed in the search engine.

However, the result of their meeting and the subsequent negotiations was an agreement to create the fund for digital innovation in the press (FINP<sup>136</sup>). As Smyrnaiois and Rebillard have argued, Google’s political pursuits with this agreement can and should be examined in relation to “litigations between the Californian firm and French fiscal authorities as well as mounting anti-Google criticism after the Edward Snowden revelations” (Smyrnaiois & Rebillard, 2019, p. 49).

This was the first and decisive step that Google took to overtake the control of funding that is directed to news media organisations in Europe and, later, beyond. This too came after a barrage of threats by Google that it would stop indexing news content if forced to pay for licensing rights (Smyrnaiois & Rebillard, 2019, p. 46). What is more, just a couple of months prior to that agreement, Google settled a six years-long dispute with a group of major French

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<sup>136</sup> Fonds pour l’innovation numérique dans la presse

publishers, who had filed a lawsuit against the tech company for listing their articles on Google News without permission, by agreeing to “[place] Google advertising in publishers’ media”<sup>137</sup>.

In 2018, Google launched GNI, “a ‘15-year commitment to the news industry’ (Schindler, 2018a) and has thus far committed more than \$300 million to more than 7,000 “news partners in 120 countries” to “deepen [its] commitment” to the news industry and had three main objectives: (i) elevate and strengthen quality journalism, (ii) evolve business models to drive sustainable growth, and (iii) power news organisations through technological innovation<sup>138</sup>. Practically, the program includes training for journalists, grants, credits for online advertising, free access to a variety of Google’s services, and a series of “Innovation Challenges,” like the ones found in the DNI.

Additionally, in cases of projects that demand large funding, Google has set up an advisory council consisting of industry stakeholders, including executives of news media organisations, to chip in the decision-making process of funding projects. As a matter of fact, this could be seen as the first instance of utilising industry stakeholders as intermediaries of the platform funding process. However, it was not until Facebook entered this field in 2018 with FJP<sup>139</sup> that this became the norm.

### 7.3.2. Facebook Journalism Project

Contrary to Google, Facebook has received much less scrutiny from academia in relation to its funding for journalism. Jurno and D’Andréa are among the few academics that have specifically tackled Facebook’s funding program and, in particular, as part of the company’s “process of platformisation of journalism” (2020, p. 503). The authors identify two periods of this process: the first spans from 2014 to 2016, where the “platform offer[ed] itself as an infrastructure for news publishers, particularly around Instant Articles,” and the second spans from 2017 to 2019, where the platform “began to offer its services as a coordinator of activities related to the journalistic craft” mainly through “funding of training and education initiatives for and about journalism” (Jurno & D’Andréa, 2020, p. 503)

They also provide us with a brief history of how the FJP came to be, with Campbell Brown, head of global news partnerships at Facebook, taking the lead and meeting with dozens of publishers prior to its launch to first, pitch the project and, second, recruit them (Jurno & D’Andréa, 2020, p. 516). As Lucia Moses reported at the time, some of these meetings were

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<sup>137</sup> <https://www.theguardian.com/technology/2013/feb/01/google-52m-fund-help-french-publishers>.

<sup>138</sup> <https://newsinitiative.withgoogle.com/impact2021/>.

<sup>139</sup> As the research began prior to Facebook’s rebranding, the name “Facebook Journalism Project” or its acronym, FJP, will be used instead of the current “Facebook Journalism Project.”

even held at Brown's apartment, with publishers feeling "impressed" merely by the fact that Facebook was talking to them (2018).

Furthermore, they connect the FJP's launch to the techlash and recurring crises that the company was suffering from at the time, hence the two periods. However, they conclude that Facebook improved its approach in the second period (2017-2019) as regards the way it treated journalism. Subsequently, they paint a rather positive image of the platform because of its decision to assume a more coordinating role (i.e., managing the governance of the funding process) instead of being simply a benefactor, like Google did previously (Jurno & D'Andréa, 2020, p. 518).

Indeed, from the very beginning, Facebook pursued a different strategy compared to Google by tapping into an existing network of industry stakeholders to distribute its funds. FJP was announced on 11 January 2017 as a means of "[establishing] stronger ties between Facebook and the news industry" (Simo, 2017). This was part of Facebook's strategy to "reconcile its desires with the aspirations of journalistic institutions" and "consolidate the platform as an 'obligatory point of passage' for journalism" (Jurno & D'Andréa, 2020, p. 520).

The blog post accompanying FJP's launch referred to three central ways in which the project would work: collaborative developments of news products, training and tools for journalists, and training and tools for everyone (Simo, 2017). By taking a closer look, Facebook was laying out a handbook for how it wished to transform journalistic praxis through training and tools, and how news content would best serve the monetisation needs of the platform; they were illustrating, thus, how they could platformise journalism.

For instance, there was a reference of the need for innovative new business models that could be developed by integrating and utilizing Facebook's technologies, like Instant Articles or advertising breaks in live or pre-recorded news videos. Moreover, in the announcement, Facebook put emphasis on local news as a distinct category in need of acting, which as we will see later, has played a major role in the platform's funding for journalism initiatives.

Nevertheless, there was hardly any mention of how Facebook would fund journalism in direct ways; instead, the blog post alluded to various indirect ways of funding (i.e., training and tools). But, in the section of "promoting news literacy" we read that Facebook will "bring a consortium of experts together to help decide on what new research to conduct and projects to fund" (Simo, 2017). In addition, the number of third-party organisations or institutions listed as collaborators is surprising: from educational institutions to journalism festivals, Facebook seems to be attempting to legitimise its funding project by listing external partners. As a result, we believe that it was a strategic decision for Facebook to employ what I call funding intermediaries.

Four years after the initial announcement and hundreds of millions of dollars spent, an unprecedented story made Facebook publish another revealing blog post called “The Value of News on Facebook” (Campbell, 2021). The Australian government had just announced its plans to pass NMBC. As mentioned earlier, while Google began negotiations with some news media companies, Facebook responded by barring Australian users from accessing news content, either local or international (Bailo et al., 2021, p. 3) causing severe public backlash.

Considering Facebook’s blog post regarding the value of news content, we can understand that at the heart of this conflict and behind the company’s reaction was its framing of news content: they consider it as content that returns insignificant revenue, that has high risk (Meese & Hurcombe, 2020, p. 4), and that is shared on its services willingly by news publishers. To avoid singling out Facebook, Google’s framing of journalistic content is not far off (Silva, 2020). This is crucial to underline as it, essentially, underpins the core of the relationship of platforms with journalism. Mr. Petillault described to me, that one lawyer of Google told the Paris Court of Appeal in 2020 that news content’s value is non-existent for them (Interview #18).

### 7.3.3. Methodology of Case Study #2

The database was built by collecting data from the companies’ websites and, when necessary, from beneficiaries’ websites; the data cover the period from 2017 to early 2022; the latest data were gathered on 10 January 2022 for FJP and 6 December 2021 for GNI. Provided that neither platform provides an interactive or explorable database of their funding initiatives, we had to develop our own data-gathering method. Google shared a downloadable file with all its news partners; however, it contained many typos, duplicates, and only included the partners’ names, while the file’s format was not easy to interact with (i.e., to extract data from).

Data from Google’s DNI were excluded from this analysis because the program focused exclusively on the European market, whereas the project’s main goal was to tackle the global reach of platforms’ funding programs. However, the program is taken into consideration as regards the broader picture. As we will see later, both the nature and role of funding intermediaries differ in FJP and GNI from DNI, which is another reason we decided to exclude DNI from this case study. In addition, the scope of this case study excludes platforms’ distinct licensing projects, like Google News Showcase (GNS) and Facebook News, or separate deals with news publishers, like those that will be examined in the next case study. We reckon that the data presented and analysed here suffice to delineate platforms’ overarching strategies. This is a limitation in and of itself but is a conscious one to compare more accurately the two platforms’ global programs.



It is also worth noting that due to platforms' refusal to share data about their funding activities and the overall difficulty of ensuring access such data, it is possible that some discrepancies exist in the current dataset. For example, both platforms ignored my requests to obtain access to their data or, at least, verify whether the present dataset is accurate or not. For this reason, the dataset was publicly released so that other researchers can contribute to improve it.

By taking inspiration from relevant research projects, namely Alexander Fanta and Ingo Dachwitz's work and the Tech Transparency Project<sup>140</sup>, my methodological approach was as follows. First, for Facebook, the task involved collecting information from FJP's blog during the designated period (2017-2022). This included articles containing partnership announcements, press releases, and other relevant information. Around 500 articles were identified, while their corresponding hyperlinks were retrieved by downloading the source code of each page as an HTML file and analysing it with a text editor. Each article was classified based on its category (e.g., press releases) and those containing partnership announcements were further analysed to extract information on beneficiaries, location, grant amount, duration, and external stakeholders' involvement.

Likewise, for Google, the best approach to retrieving relevant data was deemed to combine the GNI's 2021 impact report and the GNI's largest funding program, the Journalism Emergency Relief Fund (JERF). This was because these two documents contained a large list of beneficiaries, whose level of details differed; thus, by combining information from both reports, we were able to create a coherent and more complete overview of GNI's funding participants. The impact report was available as a PDF file, which was converted to a CSV file to facilitate editing. Specifically, details on beneficiaries (e.g., country of origin or amount awarded) were missing, but the JERF list provided this information for approximately 5,600 organisations, which received a total of \$39.5 million. So, by comparing the two datasets, 5,437 organisations, that had received funding from both a GNI program and the JERF, were identified. However, about 1,200 organisations, that were included in the GNI dataset but not in the JERF list, location and project participation information could not be retrieved. Additionally, around 500 beneficiaries were identified manually, as they were not included in GNI's 2021 impact report.

It is worth highlighting that Facebook was, to a certain extent, more transparent than Google in terms of divulging the amounts of money involved in its funding projects by sharing either the total amount pledged to a program, or the exact money allocated to each recipient.

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<sup>140</sup> Specifically, TPP's report "Google's Media Takeover," that has accumulated a vast trove of data regarding Google's "payment to media organisations around the world." Available here: <https://www.techtransparencyproject.org/articles/googles-media-takeover>.

However, it neither kept an explorable list of its programs nor of its beneficiaries, which makes researching the FJP and its impact extremely difficult. Conversely, Google rarely provided financial specificities around its projects and, instead, shared total amounts of money invested in a year.

#### 7.3.4. Funding Intermediaries and Network Capture

Before discussing the concept of funding intermediaries, it would be beneficial to have a grasp of the whole dataset created as part of this research project, as well as of the platforms' total funding activities. Facebook and Google have funnelled more than \$900 million into the news industry since 2017, when they inaugurated their global funding programs: \$600 million from the FJP (Clegg, 2021) and \$300 million from the GNI (Schindler, 2018b). If we added Google's DNI funds, which amounted to approximately \$200 million (Fanta & Dachwitz, 2020), the total sum would go well beyond \$1 billion, excluding the individual, commercial agreements done by these companies with major news brands.

It is worth mentioning here that, the data gathered for this case study, i.e., details about the beneficiaries of platform programs, cover approximately a total of \$160 million, which is still far less than what platforms claim to have spent. This difference demonstrates the lack of transparency that governs these programs and platforms' modus operandi in general. Overall, the dataset of our case study consists of a total of 6,773 beneficiaries, who participated in 126 programs (43 of Google and 83 of Facebook) across 120 countries. A beneficiary is defined organisation that has participated in a platform funding program; we counted each as a single entry in our dataset, regardless of the number of participations in a program; 5,511 organisations have participated in a GNI program, 941 in an FJP one, and 321 in both platforms' programs. The discrepancy between GNI and FJP can be attributed to Google's JERF project that was launched in 2020 to "support local news" ahead of the pandemic's outbreak (Gingras, 2020).

Most funding projects were specifically tailored around three themes: Covid-19, local news, and innovation. Specifically, Google's JERF was the largest project and was framed similarly: "the Fund aimed to support the production of original journalism for local communities in the face of the COVID-19 pandemic" (Gingras, 2020); the grants ranged between \$5,000 and \$30,000 with variations per region and with a cap at \$85,000 (Blecher, 2020). As regards Facebook, 13 projects with Covid or coronavirus in their title were identified, with the largest being the "Community Network to Support Coronavirus Reporting" with 400 US-only beneficiaries and \$2 million distributed; additionally, 12 other projects that were

identified had local in their title, with the largest being “COVID-19 Local News Relief Fund Grant Program” with 203 US-only beneficiaries and \$16 million distributed<sup>141</sup>.

Finally, 13 projects were discerned, ten from Google and three from Facebook, which had innovation in their title, with the largest being GNI’s “Innovation Challenges”<sup>142</sup> that take place in many regions globally. Finally, concerning the geographical distribution of beneficiaries (Table 7), we noticed a pattern of over-representation of US-based organisations in our dataset: 2,205 beneficiaries operate or are based in the US; the second largest country in terms of total beneficiaries was Brazil with 424 organisations, while the third largest was Canada with 340 (Table 6).

In the process of analysing FJP’s data, we discerned that many programs involved the collaboration of industry stakeholders, who facilitated the creation and actualisation of platforms’ funding activities either *directly* or *indirectly* (Table 2). While platforms have been advertising their efforts to support the news industry (Schindler, 2018a; Simo, 2017), we had not previously seen the explicit involvement of these stakeholders, or funding intermediaries as we named them.

Previously, in the DNI’s announcement (Blecher, 2015), Google listed names of industry figures as members of its DNI Council, which would vote on larger projects, while proclaiming that the program would launch as a partnership with eight large European newspapers (Cook, 2015). However, on the one hand, in DNI, most of them were publishers and, on the other hand, their role was relatively limited. Conversely, we found that funding intermediaries identified in our dataset were, primarily, third-party organisations, like journalist associations and, most importantly, their role was upgraded; for instance, *Blue Engine Collaborative*, a “consortium of mission-driven consultants and advisors” led by Tim Griggs, a former Executive Director of *New York Times*, has developed FJP’s Accelerator’s global training program<sup>143</sup>. Notably, at first, it exclusively partnered with FJP, but it seems to have expanded to GNI’s programs too<sup>144</sup>.

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<sup>141</sup> Most amounts were listed in USD; in cases where another currency was used, we converted it to USD using the exchange rate on 1 January of the project’s year.

<sup>142</sup> More information on the GNI Innovation Challenges can be found here:

<https://newsinitiative.withgoogle.com/innovation-challenges/>.

<sup>143</sup> The only information available for the *Blue Engine Collaborative* can be found on their LinkedIn profile

(<https://www.linkedin.com/company/blue-engine-collaborative/about/>) and on FJP’s Accelerator Guide

([https://scontent.fath5-1.fna.fbcdn.net/v/t39.8562-6/10000000\\_678352799983258\\_1138454571661287630\\_n.pdf?nc\\_cat=109&ccb=1-7&nc\\_sid=ae5e01&nc\\_ohc=IGw54CZiKJEAX9jw\\_2z&nc\\_ht=scontent.fath5-1.fna&oh=00\\_AT-dBfBs7dnhJuln1q0koe\\_BAqetFsEITMnED-TaJ1Bzrg&oe=632DA0A4](https://scontent.fath5-1.fna.fbcdn.net/v/t39.8562-6/10000000_678352799983258_1138454571661287630_n.pdf?nc_cat=109&ccb=1-7&nc_sid=ae5e01&nc_ohc=IGw54CZiKJEAX9jw_2z&nc_ht=scontent.fath5-1.fna&oh=00_AT-dBfBs7dnhJuln1q0koe_BAqetFsEITMnED-TaJ1Bzrg&oe=632DA0A4)).

<sup>144</sup> It served as a partner to GNI’s “North America Sponsorships Lab”:

too <https://inn.org/resources/gni-north-america-sponsorships-lab/>.

Table 2 - Types of Funding and Intermediation

Stakeholders	Direct Funding/Mediation	Indirect Funding/Mediation	(In)direct Funding/Mediation
Platforms	Grants, advertising credits	Training, fellowships, etc.	Donations to support intermediaries (direct platform funding)
Funding Intermediaries	Handling grant distribution for platforms	Reviewing grant applications for platforms, providing training, etc.	Using platforms' donations to develop their own funding initiatives (indirect platform funding/direct intermediary funding)

Therefore, we understand that, on the one hand, even though platforms seem to have had the integration of funding intermediaries in their strategy to fund the news industry, they managed to systematically do so with FJP and GNI; on the other hand, these intermediaries as key stakeholders of the news ecosystem that, through partnerships, offer platforms privileged access to media networks, as well as legitimacy to their funding activities.

In total, 86 stakeholders were identified and categorised as follows: (i) 28 journalist associations, (ii) 16 educational institutions, (iii) 15 news media organisations<sup>145</sup>, (iv) 8 philanthropic institutions, and (v) 19 non-profit organisations. We briefly expound on each category below:

- i. Journalist associations are defined as interest groups that advocate for journalists' interests and have significant networks and expertise. For example, Facebook partnered with the Brazilian Association for Investigative Journalism, Abraji, in 2019 to provide free online training to 3,000 journalists in Brazil<sup>146</sup>.
- ii. Educational institutions in this dataset mainly refer to universities with journalism-focused programs and research centres that study journalism. These intermediaries are often funded by platforms to organize training programs or conduct research. For instance, the Kadir Has University at Istanbul, and the non-profit organisation, Habitat Association, launched a training program in Turkey in 2019 with Facebook's support to train over 1,000 journalists and journalism students in using Facebook and Instagram in their reporting<sup>147</sup>.

<sup>145</sup> We define news media organisations as organisations producing journalistic content, including fact-checkers.

<sup>146</sup> The initiative is called "Sustainable Local Journalism":

<https://www.Facebook.com/journalismproject/Facebook-abraji-brazil-training-program>.

<sup>147</sup> <https://www.Facebook.com/journalismproject/Facebook-journalist-training-program-turkey>.

- iii. News media organizations that operate as funding intermediaries are defined as organizations that have received funding to disseminate grants, review grant applications, or train other journalists. For example, Google extended a partnership with the US-based non-profit organisation Internews Network in 2020 with a \$1 million grant to promote news and media literacy in India<sup>148</sup>.
- iv. Philanthropic institutions play a critical role in providing grants to news organizations and are defined in this case study as non-profit institutions with social and financial capital and grant-awarding programs. They serve as networking and sustainability hubs for local newsrooms and are essential stakeholders with strong ties to journalists. For instance, Google and Facebook have partnered with the Ibero-American non-profit institution Fundación Gabo to launch training programs for journalists in the region<sup>149</sup>.
- v. Finally, non-profit organisations are defined as public interest groups that promote various important topics, including health issues and media literacy. Some of these organisations focus on journalism's sustainability, making them crucial access points for platforms. For example, the non-profit European Journalism Centre partnered with Facebook in 2020 to distribute \$3 million in relief grants related to the Covid-19 pandemic, while it has collaborated with Google on fellowships and training programs on multiple occasions<sup>150</sup>.

Moreover, we found 45 intermediaries, who are either based or operate in North America, 2 in Africa, 7 in Asia, 14 in Europe, 7 in South America, 3 in Oceania, and 8 with global reach. As a result, in line with the broader findings laid out earlier, funding intermediaries were found to be predominantly based or active in North America and, specifically, the US. Additionally, we classified the ways in which Google and Facebook have been funding the news industry as *direct*, i.e., by awarding grants to news organisations, and *indirect*, i.e., by providing training, fellowships, etc. Similarly, we discerned that funding intermediaries are involved in the grant-awarding process either *directly* (i.e., by allocating platforms' funds; Table 8; Table 10<sup>151</sup>) or *indirectly* (i.e., by reviewing grant applications or providing training, etc.; Table 9).

Taking into consideration the above findings, it is clear that Google and Facebook have emerged as patrons of the news industry, having developed multi-million-dollar funding initiatives, most notably, the GNI and FJP. These companies have been funding journalism through other ways too, either in a self-regulated manner through their own licensing programs

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<sup>148</sup> <https://www.facebook.com/journalismproject/fundacion-gabo-and-facebook> and <https://latam.googleblog.com/2021/04/la-fundacion-gabo-y-google-news.html>.

<sup>149</sup> <https://www.facebook.com/journalismproject/fundacion-gabo-and-facebook> and <https://latam.googleblog.com/2021/04/la-fundacion-gabo-y-google-news.html>.

<sup>150</sup> <https://grant.ejc.net/s/gni-student-fellowship>.

<sup>151</sup> Notably, we were unable to identify a news media organisation that served this role for platforms.

or in a (co-)regulated fashion through competition (e.g., NMBC) or copyright regulation (e.g., EU's Copyright Directive as we will see in the next case study).

As mentioned earlier, the news industry's main argument, also supported by scholars and governments, is that online platforms have usurped online advertising revenues (ACCC, 2019; Schiffrin, 2021, p. 7), often through anti-competitive behaviour (McCabe & Wakabayashi, 2020). As it happens, according to Reuters, the two companies generated \$607 billion in advertising revenues between 2018-2021, approximately the same period that they launched or revamped their funding programs (Coster, 2021).

Both platforms' endeavours to fund journalism, news organisations and other relevant stakeholders are part and parcel of their strategy to become the de-facto infrastructural backbone of the news industry (Nechushtai, 2018). This is not limited only to platformising the vertical and horizontal axes of news production but also extends to exercising their power to the larger news ecosystem (van Dijck et al., 2018, p. 50). As such, these manifestations of power have to be scrutinised to cast a light on their motivations and implications.

For example, Facebook has been dealing with a severe reputational crisis since 2016, principally due to its own shortcomings and repeated failures that led to a proliferation of disinformation, hate speech and other deleterious content, as well as to a massive privacy debacle with implications for the US Presidential Election of 2016. This was a turning point for Facebook on many levels that sought to change various policies to enforce trust and safety, albeit with questionable results, as the 'Facebook Papers' leak demonstrated (Lima, 2021). It might be that Facebook saw this opportunity to remedy a part of its deteriorating image through the launch of FJP (Nielsen & Ganter, 2022, p. 145): both from the perspective of emerging as a benefactor of a struggling news industry – especially by assuming the role of a coordinator with funding intermediaries – and from the perspective of capturing media in a bid to soften their criticism or reduce scrutiny.

Certainly, it cannot be claimed that any of the above two perspectives were indeed Facebook's objectives in lack of supporting qualitative data. However, both platforms have consistently asserted that news content returns insignificant revenue (Turvill, 2020). Therefore, we find it difficult not to argue that the primary goal has been to reap reputational and political gains (Mel, 2020). Expanding Jurno and D'Andréa's framing of Facebook's strategic decision to assume a coordinating role and acting as a central node in the news industry's ecosystem, we contend that Facebook employed intermediaries to consolidate itself not only as an "obligatory point of passage' for journalism" (Jurno & D'Andréa, 2020, p. 520), but as an indispensable infrastructure for journalistic praxis and the broader governance of journalism. In that sense, FJP has indeed established "stronger ties" with the news industry (Simo, 2017):

not only has it become of existential importance for news media organisations, especially with the Covid-19 crisis, it is also now important for other industry stakeholders, from journalist associations to educational institutions.

The same is true for Google, as it has expanded the integration of funding intermediaries, like Facebook's strategy. Both platforms are now so entangled with and embedded in the news media ecosystem that it is increasingly difficult to revert the level of dependency of stakeholders on them. Hence, this epitomises the notion of infrastructural capture and hints at a deeper level of capture, that of network capture mentioned in this chapter's introduction, expanding beyond the socio-technical stack to networks and governance structures.

Provided that online platforms rely on network effects to operate and maximise socioeconomic value, it makes sense for them to capture cultural producers, like news media, and their networks. Furthermore, the state of current policymaking, like NMBC, fails to provide much-needed alternative remedies, such as, for instance, distributing funds through an independent and auditable public fund (Macdonald, 2022). Instead, it involves platforms as part of proposed regulatory remedies, which runs the risk of entrenching platforms' asymmetrical power even more by "regulating dependency" of publishers on platforms (Ouakrat, 2020; Papaevangelou & Smyrniotis, 2022c).

Regardless, far from being panacea, regulatory interventions aspiring to rectify systemic imbalances can be positive but should be based on evidence that allows for a deeper understanding of the current landscape. As this case study has demonstrated, Google and Facebook have made it extremely difficult to get access to detailed data regarding their funding projects, instead opting for opaqueness; as Radsch has written: "improving transparency of this notoriously opaque market as well as competitiveness would help level the playing field and give the media a fighting chance to reclaim a share of the advertising pie" (2022). Thus, evidence-based policymaking is also contingent on vested interests and even risks being counterproductive when access to data and decision-making processes is obstructed.

Most of the identified funding intermediaries were journalist associations, which suggests that platforms have been using third parties to not only fund news media organisations, but also to capture stakeholders whose primary role is to protect and promote their trade associates' interests. In recent years, trade associations have been competing with one another in terms of lobbying policy-makers, especially in the EU which has been leading the regulatory race in relation to rules for competition and content moderation (Alves et al., 2021). Journalist associations have the necessary expertise to distribute funds to peers, review grant applications and whatever else may be requested by platforms but, more importantly, they have crucial

networking capacities. As a result, platforms' funding for journalism may also have significant and unexpected consequences for the news industry ecosystem.

Even though the pandemic offered both platforms the chance to extend and increase their funding programs, both in quantity and in geographical reach, we noticed a prioritisation of US-based organisations in our dataset. While this could partly be due to the large news media market of the U.S.<sup>152</sup> and, certainly, a limitation of this case study (e.g., exclusion of DNI's data), it could also be due to the "news deserts" (Stites, 2011) that have been appearing throughout the country with negative consequences for local communities and journalism itself. Indeed, as Napoli has noted: "the declines in local journalism infrastructure create vulnerabilities that can potentially lead to diminished editorial independence between local media and government as well as between local media and other types of institutions" (Napoli, 2021a, p. 46).

However, this is not the first time that stakeholders outside of the news industry intervene to support struggling newsrooms or help them adopt novel technologies to increase their chances of sustainability. For instance, Lewis has written about how the non-profit Knight Foundation stepped "stepped forward" to "stimulate and underwrite innovation on a wide scale" "as legacy media organisations seemed [paralysed] (Lewis, 2012, p. 312). In so doing, Lewis argued, the foundation moved away from the traditional boundaries of journalism, making "space for external actors (such as software developers) to step in and bring innovation to journalism" (2015, p. 223).

Following suit, we could argue the same about for-profit platform companies: the crises that newsrooms have been facing have served as a vehicle for platforms to legitimise their interventions in the industry to attempt capturing both media organisations and key governance stakeholders, as well as establish the rules and processes that drive innovation concerning news production and distribution, as well revenue sources. Hence, the intervention of large philanthropic and corporate organisations to the news industry, certainly with different intentions and outcomes, has influenced the identity and boundaries of journalism. Concerning the latter, this has given rise to what we have already defined in this dissertation as the platformisation of journalism. For example, in addition to money, Facebook and Google provide participants of their funding programs with credits for their advertising services, along

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<sup>152</sup> According to Harvard University's "Future of Media Project, there are nearly 3,100 newsrooms in the US. Available here: <https://projects.iq.harvard.edu/futureofmedia/us-media-index>.



with training activities and workshops, to best integrate platforms' technological infrastructure and tools (e.g., Facebook's Instant Articles<sup>153</sup> or Google's Journalist Studio<sup>154</sup>).

The same was inferred from my interviews as well. Mr. van Wijck seemed reluctantly positive of funding initiatives, while pointing out it is not enough: "if those parts of funding are all made in order to calm down the industry, asking for market-led remuneration or demand remuneration, then it is not enough, it is not sufficient" (Interview #13). Importantly, Ms. Raoux, pointed out the sheer practical efficiency offered by these initiatives: "from a very practical point of view, to obtain EU funds for journalism and applications, [compared to] for instance, the Google Fund for Journalism or potentially other private funds, it is much easier to apply to the private one than the European one" (Interview #14).

As such, it seems that the industry is aware that these initiatives do not help journalism in the long run, offering them instead short-termed assistance, perhaps in lack of proper public and accountable support. As Ms. L ridon, almost cynically conferred while reflecting on platform money funding AFP: "why take money from these platforms? [...] First, they have a lot! And secondly, it is a job, and every work deserves pay. So, I thought it made sense to get paid and now it's become one of the AFP's main sources of revenue" (Interview #9). Consequently, these infrastructures, alongside funding intermediaries, create path dependencies for publishers, which are amplified by platforms' network and lock-in effects (Mansell & Steinmueller, 2020), especially for beneficiaries of platforms' funding programs, and, thus, endangers their autonomy, while creating more value (e.g., data) for platforms to capitalise on through platformisation (Helmond, 2015).

News media organisations, by receiving grants from platforms are opening themselves to an increased dependence on the latter and, as such, run the risk of getting captured by the platforms' interests, whims, and governance. Additionally, the long-term benefits for newsrooms to ensure sustainability or financial independence are dubious as recent empirical research has shown concerning the GNI's influence on news media organisations in the Middle East and Africa (Mathias-Felipe De-Lima-Santos et al., 2023). Therefore, platforms emerge as the only solution for news organisations to survive and cope with the recurring crises, while having a prominent role in formulating the standards for how journalism innovates and fulfils its role, as well as how it is organised, defined, and exercised.

We would also be remiss to not highlight that distributing grants to news organisations can also be seen as a way for platforms to fend off or affect regulation. For instance, there was

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<sup>153</sup> Instant Articles is Facebook's equivalent to Google's Accelerated Mobile Pages and, essentially, allows publishers to create Facebook-friendly content: <https://www.facebook.com/formedia/tools/instant-articles>.

<sup>154</sup> Google's Journalist Studio is a collection of tools, like data visualisation software, for journalists: <https://journaliststudio.google.com>.

a high number of recipients from Brazil, which had the most beneficiaries in South America. In 2020, Brazil's Senate, ahead of the presidential election in 2022, approved the bill 2630/20<sup>155</sup>, aimed at combating disinformation; more recently, an amendment was added to the bill by the House of Representatives seeking to create a right to remuneration for news publishers for the use of their content by online platform. Platforms opposed this bill with the support of various journalist associations, including Abraji, a funding intermediary identified in our dataset. Additionally, in 2021, bill 1354/2021 was introduced<sup>156</sup>, drawing direct inspiration from Australia's NMBC, "[stipulating] that platforms with 'significant market power' pay 50% of the revenue obtained from the news published on the platforms to journalistic organisations; this bill was eventually rejected.

As such, this example, alongside others from France or Canada, suggest that there could be a correlation between platforms' funding programs, especially their intensity, and the political will to pass regulation that would impact them. Such claims and possibilities merit further exploration.

Consequently, we assert that the platforms' strategic decision has not only been to distribute money through a complicated governance structure, but also to target parts of the industry that have been hurt by an ongoing crisis that the platforms themselves have aggravated, namely due to the large capture of the advertising industry. However, funding journalism ensures neither media capture, e.g., lack of critical coverage, nor regulatory capture, e.g., influencing regulation. Therefore, we approach capture as a political-economic concept to study platform power.

Finally, as Google's executives have said, these initiatives are "somewhere between philanthropy and self-interest" (Fanta & Dachwitz, 2020, p. 38). In that sense, these initiatives should be seen as a subtle diversification and expansion of their lobbying activities, as is the case with corporate social responsibility programs. This echoes Lewis's claim about how the Knight Foundation, by shifting its focus "from journalism to information," was able to "expand its capital and influence as an agent of change among a broader set of fields, foundations, and funders" (Lewis, 2012, p. 329). By extent, capture also signifies that, inadvertently and in lack of other compelling alternatives, news media get captured by becoming integrated in platforms' political and economic pursuits.

Indeed, as Dragomir has written, "media outlets doing solely independent journalism, especially those serving audiences outside the Western world, have either succumbed to financial crises or are hardly surviving" (Dragomir, 2018, p. 1132). While Dragomir speaks to

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<sup>155</sup> <https://www.camara.leg.br/proposicoesWeb/fichadetramitacao?idProposicao=2256735>.

<sup>156</sup> <https://www.camara.leg.br/proposicoesWeb/fichadetramitacao?idProposicao=2277800>.

state capture of media and how governments, particularly in Eastern Europe, have been trying to control news media through funding initiatives, it serves as an alarm concerning the risks that increasing contingency on one authoritative source might create. As a result, this is also a reminder that we ought to start considering “[removing] news media from the market as much as possible” (Pickard, 2020a, p. 716) and rethink our public service media.

Nevertheless, beyond much-needed alternatives to capitalist models dictating profit-hunting, policy interventions could also benefit journalism. However, any such policy should be based on information and data that would allow for a deeper understanding of the current landscape. Google and Facebook have made it extremely difficult to get access to detailed data regarding their funding projects, instead opting for opaqueness. Lack of transparency and lack of accountability go together and, thus, any attempt of democratic control risks of being either inefficient or irrelevant without vital information.

The central points inferred could be summarised as follows: (i) the main focal points of the platforms’ funding programs were local and regional news – including organisations that cover issues related to vulnerable or marginalised groups, as well as “relief funds” related to dealing with the Covid-19 pandemic crisis, (ii) there was a significant increase in platform funding activities in 2019 that continued in 2020 and 2021 – perhaps related to the mushrooming of regulatory frameworks related to online platforms, (iii) most beneficiaries were based or operated in the US – albeit the number of beneficiaries does not necessarily equate to the level of funding, (iv) largest and established publishers participated the most in funding programs, and that (v) both platforms have incorporated “funding intermediaries” in their funding strategies.

The limitations of the present case study mainly derive from the difficulty of gathering data regarding platforms’ funding beneficiaries, like the exact money that was allocated to them either directly by platforms or indirectly through funding intermediaries. Often, platforms did not divulge financial specificities of their projects, or they simply revealed a range of possible grants that beneficiaries would get. As a result, transparency obligations stipulated by EU’s Digital Services Act (Buri & van Hoboken, 2021) or Canada’s Online News Act (Turvill, 2022) are welcome and should be further expanded. Moreover, due to the lack of an easily explorable database of platforms’ funding projects, we had to manually gather, record, clean and analyse that data, which may have caused our dataset to have some discrepancies.

We are, thus, in a situation where dominant platforms are trying to capture news organisations, primarily, by reinforcing the latter’s infrastructural and network contingency rather than their financial dependency. In other words, news organisations are, mainly, growing

dependent on the tools, services, and networks provided by platforms; and, to a lesser degree, on their financial aid, which is often insignificant, especially for smaller organisations.

Moreover, it remains to be seen whether publishers' effort to "innovate their editorially oriented activities" with respect to dominant online platforms (Chua & Westlund, 2022, p. 60) persists and blossoms further. At any rate, Facebook's<sup>157</sup> recent announcement, that they would stop paying publishers for content appearing on its News Tab to "support more creative initiatives," like its 'metaverse' (Toonkel & Hagey, 2022), confirms DeVito's claim that "Facebook was not designed to give us the news" (2017, 753) and invites us to consider their funding initiatives as part of a 'reputation-washing' agenda in light of the global regulatory scrutiny (Fischer, 2022).

Subsequently, the relationship between news media and platforms remains deeply asymmetrical, principally, due to the informational opaqueness of many of these financial arrangements as, in most, cases, participants are bound by Non-Disclosure Agreements that hinder transparency and accountability, especially concerning equal treatment, as well as the capacity to share information among stakeholders within the news industry, which further reduces publishers' negotiating power and increases their dependency (Ouakrat, 2020, p. 49). Additionally, the fact that we are in the dark in respect to organisations or initiatives, which were not selected for funding, further aggravates the problem.

Concluding, this case study sought to present data on these two companies' funding programs to shed light on where their money goes and in which ways. It also proposed the adoption of a novel concept, that of funding intermediaries, as a way of investigating how platforms have not only been funnelling money into journalism but also how they have been trying to capture whole networks of governance. By providing novel empirical data, this case study is a critical contribution to the broader critique of platform governance's political economy and furthers the need to integrate the news industry in our scholarly endeavours to enquire into platform power. The next case study will demonstrate how EU regulators attempted to intervene in the relationship under investigation by providing novel insights into how the subsequent negotiations and power plays manifested in France.

#### 7.4. Regulating Dependency: The Case of French Publishers' Deal with Google & Facebook (Case Study #3)

During the past few years, the discussion around remuneration of news publishers from digital platforms, like search engines and social media, has reignited public interest. What was once seen as ineffective or even impossible is now gaining traction in several countries, with perhaps

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<sup>157</sup> Now known as Meta Platforms.

the most prominent examples being France and Australia. Currently, policymakers in many countries are drafting or passing legislation seeking to regulate the relationship between press publishers and, mainly US-based technological companies.

This is primarily due to the news industry's need for new revenue streams, given the structural decline in traditional resources such as subscriptions and advertising. The digital platforms' gargantuan profits make them an ideal target for regulation that seeks to develop sustainable business models for journalism, especially since Google and Facebook<sup>158</sup> have been already funnelling money into the news media industry worldwide (Fanta & Dachwitz, 2020; Papaevangelou, 2023c; Schiffrin, 2021) as we detailed in the previous section.

This third case study examines the three-year negotiations of French news publishers with Google and Facebook, which concluded with: one five-year deal struck in November 2021 between Google and Agence-France Presse (AFP)<sup>159</sup>; a three-year deal signed in March 2022 between the *Alliance de la presse d'information générale* (APIG) - the largest union of French daily newspapers - and Google, as well as APIG's deal with Facebook in October 2021; and, last, another three-year deal between the *Syndicat des éditeurs de la presse magazine*<sup>160</sup> (SEPM) and Google in March 2022 (Rosemain, 2021).

Previous attempts of creating the framework to provide some sort of remuneration for publishers' editorial content led to Google blocking its "Google News" service in Germany and Spain (Colangelo & Torti, 2019; Senftleben et al., 2017) or Facebook briefly barring Australian users from sharing news content (Taylor, 2022). History repeated itself in the case of France's transposition of the new Copyright Directive in 2019, with Google pulling the plug on the ability of press publishers' content to appear on its services (Barbière, 2019).

For our analysis, we look at the historical trajectory of how these deals were made possible and study them to identify similarities and differences. In the following sections, we examine the deals' details by analysing secondary sources, like leaks, press releases and rulings of the French competition authority (*Autorité de la Concurrence*; ADLC). It should be noted that we did not analyse the documents from a legal studies standpoint; that is, we did not delve into technical details, as we were mostly interested in their political-economic impact on the publishers-platforms' relationship.

We draw from the work of Smyrniaios and Rebillard (2019) to understand how the French news industry has historically spearheaded negotiations with infomediaries, a process characterised by "[the] dominance of the infomediaries over publishers and, simultaneously, a collusion between these two types of actors that leads the latter to dilute their editorial

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158 Formerly known as Facebook.

159 <https://www.afp.com/sites/default/files/afpcommuniqu202111/pdf/cpaifpgooglefr.pdf>.

160 Association of magazine press publishers.

autonomy while the former gain power over news production and distribution” (Smyrniaios & Rebillard, 2019, p. 45).

This helps us to explore why France has become the background for many developments in regulating the publishers-platforms’ relationship, as well as why it became so turbulent (Bousquet & Amiel, 2021): from AFP’s lawsuit against Google in 2006 (Cozens, 2005) to the creation of Google’s “Digital Innovation Fund” in 2013 and the French publishers’ complaint to ADLC in 2021. Furthermore, we trace Google’s attempt to capture news media in France and examine the asymmetrical power it has muscled over the news industry. Hence, we demonstrate how Google’s stance and the ADLC’s decisions affected the outcome of the negotiations, including the deals signed with Facebook. In this case study, we explain how the EU attempted to satisfy publishers through copyright regulation, that is by creating a right to remuneration for the reuse of their content by infomediators.

However, this is but a part of a larger mosaic assembling the political economy of platform governance, alongside issues of competition, privacy, platform funding, lobbying, and others. With this case study, we wish to shed light on the undergoing transformation of the relationship between news organisations and online intermediaries, that organise, curate, distribute and, increasingly, fund news content. It also serves as a prime example of the political-economic stakes of this relationship, with implications that go beyond the news industry. All these dimensions are essential to understanding the complex functioning of the contemporary digital public sphere.

#### 7.4.1. Methodology of Case Study #3

Qualitative methods are widely preferred by researchers who are studying institutional processes of a given field and, largely, the political-economic implications of a regulatory development. We consider our case study to be a “detailed examination of an aspect of a historical episode to develop or test historical explanations that may be generalizable to other events” (George & Bennett, 2005, p. 5). Our methodological and analytical approach for this analysis is inspired by scholarly work done regarding the Australian NMBC passed in 2021 and how it was developed (Flew & Wilding, 2021). Specifically, Flew and Wilding analysed a report of the Australian Competition and Consumer Commission (hereinafter ACCC) that examined the dominance that Google and Meta hold over traditional news media publishers (Flew & Wilding, 2021, p. 51).

This case study draws from relevant document materials, namely ADLC’s decisions, a parliamentary report on the application and impact of related rights<sup>161</sup>, press releases of all involved negotiating parties, numerous news articles containing information on the story’s development, as well as interview data. More specifically, the two decisions of ADLC examined here are *20-MC-01* from 09/04/2020<sup>162</sup> and *21-D-17* from 12/07/2021<sup>163</sup>. The former refers to the decision made by ADLC to grant requests of press publishers, namely APIG, SEPM and AFP, who had lodged an official complaint with the Authority against Google’s implementation of the French law transposing the European Directive on Copyright and Related Rights in the Digital Single Market<sup>164</sup>, which introduced a related right for press publishers allowing them to demand remuneration for the (re)use of their content by intermediaries.

#### 7.4.2. The Road to the Updated European Copyright Directive & Google’s Role

France has historically been at the epicentre of policymaking in relation to regulating the publishers-platforms’ relationship. For instance, in 2013, Google responded to the French government’s pressure by creating a €60-million fund “to support press publishers’ innovation projects, which was the blueprint for the DNI & the GNI<sup>165</sup>” (Fanta and Dachwitz, 2020, p. 89). Going even further in the past, the tumultuous launch of Google News in France in 2003 caused many French publishers, that participated in an association called *Groupement des éditeurs de services en ligne* (GESTE)<sup>166</sup>, to temporarily withdraw their content from Google News (Smyrniaios, 2021).

Thus, the GNI came at a time when online platforms were facing regulatory scrutiny on many levels and marked Google’s attempt to, on the one hand, not fall behind Facebook’s own global funding program and, on the other hand, to further expand its platformisation strategy. This was not the only time this had happened, as we explain in the next paragraphs. France was the first State-member in the EU to transpose the revamped European Copyright Directive, which, among others, included Article 15 regarding the “Protection of press publications concerning online uses”<sup>167</sup>. This Article introduced a related right to copyright for

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<sup>161</sup> “Neighbouring rights,” “ancillary rights” and “related rights” are synonymous terms. They describe the rights of a creative work not connected with the work’s actual author – in this case rights on content that are granted to publishers. We choose to use “related rights” as it is the term used in the European directive.

<sup>162</sup> <https://www.autoritedelaconurrence.fr/en/decision/requests-interim-measures-syndicat-des-editeurs-de-la-presse-magazine-alliance-de-la>.

<sup>163</sup> <https://www.autoritedelaconurrence.fr/en/press-release/remuneration-related-rights-press-publishers-and-agencies-autorite-fines-google-500>.

<sup>164</sup> <https://eur-lex.europa.eu/eli/dir/2019/790/oj>.

<sup>165</sup> DNI stands for Google’s Digital News Initiative fund, which later became Google News Initiative.

<sup>166</sup> Group of publishers of online services

<sup>167</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32019L0790&from=EN>.

press publishers opening, thus, the way for publishers to start receiving some sort of remuneration for the (re)use of their content – including indexing in search engines – by online intermediaries (Danbury, 2021). This right is set to expire two years after the appearance date of a press publication (Art 15(4)).

Basically, Article 15 introduced these ancillary rights by extending the rights “provided for in Article 2 and Article 3(2) of Directive 2001/29/EC for the online use of press publications by information society service providers” with the exceptions of “private or non-commercial uses,” “hyperlinking” and “use of individual words or very short extracts of a press publication” (so-called “snippets”)<sup>168</sup>. Articles 2 and 3 of the ECD effectively introduced “the exclusive right to [authorise] or prohibit [...] reproduction by any means and in any form”<sup>169</sup> of many a type of content, without though mentioning news content, which was introduced in the revamped Copyright Directive (EC, 2019).

It ought to be reminded here, that Germany had passed a similar law in 2013 in a bid to make Google pay for indexing news content<sup>170</sup>. Subsequently, it would not be far-fetched to contend that the revamped European Directive on copyright was largely based on that old German law. For instance, both texts include an exception for short extracts of content in Section 49 of the - now defunct<sup>171</sup> - German law<sup>172</sup> and in recital 58 (and indicated in Art. 15) of the European Directive. The “snippet exemption” found in Section 87g of the German implementation has practically the same language and effect<sup>173</sup>. Nonetheless, as copyright experts have written, due to the law’s vague language, Google was able to avoid paying for the demanded license and, thus, proceeded with listing only links of articles on its search engine (Nordemann and Jehle, 2019).

VG Media (now Corint Media), an organisation of around 200 press publishers wished to “[capitalise] on the German law” (Ten Wolde & Auchard, 2014) and prohibited Google from using snippets of texts and images of news articles in its search engine’s results without a license. As copyright experts have written, due to the law’s loose language, Google was able to deny paying for the demanded license and, thus, proceeded with listing only links of articles (Nordemann & Jehle, 2019).

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<sup>168</sup> <https://eur-lex.europa.eu/eli/dir/2019/790/oj>.

<sup>169</sup> <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32001L0029:en:HTML>.

<sup>170</sup> [https://www.gesetze-im-internet.de/englisch\\_urhg/index.html](https://www.gesetze-im-internet.de/englisch_urhg/index.html). This would later go on to serve as the foundation for Article 15 of the Copyright Directive.

<sup>171</sup> The law was deemed unenforceable “due to formal reasons” as explained in great technical detail here: <http://copyrightblog.kluweriplaw.com/2019/11/11/vg-media-google-german-press-publishers-right-declared-unenforceable-by-the-cjeu-for-formal-reasons-but-it-will-soon-be-re-born/>.

<sup>172</sup> [https://web.archive.org/web/20190909173511/http://www.gesetze-im-internet.de/englisch\\_urhg/englisch\\_urhg.html](https://web.archive.org/web/20190909173511/http://www.gesetze-im-internet.de/englisch_urhg/englisch_urhg.html).

<sup>173</sup> [https://www.gesetze-im-internet.de/englisch\\_urhg/](https://www.gesetze-im-internet.de/englisch_urhg/).



After a short conflict with German publishers, business continued as usual with publishers waiving their right to remuneration as their visitor metrics had plummeted (Nordemann & Jehle, 2019). Therefore, we can understand that the Commission sought to remedy wrongdoings related to the implementation of the German copyright law and to shut any loopholes that let platforms avoid paying for news content. Furthermore, in 2014, the Spanish government passed a stricter law that essentially made the distribution or re-use of small samples of content on online aggregators “illegal without a payment to the Spanish Association of Newspaper Publishers” (C. Smith, 2014). Google retaliated by closing its Google News service altogether for almost eight years, as it was only recently re-activated, after Spain complied with the new European copyright framework (Vincent, 2021).

Certainly, the Copyright Directive and the principle upon which is based, that of creating a right, primarily, for snippets of content reused or indexed in search engines and news feeds is not without controversy. Camilla Bustani, Director international at Ofcom, believes that policymakers went for tethering copyright to news snippets as the most practical way of finding a formula to produce a reason to remunerate publishers, characterising it as “the low-hanging fruit” (Interview #10). In addition, lobbying seems to have played a decisive role in shaping the final text. For example, Ms. Mazgal described how her organisation tried to get hold of notes from meetings that took place during the Copyright Directive negotiations between rightsholders, platforms and the Commission, and had “five pages of conclusions which are blacked out” (Interview #15).

Ms. Mazgal also highlighted how the Commission, practically, pushed hard for copyright as a remedy to journalism’s crisis despite, on the one hand, its prior inaction and, on the other hand, publishers’ own prior embrace of platforms’ services. Paul Keller expressed the same opinion, stating that the whole policymaking process behind it was “divisive,” arguing that “it is clearly not the solution for this [aiding journalism]. Copyright creates more problems than it actually solves” (Interview #20). On the contrary, it seems that industry stakeholders were more or less happy with the outcome: “We definitely welcome the fact that there are some remuneration proposals on the table; it’s a very good sign, and this is the product of the Copyright Directive we advocated for [...] So, I think the copyright directive was a very good example of the very intense lobbying, but also the importance of the interests at stake” (Wout van Wijck #13). Notably, Ms. Raoux also stressed the importance of copyright as a concept “because copyright allows you to retain control and to be the one deciding whom you want to negotiate with, and from whom you want to be remunerated” (Interviews #13, #14).

In 2021, the Australian government passed the NMBC<sup>174</sup>, which encourages platforms to negotiate and strike deals with news publishers for the use of their content. If the two parties fail to agree, the law provides for the intervention of an arbitrator to decide on the amount. NMBC has been seen more as a way of levelling the playing field from a competitive standpoint, instead of a purely copyright one, as in the case of the EU. Additionally, EU publishers we interviewed seem to agree that the notion of an arbitrator does hold merit and was the primary driving force behind the deals struck in Australia (Interview #13).

By and large, the dominant discourse holds that it was large incumbent players who pushed the former Australian government to pass this law: "When I look at the Australia case, I see Murdoch putting enormous amounts of pressure on the government to take definitive action" (Interview #10). Yet, according to empirical research, the law had a positive net effect in the national journalism industry (Meese & Hurcombe, 2022), providing Australian news organisations with more than \$150 million (Grueskin, 2022). It has also made many governments across the world to consider taking similar action, causing a "Canberra effect," to paraphrase Anu Bradford's "Brussels Effect" concept (Bradford, 2012).

While Google began negotiations with some news media companies, Facebook responded by barring Australian users from accessing news content on its services (Bailo et al., 2021, p. 3). This reaction caused severe backlash in terms of public relations as, alongside news content, Facebook also prevented public health authorities' content from circulating in the middle of a pandemic crisis (Smyth & Murphy, 2021a; Steffens, 2021) before, finally, agreeing to comply with the novel law, albeit after the government accepted adjustments proposed by Facebook (Smyth & Murphy, 2021b).

Conversely, one of the large technology conglomerates, Microsoft, supported the government's regulation and, thus, sided with press publishers on this debate (B. Smith, 2021). Likewise, Microsoft also sided with their side in the spat concerning the ancillary or neighbouring rights in the EU, opposing Facebook and Google (Barker, 2021; Chee, 2021). Certainly, this was done to advance its own interests as it lags behind its other competitors in various fields, like online advertising, searching, etc. Though, what Microsoft did not expect was that it would get sued from the same EU publishers it supported, namely one of the largest publishing houses, Corint Media, for offering extremely low remuneration fees for their neighbouring rights that were introduced with the EU Copyright Directive (Kabelka, 2022; Mody, 2022).

The above examples demonstrate the asymmetrical power that these companies can exert over the news industry, as well as the harmful way with which they have reacted when

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174 [https://www.aph.gov.au/Parliamentary\\_Business/Bills\\_Legislation/Bills\\_Search\\_Results/Result?bId=r6652](https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bId=r6652).

faced with the risk of regulation. Following a historical institutionalist approach, we can indeed infer that “different countries or societies can develop dramatically different institutional responses to the same macrosocial structures” (Bannerman & Haggart, 2015, p. 5). Interestingly, though, the response of platforms in all cited examples remains effectively the same: in addition to more traditional lobbying practices, they have been leveraging their power through censorship and media deplatformisation (Papaevangelou & Smyrniotis, 2022a, 2022b; van Dijck & Lin, 2022) to influence policymaking with little regard for the public interest.

We could argue, then, that France proved to be a successful testing ground for Google’s future funding initiatives because the negotiations took place before the actual regulation. So, under the risk of a possible regulation, Google agreed to pay French news publishers, albeit on its own terms; a pattern that would dictate all similar future deals and negotiations. As such, we believe that our case study is of utmost relevance and importance as it allows us to conceive platforms’ largest strategy to incorporate striking deals with and providing funding to journalists as a means of fending off or adjusting stricter regulation, as well as capturing broader networks of governance that may influence public discourse.

Moreover, as deduced from our interviews, this case study also indicates a new chapter in the relationship between platforms and journalism, with journalist associations playing an important role in governance processes about regulatory frameworks. For instance, Mr. Petillault acknowledged that, currently, their primary role is to “negotiate neighbouring rights with the major digital platforms” except for advising their members (Interview #18).

#### 7.4.3. APIG against Google

APIG was created in 2018 following the merge of four historic unions, namely the *Syndicat de la Presse Quotidienne Nationale*, the *Syndicat de la Presse Quotidienne Régionale*, the *Syndicat de la Presse Quotidienne Départementale* and the *Syndicat de la Presse Hebdomadaire Régionale*<sup>175</sup>. The organisation brings together and represents nearly 300 political and general news titles both on a regional and local level, including the most prestigious Paris-based dailies like *Le Monde*, *Le Figaro* and *Libération*. Pierre Louette, the President of APIG and CEO of *Groupe Les Echos-Le Parisien* which is part of the powerful LVMH group, has supported the idea of remunerating the news industry based on related rights, arguing that: “it is the birth of a new category of stable income” (Valentini, 2021).

It is also worth noting that Philippe Jannet, the first press executive in the world to formulate a collective demand for remuneration from Google on behalf of the GESTE in 2003

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<sup>175</sup> The Association of the National Daily Press, the Association of the Regional Daily Press, the Association of the Departmental Daily Press and the Association of the Regional Weekly Press; <https://www.alliancepresse.fr/notre-histoire/>.

when Google News launched in France, was also CEO of *Les Echos* at the time (Andrieu, 2003). Thus, the same prominent players, mainly Parisian financial and political newspapers, were elaborating for years the arguments that were adopted by the French publishers involved in this litigation. APIG was the first among the three complainants to strike an agreement with Google in January 2021, which due to ADLC's second decision in July 2021, became inoperable; finally, a new framework agreement was signed in March 2022. APIG also is the only association to have signed an agreement with Facebook regarding related rights.

Financial details concerning these framework agreements were not made publicly available neither for Google nor for Facebook. A report from Reuters mentioned that the initial deal with Google involved approximately €67 million for three years (Rosemain, 2021); details regarding the second deal were not revealed. For instance, *Le Monde* would reportedly receive approximately €1,5 million, while a local outlet, *La Voix de la Haute Marne*, would receive only €12,500. Even though the initial deal is no longer effective, the fact that larger outlets would have received substantially more money than smaller ones is telling of two things: on the one hand that exist inequalities among industry players and, on the other, that even though collective negotiation made striking deals more likely, it did not necessarily help remedy imbalances.

However, we were able to learn a lot through interviewing experts and by closely studying relevant document material. Pierre Petillault used the analogy of “David against Goliath” to comment on how negotiations played out with Google (Interview #18). Our first interview was conducted before ADLC's final ruling and their subsequent framework agreement with Facebook. During that time, Mr. Petillault was much more agitated compared to the second interview as regards platforms' stance; he recalled being in the brink of “[explosion] during the course of [their] meeting” with Google in early 2020. This was because they were trying to secure a framework agreement that would allow all APIG's members to individually negotiate neighbouring rights' remuneration with Google, including smaller local titles most commonly known as “Presse-Quotidienne Régionale” or PQR (Bousquet & Amiel, 2021),

However, Google pushed hard against, primarily, two positions: on the one hand, they were willing to remunerate news outlets that fell into the category of general and political information and not specialised press<sup>176</sup> (e.g., sports daily *L'Équipe* was excluded from the deal) and, perhaps most crucially, they wished to group the two licences of GNS and Google News into one, which APIG did not accept (Interview #18). The former became a major point

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<sup>176</sup> In France, media publishers that meet the criteria of Article 1 of the decree of 29 October 2009 may be recognised as providing “political and general information” (IPG) which makes them eligible for public funding and tax breaks.

of contention between APIG and SEPM because the former, finally, accepted Google's framing despite trying to convince Google that it was not what the law said (Interview #18). As a matter of fact, ADLC's 21-D-17 decision specifically condemned that framing, which would exclude numerous media from benefiting from related rights (ADLC, 2021a, p. 83).

The latter was what sparked a strong debate between negotiating sides and, effectively, pushed APIG and the other complainants to take Google to court. ADLC reacted quite fast and, even before its final decision, issued an interim decision that practically condemned Google for negotiating in bad faith for trying to bundle these licences together (Interview #18). Mr. Petillault told us that Google "must have choked" when they saw this because it was, essentially, endangering Google's way of governing its relationship with publishers worldwide. In other words, Google representatives told APIG that the fact that ADLC demands that these rights to be remunerated separately creates a precedent that "will make things worse for ourselves [i.e., Google]."

So, Google abruptly froze their negotiations, which pressurised APIG and its members, who were then seeking answers regarding the negotiations' progress. Thus, APIG compromised and made a deal, which Mr. Petillault said was a "good compromise" but which could have been more "advantageous if we had waited 1 year [or more]"; "you see, we can't have a free negotiation under these conditions, it's not possible." As Mr. van Wijck commented, "Google overnight changed its terms and conditions and said to publishers, if you want to be visible, you have to give us a license for free, because we will be applying the Copyright Directive the way we want. Only a big monopolistic company can do that" (Interview #13). However, the situation changed after ADLC's final decision. We will delve into that second part of the negotiations later in this case study (1.4.6).

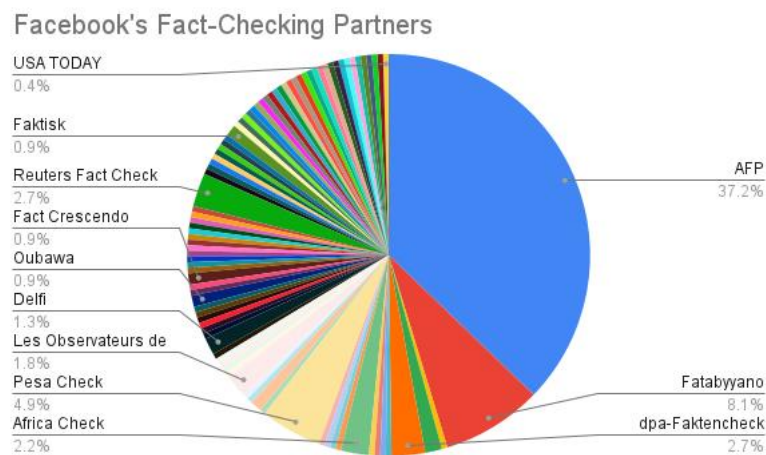
#### 7.4.4. The Unique Case of AFP

As we mentioned earlier, the French news industry has been at the forefront of demanding remuneration for the reuse of their content by online platforms. A case in point is when AFP sued Google in 2005 for having "breached its copyright by reproducing its pictures and articles" in the Google News section (Cozens, 2005). The two parties settled the lawsuit two years later, with Google paying AFP an undisclosed sum of money to continue displaying content on its services, but more details were never made publicly available (Auchard, 2007; Smyrniotis & Rebillard, 2019, p. 40). This deal, alongside with a similar one made with Associate Press, are the first occasions in history where Google conceded sharing revenue with a publisher. Currently, AFP does not partake in any of the aforementioned associations.

Nonetheless, it decided to collaborate with them in their bid against Google by lodging a complaint to the ADLC. AFP signed its own agreement with Google in November 2021 and, particularly, one that will last five years instead of the three-year deals signed by the other associations (France 24, 2022). Fabrice Fries, CEO of AFP, also attested in the parliamentary hearings that the international status and elevated prestige of the news agency helped secure a higher amount of remuneration than the ones obtained by other publishers (Duby-Muller & Garcia, 2022, p. 65). As a result, we would be remiss not to mention here some of the other financial arrangements between AFP and the two largest private funders of journalism, Google and Facebook.

Specifically, AFP has become one of the most important fact-checking organisations worldwide, with the support of platforms and the French government. Currently, “Facebook is one of the largest AFP customers in the world” Michèle Léridon told me (Interview #9). Indeed, from our own research, we found that AFP enjoys the lion’s share in Facebook’s Fact-Checking Partners global program (Goldshlager, 2019). Specifically, it appears in 83 countries and takes up 37% of the Facebook’s fact-checking program (Figure 46).

Figure 46 - Facebook's Fact-Checking Partners Global Program



In December 2021, a month after signing the agreement on related rights, Google and AFP announced their collaboration on a fact-checking project related to the French presidential and legislative elections of 2022, called *Objectif Desinfox*<sup>177</sup>; this was seen as an expansion of their past work on election-related fact-checking from the last presidential elections in 2017. This time, the two parties created a coalition of 21 French news organisations, coordinated by AFP, aiming to share forces to combat disinformation, which put AFP at a rather privileged position within the media ecosystem. Finally, we must mention that the company is also bound by the French law 57-32 of 10 January 1957<sup>178</sup>, which stipulates that “in no circumstances [can it] be

<sup>177</sup> Objective: Combat Fake News: <https://www.afp.com/en/inside-afp/afp-google-team-fact-check-french-polls>.  
<sup>178</sup> <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000000315388/>.

influenced by anything which might compromise the accuracy or objectivity of information.” This has allowed it to achieve significant socio-political legitimacy in spite of receiving massive influx of platform money.

Figure 47 – Timeline of Case Study #3<sup>179</sup>



<sup>179</sup> A larger size can be accessed here: <https://prezi.com/i/view/1VcwBpaUCyRnTp6CTWUO>.

#### 7.4.5. Magazines and independent online publishers: the outsiders

SEPM is the leading association of magazine publishers for the “general public” in France. This is very specific to France, where the news market is, practically, separated in two large categories, that of political and general information, on the one part, and, on the other, the “specialised” press, which mostly refers to magazines that cover specific topics, like sports (Interview #18); all agreements and negotiations described in this case study relate to the former category.

Nonetheless, SEPM was first formed in 1982 but was merged with the *Syndicat professionnel de la presse magazine et d'opinion* (SPPMO) in 2012<sup>180</sup> and now represents 80 publishers and more than 400 magazines across France<sup>181</sup>. SEPM was the last association to sign an agreement with Google in April 2022, following another complaint lodged in 10 January 2022 (C. Cohen, 2022). Unfortunately, we did not have the opportunity to interview somebody from SEPM, despite our efforts. This is certainly one limitation regarding this case study as it would have provided further coherence to our argumentation, as well as a better comprehension of the negotiations.

This time, though, the complaint was filed solely by SEPM, as the other two associations had already signed different deals. SEPM argued that Google had not “respected” the injunctions announced by ADLC, indicating that the company had likely negotiated different terms with the other complainants. In any case, it seems that the pressure put on Google by that last complaint, along with its wish to conclude negotiations with the French news industry, opened the way for a framework agreement that will last three years, with Google distributing around €20 million per year to the association’s participants (OFFREMEDIA, 2022).

Finally, in June 2021, SEPM joined forces with *la Fédération nationale de la presse d'information spécialisée* (FNPS) that represents “[specialised] and professional” press and *le Syndicat de la presse d'information indépendante en ligne* (Spiil) that represents independent online media, to launch a dedicated collective copyright management organisation that will collect and distribute related rights’ remuneration among member publishers. As the Parliamentary Report about the application of the law on related rights in France claimed, such organisations “limit the [market] distortions without favouring the big publications and by allowing the smaller ones to defend themselves” (Duby-Muller & Garcia, 2022, p. 51).

This happens through the method of *péréquation*, i.e., balancing costs or revenue among different parties to achieve a more just distribution than the one obtained through simple

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<sup>180</sup> <https://archive.wikiwix.com/cache/index2.php?url=http%3A%2F%2Fwww.sppmo.org%2FLe-2-mai-dernier-le-SPPMO-est.html#federation=archive.wikiwix.com>.

<sup>181</sup> <http://www.lapressemagazine.fr/presentation>.



market mechanisms<sup>182</sup>. However, neither AFP nor APIG, who appear to be Google's privileged contacts, have yet joined this organisation, which significantly weakens its negotiating power. Therefore, one can observe that power asymmetries characterise not only the relationship between publishers and platforms, but also those between different news industry stakeholders themselves.

#### 7.4.6. The Role of the French Competition Authority

As mentioned earlier, a couple of months after France implemented the new European Directive as national law, Google unilaterally stopped showing news snippets to its French users unless it had first explicitly received permission from publishers, which would have amounted to waiving their right to remuneration (Gingras, 2019). This reaction was what caused French publishers to come together and lodge a formal complaint to the ADLC against the way in which Google had interpreted and applied the copyright law, arguing it had “[abused] a dominant position” (ADLC, 2020, p. 3).

The ADLC found Google's practices as “anti-competitive” (p. 4) and issued a decision in April 2020 (20-MC-01), ordering interim measures to be applied until the announcement of its final decision, namely:

- Publishers and news agencies had to enter negotiations “in good faith” with Google, within a period of three months after such a request had been made, to discuss both the terms and conditions for the reuse and indexing of their content and the corresponding – retroactive – remuneration (Injunctions 4 & 5)
- Google had to provide sufficient information regarding the criteria and parameters of calculating remuneration fees (Injunction 2)
- During the period of negotiations, Google had to continue displaying snippets and audio-visual content in its search engine in a neutral way, i.e., without downgrading it (Injunctions 3, 5 & 6).
- Finally, Google had to send an initial report to the ADLC on its compliance with the obligations (Injunction 7).

ADLC based its decision on the fact that, at the time, Google “[was] likely to hold a dominant position on the French market for general search services” (ADLC, 2020, p. 3). Specifically, it argued that “Google may have abused its dominant position to circumvent the Law on Related Rights” for having forced the hand of publishers to waive their right to remuneration by granting free licenses to Google, for not having shared critical information regarding the way

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<sup>182</sup> In France, the newspaper distribution system is traditionally based on a collective mechanism of *péréquation*, i.e., the distribution of costs among publishers to assure diversity and pluralism.

of determining the level of remuneration and, last, for having unilaterally blocked short extracts and other audiovisual content from its search engine (2020, p. 4).

Another important point in the development of our case study was the decision of ADLC on 7 June 2021 (21-D-11) in relation to Google's practices in the online advertising sector in France, which fined the company with €200 million for "having abused its dominant position in the market for ad servers for publishers of websites and mobile apps" (ADLC, 2021b, p. 3). This time, the case was brought to the Authority's attention by *News Corp Inc.*, *Groupe Figaro* and *Groupe Rossel La Voix*, all of which are press publishers and important stakeholders of the news industry in France and beyond.

One month later, on 13 July 2021, ADLC issued its final decision (21-D-17) concerning the interim measures that had been announced with its previous decision of April 2020 (20-MC-01). The Authority fined Google with €500 million, primarily, for not having complied with injunctions 1, 2, 5 and 6; most importantly, the decision condemned Google's attempt to connect the payment of publishers' related rights to their use of the newly launched GNS<sup>183</sup>. The ADLC also took into consideration the decision of the Paris Court of Appeal from 8 October 2020, which dismissed Google's argument that the company would jeopardise "improvements and innovations" of its services if it complied with all foreseen obligations (ADLC, 2021a, p. 3).

Subsequently, Google proposed eight commitments to the ADLC, applicable for five years, as remedies for the infringed injunctions (Google, 2021), agreeing *inter alia* to negotiate a separate license for GNS. Mr. Petillault clarified that, while there are going to be two distinct licences, the license for GNS "is going to be party based on neighbouring rights." This was a concession from Google, which sought to, on the one hand, disengage itself from an on-going legal spar with the ADLC and the French news industry, especially shortly after Facebook had announced a framework agreement with APIG and, on the other, to avoid further negative publicity (C. Cohen, 2021).

As Mr. Petillault put it, "Google wanted to focus on discussions to protect itself from the potential domino effect of what that decision could yield to French publishers, to other European or international markets and to other sectors of activity" (Interview #18). However, the ADLC's input was decisive in changing the tide of the negotiation. Thus, Ms. Raoux asserted, that regulatory authorities and judges should examine similar cases both from the perspective of competition and copyright and wished for the "[European] Commission to

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<sup>183</sup> Google statement described Showcase as "a licensing program for news publishers that provides a customizable, curated space for news content in Google News and Discover. These are not payments for links, snippets, short extracts, or headlines." <https://news.google.com/news-showcase/>.

codify what the French Competition Authority has said so that reasoning will spread across Europe” (Interview #13, #14).

Notably, the ADLC’s decisions influenced the negotiations and subsequent framework agreements struck between APIG and Facebook. This became rather apparent in the second interview we had with Mr. Petillault, where he described a wholly different situation vis-à-vis the negotiations with the other technology giant. He argued that it helped that they did not have an open litigation with them, as with Google, because that would have created a different situation legally as Facebook has not been identified as “having a dominant position in the market” by the competition authorities; though this might soon change according to recent reports (Capital, 2022).

Yet, Facebook probably feared similar public and legal repercussions and, as Mr. Petillault put it, “we had people in front of [us] who wanted a deal and wanted to get there [as quickly as possible].” He also connected the swiftness of the negotiations with the fact that, at the time, Facebook was under a barrage of public-relations attack regarding its handling of COVID-19 disinformation, referring to President Biden’s remark about Facebook “killing people” (Kanno-Youngs & Kang, 2021). Thus, he expressed the opinion that “Facebook wanted to sign an agreement and show that it supported quality information” (Interview #18).

Specifically, the deal with Facebook covers a period of three years, with the option of renewing it, and stipulates that every publisher participating in APIG will receive a minimum remuneration fee in a retroactive way, i.e., it will cover related rights’ fees owed to publishers since the law’s implementation in July 2019. Moreover, Facebook agreed right off the bat to have two individual licences, one for Facebook News and one for the “separate existing services,” i.e., the news feed. To clarify, Facebook News refers to the dedicated, personalised space that is accessible through Facebook’s mobile application, which hosts only news content from partners. According to Facebook’s website, the service is currently available only to the UK<sup>184</sup>.

Finally, through our interviews, we learned that there are three parameters that determine the amount of remuneration: (i) the number of Facebook followers, (ii) the number of interactions of publishers’ posts, and (iii) the numbers of visitors outside of Facebook as evaluated by ACPM<sup>185</sup>. So, we could assume that similar parameters exist for determining Google’s amount of remuneration.

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<sup>184</sup> <https://www.facebook.com/news/learn-more>.

<sup>185</sup> <https://www.acpm.fr>.

#### 7.4.7. The Risk of Regulating Platform Dependency & The Positive Role of Regulation

By now, it has become clear that Facebook and Google are among the largest benefactors of journalism worldwide (Fanta & Dachwitz, 2020; Jurno & D'Andréa, 2020; Papaevangelou, 2023b). Indeed, Meta and Google have claimed that they have so far invested more than \$900 million in the news industry and have pledged to spend close to \$1,5 billion combined (Scutari, 2022)<sup>186</sup>. These funding initiatives are distinct from the licensing programs they offer, like GNS or Facebook News or other commercial services, like Subscribe with Google<sup>187</sup>.

As a result, we are left in the dark regarding the figures of their funding for journalism programs and we lack exact information about the reach of these initiatives due to the opaqueness and complexity of their activities. Beyond the detailed empirical evidence referenced in this chapter, “Subscribe with Google” is another similar example. It is basically a way for participating publishers to allow Google to co-opt in their subscription services<sup>188</sup>.

*Le Monde* is such a partner and, in addition, gives premium options to prospective subscribers, like giving them a discounted subscription rate if they do so through Google's system. Mr. Petillault informed us that these partnerships are secret deals and assessed that the publishers of APIG “seem to be quite happy” with this. But he expressed that this was part of Google's broader strategy to drive news media organisations away from the advertising model. As he vividly put it: “certain analysts in the sector, who are sometimes paid by Google, say: ‘the model for the future of the press is subscription. Forget about advertising. Your future in the economy is subscription. In other words, advertising is for us, right?’” (Interview #18).

Furthermore, Google also signed individual agreements with more than a dozen of French news organisations between the end of 2020 and beginning of 2021, and did not disclose neither the content nor the amounts involved (Duby-Muller & Garcia, 2022, p. 65). These agreements were based on related rights but were done outside the remits of the negotiations taking place with the parties presented in this case study, even though some of these organisations, like *Le Monde*, partake in them. In addition, the selected publishers were also given privileged access to services such as Subscribe with Google and GNS. An investigative journalist emailed me a leaked contract signed between Google and *Le Monde* for the remuneration of neighbouring rights concerning the period between January 2022 to January 2025; this will not be provided in this dissertation's Annex for legal reasons but the sum involved will be shared to get a sense of the political-economic stakes:

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<sup>186</sup> <https://www.facebook.com/journalismproject/introducing-facebook-journalism-project>.

<sup>187</sup> Subscribe with Google

<sup>188</sup> <https://support.google.com/googlenews/answer/7668730?hl=en>.

*Google will pay Publisher the fees as follows: Euros 1,502,468 per year with effect from 1 January 2022 and a retroactive fee of Euros 2,044,277 for the period between 24 October 2019 and 31 December 2021 to be paid together with the first payment which is made after the Effective Date [i.e., 24 October 2019]*

Consequently, we reckon that this “divide and conquer” strategy of monopolistic digital platforms contributes to further fragmentation of the news ecosystem and weakening of smaller publishers. The same applies to audio-visual media and, particularly, TV channels; we did not include them in our study because they do not participate in the negotiations sanctioned by the French public authorities. However, the most important ones, such as the TF1 group, have already signed deals of mutual agreement, notably with Google, including favourable revenue sharing for content published on YouTube (Reuters Staff, 2014).

We also noticed that associations have been trying to promote their constituent members’ interests, fuelling “inter-capitalist competition” (Flew et al., 2021, p. 129) and, thus, making platform governance even more complicated with clusters of stakeholders (re)formulating in a procedural manner, i.e., based on their evolving relations and interests. Therefore, it seems that the news industry has incited an interesting balance shift in stakeholders’ relations and platform regulation. This could explain why, primarily, Google and Facebook have developed numerous funding initiatives for journalism. It is part of their “co-opetition” strategy (Daidj & Jung, 2011): competing for better leverage over political, social, media and regulatory scrutiny, while at the same time cooperating – albeit indirectly – by employing the same strategies and distributing resources through funding intermediaries.

Furthermore, while the ADLC played a positive role in limiting platforms’ leverage, we also ought to underline the political context which undermined its work in favour of monopolistic platforms. France and Germany have been among the frontrunners leading the regulatory race in the EU. We could argue, thus, that there existed a political willingness to regulate US based tech giants. French President Emmanuel Macron, though, did not renew the tenure of Isabelle de Silva, head of ADLC, because they did not see eye-to-eye regarding merger rules, with the former wanting softer rules that would allow for more concentration so that French and European technological companies could “better compete against the United States and China” (Leali & Kayali, 2021).

However, the swift and unprecedented decisions of ADLC during de Silva’s tenure, condemning harmful practices of Google, makes the above reasoning questionable. We believe that, as with the agreement to create the DNI in 2013 by François Hollande and Google’s then-

CEO Eric Schmidt, the French government demonstrates preference for the market to self-regulate, even if - or because - this means perpetuating power imbalances among stakeholders.

To summarise, this case study set out to discuss the political economy of regulation of the relationship between press publishers and online intermediaries. We examined the three-year negotiations between a large part of the French news industry and dominant technological companies, specifically Google and Meta and inferred the following:

- i. Collective bargaining is more effective for news publishers in their efforts to negotiate commercial deals with online platforms but also harder to organise because of market fragmentation and opposing interests.
- ii. There exists not only a power asymmetry between publishers and platforms but also among publishers themselves, e.g., with larger news organisations securing better deals, participating in separate platforms' commercial arrangements, and refusing to join a collective management organisation.
- iii. Independent judicial authorities can play a positive role in regulating platforms and their relationship with other governance stakeholders like press publishers if there is an enabling political and institutional environment.
- iv. Monopolistic platforms avoid sharing details of deals to ensure a fragmented negotiating front and from deterring smaller publishers to up their ante.
- v. They also unilaterally utilise their power, in cases where they cannot avoid regulation, to force their interpretation of regulatory frameworks and, thus, influence policymaking and policy-enforcing.

As such, we understand that attempting to force services like GNS onto the publishers risks of aggravating the platformisation of news and, thus, platforms' power over opinion-shaping processes (Nieborg & Poell, 2018). In a time when the news industry struggles to cope with the dominance of the advertising space by large platforms, along with recent crises like the COVID-19 pandemic, commercial deals and regulatory initiatives are bound to become increasingly common. While there is ample space for regulatory interventions seeking to level the playing field among news organisations and platforms, we are concerned these might further cement dependency of the former on the latter through co-regulatory frameworks (Ouakrat, 2020, pp. 51–52) that enable platforms to capture vital infrastructures (Nechushtai, 2018).

Concluding, as mentioned earlier, these regulatory interventions may not be sufficient to tackle systemic imbalances – even if they mean well - because they fail to challenge the concentration of power by a handful of oligopolistic private companies and, thus, give way to platforms and to the free market's idiosyncrasies to decide how they are implemented.

Similarly, the lack of political will to democratise access to this new source of revenue for all publishers, for instance through a collective management system of related rights, as suggested by other publishers like FNPS, may contribute to further concentration of the media industry and thus limit pluralism of opinions in the public sphere (FNPS, 2021)

In the next chapter, we will delve into another aspect of the complicated relationship between journalists and online platforms, namely concerning the contestation of two different systems of governance, content moderation and editorial policies. We will also see how the EU has been attempting to provide another regulatory remedy for this conflictual relationship's facet.

## 8. The Complicated Relationship Between News Media Organisations and Online Platforms in Online Content Governance

*“You're not special because you're a journalist; you're a citizen, so no special treatment” - Elon Musk, Twitter Spaces, 15/12/2022*

Amongst the many debates within the sphere of platform governance, one is particularly telling of the political stakes at play: how should journalistic content found on online intermediaries be governed? We begin this chapter with a literature review concerning platforms' content moderation systems as one of their fundamental governmentality mechanisms. We then proceed with two case studies. The first one (Case Study #4) concerns a story that developed in Greece in 2021, during a period of heated political debates and social unrest in the country, caused by the refusal of Greek authorities to grant a legal demand to Dimitris Koufontinas, a detainee serving life sentence for crimes related to domestic terrorism in Greece perpetrated as a member of the “Revolutionary Organisation 17 November,” who then went on a hunger and thirst strike endangering his life. I believe that this case study speaks to two crucial points related to this dissertation: the politics of content governance and the arbitrariness of content moderation.

The second (Case Study #5) sheds light on the negotiations that took place during the process of developing EU's holistic regulatory framework for content governance, namely the DSA, which, *inter alia*, seeks to ameliorate the way in which platforms conduct content moderation by adding “the possibility to challenge platforms' content moderation decisions and seek redress” and more transparency obligations for Very Large Online Platforms (VLOPs) – including Google, Facebook, Microsoft, etc. (EC, 2022). During the negotiations on the DSA,

journalist associations lobbied for a “non-interference” provision<sup>189</sup> that would prevent platforms from moderating editorial content that has been published by credible news sources (EPC, 2021).

### 8.1. Content Moderation and Journalism

The point concerning platforms’ content moderation is of particular importance to this chapter. As Gillespie writes, “platforms must, in some form or another, moderate” (Gillespie, 2018: 13) and, the larger the platform, the larger the difficulty of moderating at scale (Gillespie, 2020); hence they rely on automated solutions with tangible risks for fundamental rights (Kassem & Marwa, 2021; Suzor, 2020a; Zuiderveen Borgesius, 2020). This became evident during the early phase of the COVID-19 pandemic, where platforms’ employees, as well as their content moderation contractors, who are often employed in precarious conditions in developing countries (Roberts, 2019), were working from home, which caused turbulence in platforms’ scaled content moderation (João Carlos Magalhães & Christian Katzenbach, 2020).

Furthermore, in recent years, critical legal scholars have provided us with illuminating works concerning the multi-layered structure of platforms’ content governance (Douek, 2020e; Klonick, 2018). Douek notes that “[t]here are two types of automated tools used in commercial content moderation: matching systems, which compare new posts against a database of preclassified content, and predictive systems, which aim to classify new posts as against platform rules” (2020a, p. 37). In addition, Douek argues that, effectively, content moderation at scale is “a task of *systemic balancing*: Interests are balanced and error rates are [rationalised] at the level of system design” (2020a, p. 800).

Moreover, Klonick has written that moderation is, generally, either *ex-ante* or *ex-post*, i.e., it takes place either before a piece of content is published or after (Klonick, 2018: 1635). Both approaches use a combination of automated solutions (e.g., Artificial Intelligence) and human decisions based on a set of obscure self-regulatory rules (e.g., community guidelines; Hern, 2021). Accordingly, moderation is either *reactive* or *proactive*, i.e., moderators are either “passively [assessing] content” or “actively [seeking] out published content” (Klonick, 2018, p. 1635). Douek has called platforms’ persistence to self-regulation and self-governance, particularly through collaborations with other industry stakeholders that take advantage of their vast data troves and technological infrastructure, as “the rise of content cartels” which “compound the existing lack of accountability in platform content moderation” (2020d, p. 23).

In the first chapter of Tarleton Gillespie’s elucidating book *Custodians of the internet* (2018), the author recounts a story about how one Norwegian journalist named Tom Egeland

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<sup>189</sup> Some have also called it a “media exemption” provision.



got his Facebook account restricted for having shared an article containing the iconic “Napalm Girl” photograph of Nick Ut; Facebook’s content moderation team had identified it as a violation of its community guidelines. The newspaper Egeland was working for was also asked to remove or pixelate the nude figures in the photo, to which it responded by sharing an open letter to Mark Zuckerberg via the newspaper’s front page (Gillespie, 2018a, pp. 8–9). Or, consider, for instance, the infamous “Facebook Live saga,” where Facebook decided to “[prioritise] video in the News Feed” with publishers rushing to keep up with the changes and, even, replacing staff who could produce video content (Bilton, 2018; Nielsen & Ganter, 2022, p. 141).

More recently, numerous prominent journalists, mostly from the US, were suspended from Twitter, in what seems a direct decision of Elon Musk, the new proprietor of the micro-blogging company (Isaac & Conger, 2022). Despite pledges of Musk to uphold – his own interpretation of – free speech, he has demonstrated a rather selective interest. The story broke when Twitter banned all accounts that were using public data to track planes’ flight courses of high-profile individuals, including Musk and then posted their positions on the service. Journalists who retweeted these accounts or tweeted about them were suspended for violating the service’s content policies, which have become elastic since Musk’s takeover and consist of, mostly, abrupt decisions taken by the company’s new CEO<sup>190</sup>.

Subsequently, the dependency of news media organisations on online intermediaries for many of their editorial processes (Chyi et al., 2016; Sebbah et al., 2020; Siapera, 2013) has had implications on how their editorial content is governed beyond the remits of their offline or online news store. This type of dependency has induced, critical media scholars Caplan and boyd write, an “isomorphism,” whereby news media organisations are dependent on dominant platforms and, thus, more vulnerable to changes brought about by the latter without the former’s control (Caplan & boyd, 2018, p. 5). As a result, we believe that the case study presented here to be timely, as it hints at what might be a new chapter in the relationship between platforms and news media organisations considering recent regulatory developments in the EU.

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<sup>190</sup> At the time of writing, Elon Musk is still the company’s CEO. Although, he said that he was considering resigning and having someone else take over his role. As a matter of fact, he even held a poll on Twitter asking the public whether he should resign or not. “Yes” won and Musk said he would abide.

## 8.2. The Case of a Content Moderation Debacle in Greek-speaking Facebook (Case Study #4)

In the first months of 2021, a story gained prominence and public attention in Greece: one involving Facebook's obscure content moderation system and Dimitris Koufontinas, a detainee who is serving life sentence for crimes related to domestic terrorism in Greece perpetrated as a member of the "Revolutionary Organisation 17 November" (Papaevangelou & Smyrnaioi, 2022a). Our research aims to contribute to the multifaceted question of who governs the contemporary digital public sphere (Boeder, 2005), as well as to explore the political stakes of platforms' content moderation policies that, in some cases, may amount to censorship (Gillespie, 2018).

Indeed, the functioning of democratic societies depends on a fine and complex trade-off between, on the one hand, the ability to express one's opinions freely in political debate and, on the other hand, the protection of citizens from abuses such as harassment, hate speech, misleading propaganda, and political manipulation.

This chapter first discusses how Facebook's content moderation process works, along with Facebook's policies on Dangerous Individuals and Organisations, which were allegedly violated in the case we examine; second, we will briefly describe necessary contextual information regarding 17 November and Koufontinas's actions, along with what sparked the examined controversy. Finally, we present and discuss several instances of content and account restrictions that took place during the same time span, mostly between February and April 2021, and that referred to Koufontinas. Last, we conduct a case-by-case analysis to deduce if the content had indeed violated any platform policy to extrapolate what may have happened in this case and what socio-political stakes exist with the current content governance (Suzor, 2020a).

### 8.2.1. Methodology of Case Study #4

The methodology followed for this case study involved, predominantly, the collection and analysis of empirical material through searching on Facebook. The data gathered concern instances of journalists and reports who had their accounts or content suspended between 26 February and 3 March 2021, when multiple news outlets and social media users were commenting on the restrictions that were taking place on Facebook.

We used a snowball sampling approach to collect our data: we were picking up one name, searching for evidence either on or off-platform and then, we would find other journalists who had their content acted upon by Facebook. Thus, it should be stressed that the selection of cases is not comprehensive but was based on the popularity of the affected individuals or the availability of information. The data collected were archived as screenshots containing the

alleged policy violations made by the affected users. The final list consists of ten accounts (Table 11). In addition, we also wished to understand the extent of the discussion in the Greek-speaking Facebook in order to contextualise our case study; to that end, we used Facebook's CrowdTangle to query relevant keywords (CrowdTangle Team, 2020).

Afterwards, we started searching for details of each case concerning the alleged violation of policy, which allowed us to check it against the platform's policies to verify if the action was properly justified or not. We also monitored the development of the situation to see whether Facebook would revert its decisions, as the affected users were protesting that no policy was violated, something that we also corroborated through our analysis. It is worth highlighting here that, in many instances, the same content was posted on other platforms, namely Twitter, but no actions were taken against it. Finally, we also drew some insights from an interview conducted with Aimilia Givropoulou, who is a lawyer and a member of HomoDigitalis, a digital rights advocacy group in Greece (Interview #16); as a Greek she was the only interviewee familiar with the case at hand.

### 8.2.2. Facebook's System of Content Moderation

Facebook has admittedly the largest and most sophisticated content moderation system in place compared to other major social media companies (Singh, 2019). This can be explained primarily due to its vast popularity; it still is the most popular social network with 2.8 billion active users, with YouTube following with 2.3 billion active users (Statista, 2021). Having to deal with so many users, tech companies have resorted to tech solutions to police content on their platforms at scale (Gillespie, 2020; Suzor, 2020); hence many of them are increasingly relying on automated solutions based on Artificial Intelligence (AI) and Machine Learning (ML) algorithms with dire consequences, in many cases, on human rights (Kassem & Marwa, 2021; Zuiderveen Borgesius, 2020).

According to estimates, the digital content moderation industry is projected to cross the astronomic value of \$32 billion by 2031 (Bhisey, 2022). Facebook, in particular, is the biggest client of companies that undertake outsourced content moderation contracts, such as the multinational firm Accenture, whose contract with Facebook is worth at least \$500 million a year (Satariano & Isaac, 2021). More than 15,000 moderators, out of a total of 200,000 worldwide, work for Facebook as contractors, reviewing more than 3 million posts flagged by AI or reported by users every day<sup>191</sup>.

In many countries Facebook plays a vital role in a society's news diet. For instance, in Greece, where trust in media has plummeted, Facebook is the most prominent source of

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<sup>191</sup> <https://webhelp.com/news/the-ultimate-guide-to-content-moderation/>.

news consumption with “seven in ten (71%) of online users [getting] news this way each week” (Kalogeropoulos, 2020, p. 82). Its popularity, along with its history of failures to stop campaigns of disinformation and toxicity (Culloty et al., 2021), is also one of the reasons that Facebook is under the most scrutiny from the press and regulators (Gillespie, 2018).

A recurrent subject of criticism is its content moderation system that is allegedly producing 300,000 wrong decisions every day; though this probably exacerbated in the early days of the pandemics when platforms mostly relied on automated solutions (Koetsier, 2020). This is one of the most fundamental difficulties of moderating content at scale as automated solutions are incapable of understanding the nuances of human communication (Gillespie, 2020).

Facebook’s moderation can be either *ex-ante* or *ex-post*, that is either before or after a piece of content is published (Klonick, 2018, p. 1635). The *ex-ante* approach relies on automated solutions that screen the content that is being uploaded before it is published; for instance, there is a hashed database of known bad-faith actors that is shared among members of the Global Internet Forum to Counter Terrorism (GIFCT), a non-governmental organisation that Microsoft, Twitter, Facebook, and YouTube created in 2017 to prevent terrorists from using their services.

The content promoted by these actors is deleted before it is even published. Additionally, moderation can be either reactive, where “moderators passively assess content” or proactive, where “moderators actively seek out published content for removal” (Klonick, 2018, p. 1635). To this end, Facebook uses a combination of tens of thousands of human reviewers (Newton, 2021), who in many cases work in poor and dehumanizing conditions (Roberts, 2019), and opaque algorithmic processes to police content on its platform (Singh, 2019, p. 22).

As part of pipelining the process, Facebook has created a set of policies, called Community Standards, that its users must adhere to and that its moderators must follow to do their job. Yet, we know from leaked reports that there are serious problems with these standards. For instance, there have been reports of secret guidelines that Facebook provides its reviewers with (Hern, 2021) that are inaccessible to its users, as well as a whitelist that exempts quasi-VIP users from being held to the same standards (Baker-White, 2022; Horwitz, 2021); this is not limited to Facebook as other platforms employ such tactics as we will see in the next case study.

Thanks to whistle-blowers and investigative reporting, we are now aware that Facebook employs three tiers of moderators: Tier 3 moderators do the majority of “day-to-day” reviewing, such as the vast majority of user reports, and are usually outsourced to third-party

contractors outside the US, like multinational corporation Teleperformance in Greece (Παπαδόπουλος, 2019); Tier 2 moderators supervise Tier 3 moderators and are responsible for reviewing “[prioritised] or escalated content”; last, Tier 1 moderators are those who shape Facebook’s policies and are based within its headquarters (Klonick, 2018, pp. 1640-41).

In addition to these practices that further obscure Facebook’s content moderation system and seed distrust among users, the platform does not divulge much information concerning the way that user reporting is handled. We know that the reported content awaits review by a Tier 3 human moderator; in the meantime, that content, having passed the automated filters, will stay intact. It is then up to the reviewer to either take it down, leave it up or enforce other actions like visibility restrictions; if unable to determine what should be done, in most cases, it will be escalated and assigned to a Tier 2 moderator. It remains unclear if there are specific policy violations that are prioritised over others or if there are types of content that will be “frozen” (i.e., restricted) until a verdict has been made.

### 8.2.3. The Story of Koufontinas and 17 November

Before we begin discussing our case study, we ought to provide some necessary contextual information. Revolutionary Organisation 17 November (“17 November” for short) was active between 1975 and 2002; their victims included Greeks and foreigners: former torturers of Greece’s seven year-long military junta between 1967-1973, businesspeople, publishers, journalists (including the brother-in-law of current Prime Minister Kyriakos Mitsotakis), judges, police officers, secret services members, officials and ordinary staff of the US, UK and Turkish embassies in Athens, and in one instance a bystander, student Thanos Axarlian. The perpetrators were arrested in 2002 and put on trial. Several 17 November members, including Koufontinas, are still serving long prison sentences. In addition, the United States’ Secretary of State had designated the organisation as a Foreign Terrorist Organisations in 10/8/1997 and delisted them in 9/3/2015<sup>192</sup>.

After New Democracy, the traditional conservative political party of Greece, won the parliamentary election in 2019, one of the first things it did was to amend the Penal Code. Among the passed amendments, one seemed to be directed towards the case of Koufontinas: convicted terrorists would have the right to apply for parole only after having served 22 years of their sentence, and not 17 as was previously foreseen (Μάνδρου, 2019); Koufontinas had served 16 years at the time. A few months later, the government passed another bill that abolished the right for convicted terrorists to serve at the country’s rural prisons, which are

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<sup>192</sup> <https://www.state.gov/foreign-terrorist-organisations/>.

thought to have better living conditions, and had to be instead transferred to the previous serving facility where they were held (Χρονόπουλος, 2020).

Up until 2018, Koufontinas was serving at the rural prison of Kassavetia in Volos. Prior to that, he was being held in the country's largest and most secure prison complex near Athens, Korydallos. So, under the new bill, Koufontinas had to return there. However, during the same time, the government announced it would reform the Korydallos detention centre to a prison only for detainees awaiting trial; thus, it was decided to transfer Koufontinas to Domokos, 220 kilometres from Athens, a prison envisioned to be a “disciplinary centre” for political terrorists, like the founders of the neo-Nazi party “Golden Dawn” who were also serving there (Σουλιώτης, 2020).

This was seen by Koufontinas's lawyers and supporters as an unjust and illegal punishment, evidence of a vindictive state policy against him, particularly because of his participation in 1989 in the execution of journalist Pavlos Bakoyannis, the father of Athens' Mayor Kostas Bakoyannis and husband of Dora Bakoyanni, ex-minister of foreign affairs and sister of Greek Prime Minister Kyriakos Mitsotakis. Koufontinas went on hunger strike on 8 January 2021, demanding to be transferred back to Korydallos, as the law initially stipulated. He ended his hunger strike on the 14<sup>th</sup> of March, lasting 66 days (Efsyn, 2021). His life reached imminent danger after having suffered kidney failure (Associated Press, 2021). The story gained so much traction, that a Spanish MEP filed a question to the European Commission about Koufontinas's situation<sup>193</sup>, as the possibility of an inmate dying of hunger strike in an EU Member state was daunting.

The situation led to extreme polarisation within Greek society: while polls were showing that as much as 60% to 70% of Greeks were opposed to satisfying Koufontinas's demands, thousands of leftists and anarchists rallied daily to his support in Athens and other big Greek cities (Kitsantonis, 2021). Notwithstanding the pressure, the government did not back down. Koufontinas eventually stopped the hunger strike and received immediate treatment prior to being transferred to Domokos's detention centre. It should also be noted that an appeal filed by Koufontinas's lawyer to Greece's Supreme Court was rejected (iefimerida, 2021).

#### 8.2.4. A Content Moderation Barrage

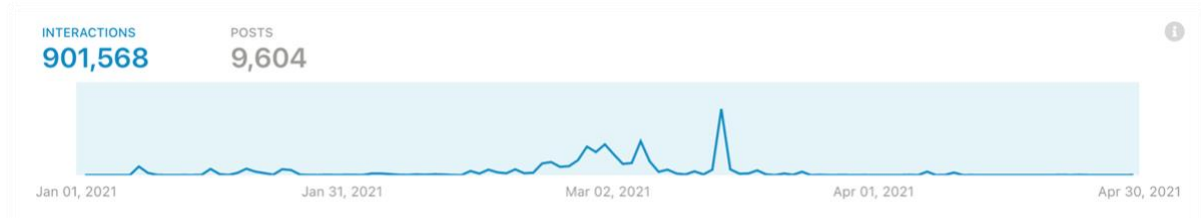
In this section, we will present empirical evidence concerning influential figures (i.e., journalists, photo-reporters, public personas, and organisations) that had their account blocked or content taken down during the two months of Koufontinas's hunger strike (Table 11).

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<sup>193</sup> [https://www.europarl.europa.eu/doceo/document/E-9-2021-000827\\_EN.html](https://www.europarl.europa.eu/doceo/document/E-9-2021-000827_EN.html).

Amidst this extremely tense situation, many Greeks started posting messages about the case as it can be seen in Figure 48. Greek Facebook users noticed a trend: numerous accounts were either being temporarily suspended or had their content removed after posting either about the protests or in support of Koufontinas’s demand, but not in favour of his terrorist acts.

Figure 48 - Facebook posts referring to Koufontinas between 1/1/2021 and 30/4/2021. Source: CrowdTangle



By looking at the instances of content that was moderated in Table 11, we can infer the following:

- i. The moderated content explicitly referred to the case of Koufontinas.
- ii. All posts were published between 23/02 and 02/03, a period included in the first peak of mentions of the term “Κουφοντίνας” (Koufontinas in Greek) in Facebook posts as shown in Figure 48. What is more, multiple demonstrations took place during that period. The second peak seen in Figure 1 is due to Koufontinas announcing the end of his hunger strike.
- iii. Six out of ten posts were deemed to have violated Facebook’s Community Standards in regard to its particular Dangerous Individuals and Organisations policy, while two others apparently violated Facebook’s general Community Standards even though they referred to the same case; for the rest we could not find this information.
- iv. Possibly, more than half of the actions were reinstated after user appeals.
- v. Eight out of ten posts were made by left-leaning journalists, which could be a possible explanation of why they were targeted by Facebook’s moderation system. However, the case of historian Polymeris Voglis and that of the Association of Greek Judges & Prosecutors is not in line with this hypothesis.

By further analysing the cases on Table 11, we did not identify any violations of Facebook’s Community Standards. They were either reporting on demonstrations that were taking place at several cities in Greece, which are newsworthy events, or discussing the case’s critical stakes without appraising Koufontinas’s violent past as evidenced by our examination. This was also the opinion of a Facebook partner: Dimitris Alikakis, senior editor of “Ellinika Hoaxes,” a certified Facebook fact-checker<sup>194</sup>, said that “Facebook has made a mess of it all” and, referring to Mr. Voglis’s case, that “it doesn’t violate any policy” (Χατζηστεφάνου, 2021).

<sup>194</sup> The second one is AFP. Its partnership was announced on 25 May 2021 (The LiFO Team, 2021).

Additionally, another element of inconsistency is that, while there were two cases found by moderators to be in violation of Facebook’s general Community Standards, the other six were accused of violating the platform’s Dangerous Individual and Organisations policies. This may indicate that different human decisions were applied to the same kind of content, something that has been empirically attested by research in other contexts of “manual” content moderation (Smyrnaiois & Marty, 2017).

Aimilia Givroupoulou (Interview #16) likened the situation to the deplatforming of former US President Donald Trump with regard to the invasion of Capitol Hill in 6 January 2021, where major platforms justified their decision on the grounds of possible incitement to violence (Twitter, 2021). She expressed the opinion that the main problem with that decision was the framework within which these platforms operate, one that lacks accountability and democratic oversight, arguing that the legality or illegality of speech should be decided by judicial authorities in accordance to a country’s constitution: “Facebook, or any other Facebook, is not authorised to judge and decide on acts or postings for their unlawfulness [...] that is done by Courts.” Last, she also underlined that the DSA targets precisely that lack of democratic accountability regarding the way that platforms operate and govern their services.

#### 8.2.5. A Political Tantrum and Unanswered Questions

*Avgi*, one of Greece’s oldest leftist newspapers with strong ties to the former ruling party of Syriza, asked Facebook about the increased content takedowns on 26 February 2021. Facebook replied almost immediately through its Greek Public Relations partner, “Hill+Knowlton”:

*“Terrorists, violent extremist groups and hate groups have no place on Facebook and Instagram. In accordance with our Dangerous Individuals and Organisations Policy, we prohibit members of terrorist organisations, such as Koufontinas, from using our platforms, and we also block posts that endorse or support these individuals and their actions whenever we become aware of them. **Taking a neutral stance regarding terrorist groups and informing the media about their actions is not against our rules**”*<sup>195</sup>

Facebook’s policy on Dangerous Individuals and Organisations mentioned in their reply merits unpacking<sup>196</sup>. Like the hierarchy found in content moderators, this policy is divided into three tiers as well: “Tier 1 focuses on entities that engage in serious offline harms [including]

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<sup>195</sup> [https://www.avgi.gr/social/380532\\_giati-afairoyntai-anartiseis-gia-ton-dimitri-koyfontina](https://www.avgi.gr/social/380532_giati-afairoyntai-anartiseis-gia-ton-dimitri-koyfontina); translated from Greek.

<sup>196</sup> <https://transparency.fb.com/en-gb/policies/community-standards/dangerous-individuals-organisations/>.



terrorist, hate, and criminal organisations. We remove praise, substantive support, and representation of Tier 1 entities.”

What is more, the platform heavily relies on the US government to define terrorists: “Tier 1 includes [...] terrorist organisations, including entities and individuals designated by the United States government as Foreign Terrorist Organisations (FTOs).” In other words, “Silicon Valley tech companies rely on the US government to define ‘terrorism,’ and remove content from groups on the State Department’s [FTO list]” (York, 2021, p. 126). Tier 2, then, focuses on violence against military and/or state actors that “do not generally target civilians,” while Tier 3 “focuses on entities that may repeatedly engage in violations of our Hate Speech or Dangerous Organisations policies on-or-off the platform or demonstrate strong intent to engage in offline violence in the near future.” Consequently, it seems that Facebook is following US policies without questioning, while promoting their agenda on a global scale. So, this policy has direct consequences in the structure of the political debate in third countries where the characterisation of “terrorist” is contested (for example PKK in Turkey or Hezbollah in Lebanon).

Moreover, relevant content about the Koufontinas case that was posted from accounts and pages that were less left-leaning and/or militant was not removed, indicating the possibility of a political selective bias or targeted massive reporting campaigns (Smyrniaios & Papaevangelou, 2020); though this was observed from our own empirical use so it must be taken with a grain of salt. Generally, Facebook denies that mass reporting influences its moderation process; its Greek representatives repeated as much in their response to another request sent by the investigative journalists of *Reporters United*, claiming with emphasis that “even a single report is enough to partially block content, if it’s confirmed that it violates [Facebook’s] policies” (Reporters United, 2021).

More importantly though, in their response, Facebook indirectly admitted to having mistakenly enforced policy actions by stating that “although great progress is being made in our [content moderation] systems, they are still not perfect, and sometimes mistakes are made, as in this case. The content that was accidentally removed was reinstated when it was discovered” (Reporters United, 2021; translated from Greek)

In their reply, the public-relations firm that acts on behalf of Facebook reaffirmed that the platform “allows people to neutrally discuss these individuals and share news reports about their actions” (Reporters United, 2021). However, it failed to provide more information as to what kind of mistakes were made and at which stage of the content moderation process in this particular case. It is interesting to note that the reply was published just one day after Facebook took action against many photo-reporters’ content, causing the Union of Greek Photo-reporters

to issue a reproachful announcement on 2 March 2021, calling out Facebook’s for “censorship”<sup>197</sup>. The same strong language was used in an official letter of enquiry sent by the major left-wing opposition party in Greece, SYRIZA, 5 March 2021 to the Prime Minister’s office through the Hellenic Parliament concerning “censorship on social media”<sup>198</sup>.

Also, Facebook did not provide an answer to *Reporters United*’s question about whether they had been contacted by the Greek government regarding this issue and whether Teleperformance was indeed conducting content moderation for Facebook in Greek language as it was reported in the press (Παπαδόπουλος, 2019). A Syriza MP also sent a letter to Teleperformance Greece asking for the company to take responsibility for the moderation errors that were reported<sup>199</sup>. He went even further by linking them to the fact that Teleperformance Greece was awarded with a public contract for providing call centre services related to the COVID-19 pandemic and implied that censoring posts of left-wing journalists about Koufontinas could be a favour to the government in exchange for this contract.

Thus, the lack of clarity and transparency on behalf of Facebook leaves ample space for political speculation and, even, conspiracy theories. Furthermore, the double standards that were applied on similar content demonstrate further inconsistency and raise more suspicions of political bias. These suspicions are reinforced by the fact that a current Senior Communications Manager of Hill+Knowlton, the PR firm that represents Facebook in this affair, Mr. Leonidas Marcantonatos, is a member of the ruling party and holds the position of “Diaspora Affairs Lead for US and Canada” since May 2020 according to his LinkedIn page. This does not amount to evidence of governmental interference, but raises deontological eyebrows, especially since the company acts on behalf of a private conglomerate in Greece, creating thus the conditions for “regulatory capture” (Novak, 2013; Stigler, 1971).

In any case, in lack of concrete evidence regarding state interference, we cannot safely infer conclusions. However, we can assume what may have happened in the story detailed in this part based on our findings and the empirical material presented here. The most plausible scenario is that first, Koufontinas was blacklisted as a Dangerous Individual on Facebook; possibly because he and 17 November had been in the State Department’s list until 2015. Second, given the traction that the case was receiving near the end of February of 2021, it is possible that people started reporting relevant content and accounts who disseminated it, triggering Tier 3 human moderators to review it. Third, these moderators saw that Koufontinas was a blacklisted terrorist and enforced policy without looking at the content’s context. Fourth,

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<sup>197</sup> [https://www.avgi.gr/social/380862\\_logokrisia-kataggellei-i-enosi-fotoreporter](https://www.avgi.gr/social/380862_logokrisia-kataggellei-i-enosi-fotoreporter).

<sup>198</sup> <https://www.hellenicparliament.gr/UserFiles/c0d5184d-7550-4265-8e0b-078e1bc7375a/11588045.pdf>.

<sup>199</sup> <https://www.2020mag.gr/politics/1531-epistoli-vernardaki-stin-teleperformance-gia-facebook-logokrisia-se-sxolia-anartiseis-kai-dimosieyseis-pou-einai-epikritika-pros-tin-kyvernisi>.

as the suppressed accounts belonged to journalists and, thus, were quite vocal not only on Facebook but also on other media, the restrictions gathered a lot of attention and required the intervention of Tier 2 moderators. Last, Tier 2 moderators verified that no policy was violated and, to control damage, ordered the content to be restored (some of it was restored immediately or with a delay, but some of it was never restored).

Two questions remain though: why were these accounts targeted when other news media or journalists were covering the story as well? And second, what constitutes “neutral discussions” for Facebook if factual reporting can be taken down with such ease? A probable answer to the first question is that people, who did not want to see Koufontinas’s demand granted or who disagreed with what was being posted, reported relevant content and accounts, either on their own or in coordination with others. Whether there was an automated filter applied to content related to Koufontinas is uncertain but unlikely, as that would have caused all relevant content to be restricted, which was not the case as illustrated by Figure 48. Furthermore, given the close interest of the Greek government in this case, a political intervention against specific content and/or accounts can neither be excluded nor proven).

The second question is a bit trickier to answer because, theoretically, any piece of content that covers a controversial matter may be massively reported. So, it is possible that there is a loophole within the current content moderation process that requires adjustment to deter or prevent bad faith actors from gaming the report mechanism to their interest (Crawford & Gillespie, 2016). Instead of relying solely on how users perceive news content to train ML models, there is a case to be made for adopting checks and balances ensuring that the underlying system of content moderation is regulated in a way that enhances oversight and accountability.

This last argument seems to be echoed in the DSA and, as this case study showed, there is indeed an apt point to make in favour of more sophisticated approaches to governing online content, especially stemming from news media organisations as it is instrumental for democratic deliberation. Hence, the next and final case study (#5) tackles how the EU stakeholders tried to inscribe this rationale into the DSA with the proposal to legislate a privileged treatment of editorial content by online platforms.

### 8.3. The “Non-Interference Principle”: Debating Online Platforms’ Treatment of Editorial Content in the EU’s Digital Services Act (Case Study #5)

Amongst the many debates concerning how online platforms’ content should be governed, one is particularly telling of the political stakes at play: how editorial content should be treated by platforms’ content moderation systems, especially regarding editorial independence (van

Drunen & Fechner, 2022). This case study focuses on recent regulatory developments in the European Union (EU), namely its holistic proposal to regulate online platforms' content governance procedures with the Digital Services Act (EC, 2020; DSA). Specifically, it aims to untangle the debate concerning a now-rejected proposal (Bertuzzi, 2021b) put forth, principally, by the news media industry to include a "media exemption" or a "non-interference principle" in the DSA, which would provide privileged treatment to editorial content from platforms' content moderation practices.

The key components of the proposed principle were articulated by proponents as follows: (i) restriction of platforms to meddle with editorial content, (ii) establishment of dedicated communication channels between platforms and news organisations to rectify wrongful content restrictions and be informed *a priori* of any changes in their algorithm, (iii) integration of the respect for media freedom and pluralism in platforms' terms and conditions.

The case study presented here serves as an illuminating example regarding, on the one hand, the political tensions that shaped the final version of the DSA, along with the prominent role that lobbying centres play in the European policymaking process. On the other hand, it shows how European policymakers attempted to alleviate some of the risks elicited by the power asymmetry found in the relationship between news media organisations and platforms (Nielsen & Ganter, 2022). While the-now rejected proposal was far from perfect, changing over time depending on the negotiations' fluctuations, it erred in the right direction insofar as it attempted to address an important aspect of platforms' power over opinion shaping processes (Helberger, 2020).

Finally, the case study's findings demonstrate how the platformisation of journalism and the increasing pressure put on news media organisations by online platforms (Papaevangelou, 2023c) has given new a dynamic to the age-old question of what constitutes a media (Deuze, 2005). EU legislators mainly base the foundation of their regulatory interventions on a broad definition of media as publishers of information who have the editorial control over that process. Yet, the identity of news media and journalism is not only much more than that but is in constant negotiation with other institutional actors and objects, including technological advancements (Lewis, 2015). Thus, the discussion around a media privilege related to platforms' content moderation also speaks to the existential process of journalism's identity.

### 8.3.1. Methodology of Case Study #5

This case study was developed by drawing material and data from the interviews conducted for this dissertation and an analysis of relevant documents. Specifically, interviews helped me

gather insightful data about the scope, objectives, and nuances of the DSA, which informed both this case study and Chapter 5, where we discussed the EU's recent regulatory interventions. Though, as the story around the so-called "non-interference principle" was developing while I was conducting my interviews – and, in fact, I had already conducted most of them – I had to update my interview guide to account for it.

What is more, I conducted follow-up interviews with news industry stakeholders, as EU policymakers and platform representatives were unavailable, who had intimate knowledge of the story. Certainly, as they were mostly pushing in favour of the proposed amendments, we ought to be wary of the existent bias of their input. As a result, in my enquiry, I also included opposing arguments, as expressed through policy proposals and communication material. The analysis of such documents allowed me to contextualise developments in platform regulation in their legal and political context, to understand the discourse used by involved stakeholders, and to fill in the gaps created by the relatively limited number of data gathered through interviews that specifically spoke to this case study.

The limitation of this study was, predominantly, the difficulty of having more interviews with insiders, who were often reluctant to speak while the negotiations were still taking place, as well as the fact that the study was conducted in parallel with the negotiations, which could hinder one's capacity to zoom out. To that end, a triangulation of information, using a variety of sources from both stakeholder camps ensured that a holistic picture was painted.

### 8.3.2. DSA's Impact on the Relationship Between News Media Organisations and Platforms

As discussed in Chapter 5, the DSA is a proposed EU legislation that aims to regulate the European DSM, including online platforms and services (Buri & van Hoboken, 2021, p. 7). It was proposed alongside the DMA in December 2020 as a way to overhaul the EU's online content governance and regulation (Heldt, 2022, p. 70). As mentioned elsewhere, the DSA is effectively the successor to the 2001 ECD, which protected intermediaries from liability for illegal activities on their services (EC, 2001, arts. 14, 15). In addition, it aims to address legal fragmentation and regulatory gaps caused by unilateral measures adopted by EU Member states (Buri & van Hoboken, 2021, p. 7).

Briefly, the DSA establishes a horizontal framework for all intermediaries, with more obligations for VLOPs and VLOSEs: it includes provisions on moderating illegal content, transparency obligations, opportunities for researchers to access platform data, the creation of new authorities to implement and enforce the DSA's obligations, and introduces regulatory

backstops for self-regulatory frameworks (Buri & van Hoboken, 2021; Heldt, 2022; Leerssen, 2021).

However, the DSA will also have an impact on media organisations and journalists in the EU, as it proposes new rules and requirements for online platforms, which could affect the way they publish and distribute content. For instance, the final text, among others, includes references to the need for platforms to protect and respect fundamental rights, including media pluralism, something that was missing in the initial proposed version of the Commission. As a result, the DSA will likely, even if indirectly, affect news media organisations as well, namely vis-à-vis platforms' content moderation policies.

### 8.3.3. Non-Interference Principle, Disinformation, and a European Tug-of-War

It would be beneficial, at this point, to introduce the debate about the media exemption or non-interference principle, which saw European policymakers and lobbyists engage in a tug-of-war over it.

First, the debate revolved around Article 12 – currently Article 15<sup>200</sup> - of the DSA, which in its original version introduced responsibilities as to how online intermediaries compose and enforce their terms and conditions. Initially, the principle itself was, reportedly, proposed by the French Ministry of Culture through French MEPs and the DSA's own Rapporteur, MEP of the Social Democrats party, Christel Schaldemose, who was also in favour of the proposed amendment (Bertuzzi, 2021; Interview #14). While Germany backed it as well, reports also claim that French officials quickly changed their minds out of “fear that the proposal would open the door to foreign interference [and] growing resistance from the ministries of foreign affairs and defence,” and joined other stakeholders in opposing the suggested principle (Bertuzzi, 2021).

In September 2021, the Committee on Industry, Research and Energy (ITRE) of the EP, along with MEP of the European People's Party (EPP)<sup>201</sup> Henna Virkkunen as its opinion's Rapporteur, proposed the following amendment to the Article 12 of the DSA: “platforms shall not remove, disable access to, suspend or otherwise interfere with [content of press publications] or the related service or suspend or terminate the related account on the basis of the alleged incompatibility of such content with [their] terms and conditions” (Art. 12b)<sup>202</sup>.

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<sup>200</sup> In the final, adopted version of the DSA, Article 12 regarding “Terms and Conditions” has become Article 15. But I decided to keep the initial numeration for reasons of consistency. For instance, if someone were to look up now EP's Committee's opinions or policy proposals, they would find references to the initial numeration of articles.

<sup>201</sup> German MEPs comprise the majority of EPP with 29 seats. Source: <https://www.europarl.europa.eu/election-results-2019/en/seats-political-group-country/2019-2024/>.

<sup>202</sup> [https://www.europarl.europa.eu/doceo/document/ITRE-AD-693552\\_EN.pdf](https://www.europarl.europa.eu/doceo/document/ITRE-AD-693552_EN.pdf).

This is what, effectively, came to be known as the non-interference principle, with the main argument being that editorial content should not be subject to double scrutiny as it is already bound by regulation, ethical standards, and editorial processes.

Similarly, in September 2021, the Committee on Legal Affairs (JURI), with EPP MEP Geoffrey Didier as its opinion's Rapporteur, proposed that platforms refrain from fiddling with editorial content (Recital 106a). Following suit, in October 2021, the Committee on Culture and Education (CULT) of the EP, along with EPP MEP Sabine Verheyen as its opinion's Rapporteur, proposed similar amendments and, in addition, introduced another suggestion to be implemented in the DSA, which would oblige platforms to notify news media organisations of any changes to their terms and conditions and algorithms, as expressed in Articles 2(1) (q.a.),<sup>203</sup> 7(a), 12(a) and Recital 38. Each opinion, thus, had a slightly different approach to the matter, which did not help consolidate a clear framing of the proposed principle.

At the same time, news industry lobbyists gradually changed their wording and opted for the use of the “non-interference principle” over “media exemption” to alleviate criticism, especially after convening with sceptics and opponents of the principle (Interview #19). As Ms. Raoux stressed: “saying that the DSA would provide for a media exemption is a bit confusing; I'd rather talk about a non-interference principle [...] because we think that the media companies abide like any other company to laws of all the member States [...] but not the laws that the platforms will make for themselves” (Interview #14). Ms. Schroeder, representing journalists rather than media organisations, agreed with that position albeit with more reluctance, while reiterating “what we all agree on, is that we do not want to have any arbitrary takedowns” (Interview #17). Ditto for Mr. Petillault, who argued that “if we keep moderating content on the basis of terms and conditions, [with] no judge to intervene [...] it's the Wild West” (Interview #18).

So, we could summarise the principle in three key components: (i) restriction of platforms to meddle with editorial content, (ii) dedicated communication channel between platforms and news organisations to rectify wrongful content restrictions, as well as to inform *a priori* the latter of any changes that would affect the visibility and circulation of their content, (iii) integration of respect of media freedom and pluralism in platforms' terms and conditions.

In particular, the suggestions were solidified in the final proposed text of the DSA as Amendments 511 and 513 to Recital 38 and Article 12 of DSA respectively<sup>204</sup>: the former, which was rejected, demanded platforms to “promptly” inform media of any content moderation decision before its implementation and allow them to challenge it beforehand,

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<sup>203</sup> [https://www.europarl.europa.eu/doceo/document/CULT-AD-693943\\_EN.pdf](https://www.europarl.europa.eu/doceo/document/CULT-AD-693943_EN.pdf).

<sup>204</sup> [https://www.europarl.europa.eu/doceo/document/A-9-2021-0356-AM-509-514\\_EN.pdf](https://www.europarl.europa.eu/doceo/document/A-9-2021-0356-AM-509-514_EN.pdf).

while the latter, which was accepted, added a provision for online platforms to respect fundamental rights, including media freedom and pluralism, as enshrined in Article 11 of the Charter of Fundamental Rights of the EU<sup>205</sup>. Notably, the rejected Amendment 511 seems to have been a compromise regarding the media exemption, put forth by the German Permanent Representation to the EU in October 2021 (Bertuzzi, 2021).

Despite not achieving an explicit protection of editorial content from content moderation in the DSA, the news industry lobbyists saw positively the fact that they managed to have such a public debate for a provision that was missing from the Commission's initial proposal (Interviews #13, #14, #21, #22). Besides, the newly unveiled European Media Freedom Act (EMFA) clearly stipulates in Article 17(2), that platforms should *ex-ante* inform media organisations about their decision to restrict or suspend content that they deem incompatible with their terms and conditions, which is closely related to the rejected DSA Amendment 511, albeit without the possibility of *ex-ante* challenge. Markedly, news media associations were also pushing for an amendment of Article 17<sup>206</sup> of the DSA regarding platforms' internal complaint-handling mechanisms, so that journalists could have access to a fast-track appeal process; this did not come to pass (Interview #19).

Having touched upon the stakeholders who were in favour of a privileged treatment of editorial content, we now turn to those who were against it and their arguments. The core of the opposition comprised of experts, civil society organisations and fact-checking groups dealing with disinformation, especially coordinated “disinformation warfare” campaigns (Zannettou et al., 2019). The latter, in particular, feared that creating carve-outs for editorial content could provide a safe harbour for bad actors to take advantage of the immunity and propagate deleterious content to European citizens.

One of the central actors of this camp, EU DisinfoLab, a non-governmental organisation tackling issues related to disinformation, organised a campaign to mobilise influential figures, like Facebook whistleblowers Frances Haugen, policymakers, and others, to voice their opposition against the proposed amendments<sup>207</sup> (Interview #19). Alongside the disinformation experts, policymakers, civil society advocates, and researchers also took a critical stance against the proposed principle. For instance, Věra Jourová, Vice President of the European Commission for Values and Transparency, placed the proposal “in the box of good intentions leading to hell”<sup>208</sup>.

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<sup>205</sup> <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0389:0403:en:PDF>.

<sup>206</sup> Currently Article 20 of the DSA.

<sup>207</sup> They even bought a domain that redirected to their website under the name of Reject the Media Exemption: <https://www.rejectthemediandexemption.eu>.

<sup>208</sup> Source: <https://www.disinfo.eu/outreach/our-newsletter/disinfo-update-04-11-2021/>.



The problem that opponents of such special treatment of news content was, primarily, the broad definition of media, which could offer protections to malicious actors, and providing a “blanket exemption” for editorial content, as was initially articulated by the EP’s committees. Indeed, one of the recurring topics brought up in the interviews conducted was the problem of defining what constitutes a news media organisation. In recent years, the EU has provided high-level definitions of media to underpin EU-wide media related regulation, because “media laws and cultural policies are still highly determined at national level” (Interview #14). Specifically, the current legal framing of news media in the EU is largely based on a combination of three definitions:

- “Press publications,” which, according to Article 2(4) of the Directive 2019/790 on copyright and related rights in the Digital Single Market (EC, 2019), are “journalistic publications, published in any media, including on paper, in the context of an economic activity that constitutes a provision of services under Union law”
- “Media Service Provider,” which, according to Article 2(2) of the EMFA (EC, 2022), refers to “a natural or legal person whose professional activity is to provide a media service and who has editorial responsibility for the choice of the content of the media service and determines the manner in which it is organised”
- “Audiovisual media services,” which, according to Article 1(a) of the Audiovisual Media Service Directive (EC, 2018), are “devoted to providing programmes, under the editorial responsibility of a media service provider, to the general public, in order to inform, entertain or educate, by means of electronic communications networks.”

It seems, thus, that any service in any form that provides informative, entertaining, or educative programmes and holds the *editorial responsibility* for that content, is recognised as a media service provider under EU law. Additionally, editorial responsibility is also crucial to both the definition of news media and this chapter: Article 2(9) of EMFA defines it as a self-regulatory process referring to “the exercise of effective control both over the selection of the programmes or press publications and over their organisation, for the purposes of the provision of a media service, regardless of the existence of liability under national law for the service provided.”

Furthermore, interviewees from the news industry expressed concern of having one narrow, legally binding definition, but acknowledged the need to reconsider this in view of upcoming media-policy regulation. For instance, Renate Schroeder said that the European Federation of Journalists does not wish for a definition of journalism because it is a “free trade.” However, she added, “with EMFA [...] it may be very important to have this exercise of what is media” (Interview #19).

Nonetheless, stakeholders agree that a legal definition of media, with the prospect of offering them protections vis-à-vis state or platform power, ought to be as broad as possible to cover professionals who are most vulnerable, like freelancers. Thus, the conundrum with legally defining media is that, on the one hand, this should be broadly encompassing to protect as many professionals as possible and, on the other hand, this same framework might create loopholes for bad actors to exploit, something that was used as the predominant argument of those who opposed the non-interference principle. In the next section, we introduce the debate around the principle, we discuss how this played out, and delineate the two opposing stakeholder camps.

Moreover, the most common actors named by opponents of the principle were Russian media (*RT*, *Sputnik*, *Tass*) and *France Soir* (Interviews #14, #19). To that end, proponents decided to change the framing of their proposal. But it was probably too little too late, as the other camp had already solidified the term “media exemption” in the public discourse, which resonated more strongly with policymakers who, even before the illegal invasion of Ukraine by Russia, did not want to risk the creation of legal loopholes.

Additionally, opponents argued that such amendments would create further “bureaucratic” burdens for platforms, who would have to comply with a series of steps before dealing with problematic content (e.g., disinformation around COVID-19) and would, thus, breach other DSA’s obligations to weed out said content and, at the same time, cause them to hesitate to remove content that could turn out dangerous<sup>209</sup>.

Besides, the initial version of the DSA already included three provisions (Articles 15, 17, and 18<sup>210</sup>), which required of platforms to (a) inform users that their content has been affected by a content moderation decision along with its rationale, (b) provide users with the possibility of appealing a decision, and (c) provide users with the necessary information to settle out-of-court a challenge concerning that decision. What is more, in the final version of the DSA, these provisions were expanded to include all nuances of content moderation actions, like restricting the visibility of content.

Among other counterarguments presented by proponents were that content that was deemed illegal would not be covered by the principle. But some proponents proposed demonetising that content, in line with the revamped Code of Practice on Disinformation ((European Commission Guidance on Strengthening the Code of Practice on Disinformation, 2021, sec. 4.1). They also argued that policymakers should turn their attention to how the

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<sup>209</sup> Source: [https://www.disinfo.eu/wp-content/uploads/2022/01/20220117\\_ARTICLE12RECITAL38.pdf](https://www.disinfo.eu/wp-content/uploads/2022/01/20220117_ARTICLE12RECITAL38.pdf).

<sup>210</sup> Currently, Articles 16, 17, and 21.

organisations spreading such information were accredited to operate in the EU<sup>211</sup> in the first place and, thus, that it was up to Member-states to reconsider the legal framework, instead of leaving platforms to decide the legality and validity of editorial content (Interview #14).

However, as “disinformation is just much trickier [than illegal content]” (Interview #23), policymakers were not convinced that such an amendment should be included in the DSA because it was beyond the remit of the proposed regulation, which envisioned to, primarily, set procedural obligations for platforms’ content moderation mechanisms (Interviews #5, #11). To that end, the Commission left more sectorial issues, like the one discussed here, to be regulated either through co-regulatory codes of conduct (i.e., the new Code on Disinformation) or other regulation (i.e., EMFA; Interviews #8, #21).

Consequently, one principal reason for the exclusion of a provision that would fiddle with the governance of editorial content on online platforms was the agenda of the Commission and the EU, specifically regarding the scope and goals of the DSA. Put simply, the Commission did not wish to expand it in a way that would give off the wrong message and instead of making the DSA a ‘one solution fits all’ framework, wanted to have distinct regulatory frameworks for specific content.

As a Commission staffer told me: “in the [DSA] it is pretty clear that the removal of content focuses on illegal content, whereas for any other types of harm, we are departing from the content-specific point [...] but we are looking at how systems [...] are propagating societal harms” (Interview #14). As such, it made sense for policymakers to avoid inscribing specific rules for editorial content into the DSA, as was suggested in the rejected Amendment 511 and, conversely, implement the Amendment 513, which focused more on platforms’ systemic behaviour related to governance (i.e., their Terms and Conditions).

Therefore, even though the non-interference principle was not adopted, its proponents managed to make it part of the public debate, succeeding in advancing their case in favour of a sector-specific regulation vis-à-vis the treatment of editorial content in online content governance, as it happened with the EMFA.

#### 8.3.4. A Compromise and Next Steps

The case concluded with a compromise: proponents succeeded in adding the respect of media freedom and pluralism in platforms’ terms and conditions, while opponents succeeded in fending off a more specific protection of editorial content. Nevertheless, the fact that a special treatment of editorial content returned in EMFA, indicates that proponents might have scored

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<sup>211</sup> Following the invasion of Ukraine, Russian media have been barred from broadcasting and reaching European citizens (Papaevangelou & Smyrniotis, 2022b).

another point in that tug-of-war, as well as that the Commission did not wish to overextend the DSA's scope beyond illegal content and certain types of systemic risks.

What is more, European publishers have, in recent years, been strategically lobbying for regulatory interventions that would mitigate the harms brought about by their dependence on dominant online intermediaries. We must also note here that, as was the case in Case Study #4, news media associations do not necessarily meet eye-to-eye when it comes to how such levelling of the playing field should be approached. For example, ENPA vocally disagreed with the Commission's proposal for EMFA as a plan to "undermine the core of press freedom" (Kontreas, 2022b), whereas EFJ welcomed the initiative and called for more measures to be adopted (EFJ, 2022). This spat should be considered through the prism of protection of their constituents' interests: the former represents, primarily, the interests of publishers, whereas the latter speaks for journalists.

At any rate, the EMFA is an important text that we should closely monitor as it aspires to address capture of journalists by vested interests, including those of the state. Consider, for example, the case of Greece's wiretapping scandal (Michalopoulos, 2022), where numerous reports and investigations have revealed that the Greek government employed surveillance tactics to spy on journalists and restrict their freedom. At the same time, there should be sufficient checks and balances that allow sufficient leeway for journalists and news media organisations to self-regulate using their own codes for editorial responsibility, which has "a long tradition in the media sector" (Napoli, 2019, p. 177). Consequently, this case study's findings suggest that we another chapter in the ever-evolving relationship between news media organisations and online platforms is unfolding before us.

#### 8.4. A New Chapter for the Relationship Between News Media Organisations and Online Platforms?

With the rise of platforms, journalism's vital role for the democratic functioning of societies is often challenged by the asymmetrical dependency that news organisations have developed on platforms, namely relating to the services, infrastructures and funding provided (Ananny, 2018; Nielsen & Ganter, 2022; Poell et al., 2022b; Schiffrin, 2014). One understudied aspect has been the way that editorial content is treated from online platforms' content moderation systems and, particularly, how regulation could influence this relationship. So, this chapter set out to tackle a crucial, yet undertheorised facet of modern online platform regulation and governance (Gorwa, 2019b), that of the relationship between news media organisations and online platforms (Nielsen & Ganter, 2018) in the context of online content governance (Gorwa, 2019a).

First, it began by discussing a content moderation debacle on Facebook in Greece concerning the news coverage and political discussion of a complicated case around a convicted terrorist's protest. In addition, we attempted to describe how Facebook polices content on its platform based on a three-tier system, along with a combination of human reviewers and algorithmic processes. Our case study demonstrated that content moderation remains highly problematic for major social media platforms, despite their recent efforts to up their game. It further demonstrates platforms' preference to proactively err on the side of more content removal (Douek, 2020b) rather than letting controversial content on its services. This also further strengthens the argument that platforms are not neutral intermediaries (Gillespie, 2010) and are increasingly taking editorial decisions (Napoli & Caplan, 2017). This also became apparent with the recent temporary deplatforming of journalists from Twitter (Isaac & Conger, 2022).

Anecdotally, Kate Klonick wrote in a Twitter thread that "for every 1.3 content moderation workers at FB there are 100,000 FB users"<sup>212</sup>, highlighting the fact that while Facebook has invested the most resources in content moderation among other Big Tech companies, the resources allocated are still incredibly low compared to what is needed. I believe that this is the path of least resistance for platforms, as it allows them to not tackle hard-pressing issues concerning freedom of expression and freedom of information. In other words, these companies have the necessary resources to invest in content moderation services that would align with their popularity and importance; the question is whether they have the will to do so. And, if not, whether public authorities have the political will to pass regulations that would force their hand and change the current content governance structure.

Additionally, Case Study #4, along with other examples mentioned earlier, showcase the need to integrate the relationship of news media organisations and online intermediaries in current regulation of online content governance, as well as in the broader discussion around platform governance. This is explored in Case Study #5, which introduced a debate that revolved around whether legal protections of editorial content vis-à-vis platforms' content moderation policies should be integrated in the ambitious DSA. After lengthy negotiations, the story concluded with a compromise, whereby proponents of such a privileged treatment succeeded in legislating the protection of fundamental rights, including media pluralism, and opponents succeeded in striking down an explicit carve-out.

It is imperative to underline that, platforms have been treating certain types of content in a more privileged way than others. For instance, leaked documents have showed how TikTok has adopted a more lenient approach to enforcing its policy on accounts with more than five

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<sup>212</sup> <https://twitter.com/klonick/status/1440363960851582981?s=21>.

million followers (Baker-White, 2022). Caplan and Gillespie have identified the same pattern in YouTube's content moderation strategy as well, which they called a "tiered governance" approach, i.e., "offering different users different set of rules [...] and protections" (2020: 2). Likewise, reports have revealed how Facebook built a similar system known as "XCheck" to, according to a company's spokesperson, "create an additional step [to] accurately enforce policies on content that could require more understanding" (Horwitz, 2021). However, Facebook's policy is intriguing because, according to an internal guide for "XCheck," a parameter, that moderators considered when applying this tiered approach, was that the content should be, among others, "newsworthy" (Horwitz, 2021).

Yet, as hinted throughout this chapter, there is indeed a case to be made for how we could introduce better checks-and-balances against opaque content moderation practices concerning content that is vital for democratic deliberation like that of news media organisations. Hence, the EMFA is shaping up to be an instrumental policy text in this new era that we are currently entering, at least concerning the EU. Although, we recently saw similar cases gaining traction elsewhere: for example, the United States Court of Appeals for the Eleventh Circuit upheld a law in Florida that restricted platforms from removing editorial content related to candidates for office (Oremus & Zakrzewski, 2022), while the Supreme Court is examining "up to three cases" regarding platforms' content moderation immunity under the First Amendment, which could have unprecedented consequences (Ingram, 2022).

Concluding, these developments indicate that we are ushering into a new era of regulation that, among others, aims at reconfiguring how editorial content, albeit with a more restricted scope in the US than in the EU, is treated by online intermediaries. We thus ought to be mindful of the risks, caveats but also positive aspects of such initiatives. This chapter wished to provide a solid grasp, with empirical evidence, of the current status quo, as well as what might lie ahead in relation to the relationship between digital platforms and the news industry

## 9. Conclusion

### 9.1. Summary of dissertation

This thesis set out to enquire into the political economy of online platform governance as a way of contributing to the need to reconceptualise how we think about the internet and platforms. The project began in September 2019, at a time when the momentum apropos platforms, and the power thereof, had started to shift. This manifested not only in terms of public discourse but also in terms of how our public authorities treated these tech mastodons. As a means of conclusion, I would like to circle back on the research questions listed in the introduction and accentuate some of my work's major inferences. In addition, I will provide some reflections on the thesis's structure, overall theoretical and methodological approach, its limitations, and provide an outlook for the future.

Provided that the scope of this dissertation was quite ambitious, it was a conscious decision to tackle it from an interdisciplinary perspective and to structure it accordingly. To that end, my thesis was built around three large parts with each addressing the three overarching research questions set out in the introduction.

The first part was broken into two chapters. The first chapter (Chapter 3) was devoted to tracing the roots of the primary political, ideological, and regulatory framework that enabled the birth and evolution of the platform model. Through a brief historical overview, it presents early visions of the internet as a democratised, decentralised, and self-regulated space, to highlight the trajectory that got us to the point of the techlash, alongside the demands to devise regulation. It also introduced the literature surrounding the concept of platforms and discussed how it has influenced our capacity to deliberate publicly, emphasising the importance of understanding the processes that shape our public spheres' governance. It also reflected on how these private, for-profit tech conglomerates have been colonising our social relations, using surveillance and lock-in tactics, to extract value in the form of labour or data to maximise their profit-making models.

The second chapter of the first part (Chapter 4) reviewed literature regarding the notions of regulation and governance, trying to define what they mean, how they are used depending on the field of application and how they are framed specifically when studying online platforms. It delves into the concept of platform governance, the assemblage of sociotechnical and political-economic facets of platform technologies, to emphasise that it is inherently connected with multi-stakeholderism, that is the multiplicity of stakeholders, with online platforms at the epicentre. In the chapter, we also propose to expand our scope regarding the participating stakeholders to include, depending on our field of enquiry, other actors who

have or should have a stake in these processes. For this thesis, these actors include (EU) citizens and news media organisations. So, this chapter also provides justification and explanation for the creation of this dissertation's corpus.

The second part focused on providing an overview of recent regulations in the EU, both on a supranational and a national level, as well as how citizens constitute a critical stakeholder governance group; hence, we delineate the status quo of EU platform governance. In its first chapter (Chapter 5), we summarise the most striking incidents that gave rise to the techlash, which were – one way or another – facilitated by social media platforms. We also discuss how the EU has emerged as a regulatory trendsetter in the global arena. In so doing, we also bring to the surface the latent geopolitical conflicts, that exist both outside the EU, involving the US and China, and inside the EU, involving France and Germany. As regards the latter, we also zoom in on how these two Member-states have been shaping the bloc's regulatory agenda through their own national legislative initiatives vis-à-vis online content regulation.

The second chapter of the second part (Chapter 6), effectively, picks up the argument made in Chapter 4 about how we have not been paying enough attention to other governance stakeholders and operationalises the model introduced in it to analyse the results of public consultations held by the European Commission regarding three key regulatory frameworks for EU platform governance: the Recommendation on Effectively Tackling Illegal Content Online, the Code of Practice on Disinformation, and the Digital Services Act (Case Study #1).

By analysing citizens' responses, the study aimed to demonstrate how we can obtain valuable insights into the views and concerns of citizens. Certainly, this has important limitations like the limited representation of EU citizens in these consultations due to the way that they are structured or, simply, communicated to the public. The analysis was conducted using a computationally-assisted CDA, demonstrating how we can employ novel and experimental methods to more traditional fields of scholarship. So, while the conclusions drawn from this case study may not be generalisable, especially beyond the EU, the analysis is itself evidence that we can, and we should, break free from more conservative approaches to platform governance.

The third and final part revolved around the troubled relationship between news media organisations and online platforms within the context of the current platform governance's status quo, with a distinct focus on the EU state of affairs. It looks at the relationship between platforms and news media organisations. It provides empirical insights, developed through four case studies, into how the increasing demand for regulation has impacted the relationship



between news media and platforms, what it means for cultural production, as well as for our public sphere and journalism's role in it.

The first chapter of the third part (Chapter 7) speaks to the political economy of journalism in the era of platforms, discussing how the latter have been increasingly platformising and, subsequently, threatening to capture the former. It homes in on the financial part of the relationship between news media and platforms, addressing it from two perspectives: the self-regulatory venue of platforms' own funding programs and the co-regulatory venue of (EU) authorities pushing platforms to share money with news media. As such, we dive into the two largest funding programs, FJP and GNI, through which Facebook and Google have been financing news media organisations all over the world to ostensibly support them due to the recurring crises (Case Study #2). We infer how these serve as part of the platforms' strategy to fend off regulatory interventions, trying to reverse their damaged reputation, and how these helps platforms to increase their sphere of influence by becoming integrated in previously inaccessible networks of relations. Specifically, regarding the latter, we elaborated on the concept of funding intermediaries, who are stakeholders that facilitated platforms to carry out these funding initiatives.

Furthermore, we looked at the example of France, which was the first Member-state in the EU to transpose the updated Copyright Directive in 2019, that introduced the right to be reimbursed for ancillary rights (Case Study #3). France was also the setting for a fierce contestation between platforms and news publishers around this right, as the former tried to impose their own rules and, perhaps, make an example out of French publishers. However, as we showed, the positive role that the judicial authorities of the country played helped publishers effectively defend themselves, especially against Google. Yet, the peculiarities of the French news industry, platforms' preferences, and the fragmented front of publishers, did not help prevent an unbalanced distribution of money, demonstrating the regulatory framework's limitations as well.

The final chapter of the dissertation (Chapter 8) addresses another aspect of the relationship between news media and online platforms, that of online content governance. It is built in the same fashion as the previous chapter in the sense that it approaches the topic from, practically, the same two angles: the self-regulatory approach of platforms' content moderation systems and the co-regulatory proposal to govern online content. As a result, we first touched upon the impact that online platforms and their content moderation systems, which have increasingly become on AI and ML, have had on journalism and core values like editorial autonomy and freedom of press.

This allowed us to better appreciate a case study we developed to shed light on a little-known story that developed in Greece in early 2021 regarding a barrage of opaque content moderation decisions of Facebook, which affected journalists covering a controversial topic at the time (Case Study #4). It also hinted, despite the lack of concluding evidence in this specific case, how political power can exercise governance through platforms and other tech services, as happened with the scandal of illegal wiretapping of journalists and political opponents. At any rate, our analysis illustrated how unaccountable and unjustifiable content moderation incites tensions, especially when the subjects affected are journalists – or members of civil society groups - in countries like Greece, where there is increased pressure on fundamental rights like the freedom of expression, freedom of press, and media pluralism (Stevis-Gridneff, 2023).

In light of our analysis of this Greek incident, we turned our attention to how such concerns have given rise to demands for effective regulation about content governance, as well as how EU policymakers have attempted to address them with the DSA (Case Study #5). Specifically, with this case study, we shine a light on the contested negotiations that unfolded among EU stakeholders concerning a “non-interference principle”: a provision advocated by the news industry to secure privileged treatment of editorial content from platforms’ content moderation mechanisms. We analysed how negotiations played out between lobbyists of the European news industry, regulators, governments, civil society organisations, and platforms, highlighting the power dynamics at play. The outcome was that, even though the principle was rejected, the DSA included provisions referring to the need of platforms to respect fundamental rights like those mentioned in the previous paragraph. Thus, along with EMFA, this novel EU regulatory framework may introduce a new chapter in the relationship between news media and platforms, especially related to the governance of editorial content.

## 9.2. Reflecting on the dissertation’s limitations

Overall, my thesis tried to shed light on facets of platform governance that had not been sufficiently studied previously, or that were not studied in connection with the broader political-economic and social stakes of platform governance. For instance, scholars have been studying the relationship between platforms and news media for more than a decade regarding a variety of factors (Chua & Westlund, 2022). Although, most have been studying it from the perspective of journalism studies, which might be epistemologically restrictive. In that sense, I aspire that my thesis will serve as a point of departure for further scholarly endeavours.

Furthermore, the research project’s rich and diverse corpus allowed for an equally rich and multifaceted analysis of various aspects of platform governance. Specifically, the

dissertation's corpus draws from EU citizen replies to public consultations, data about platform funding programs, 22 semi-structured interviews with relevant stakeholders, data from the analysis of legal and communication documents, information from news reports, and content from social media platforms. This mosaic of sources not only enabled the triangulation of data, but it also greatly helped the synthesis of a holistic understanding of and enquiry into the political economy of platform governance. Additionally, the decision to publish articles based on the fruits of my doctoral research allowed me to grow more confident in and accustomed to the corpus, as well as to challenge and improve my work thanks to precious peer feedback.

Certainly, the thesis holds significant limitations, which should be addressed as a means of reflecting on the work done here. Firstly, the decision to structure my dissertation around case studies may limit the generalisability and valorisation of the findings, as they tackle specific manifestations of power (or negotiation thereof). However, case studies offer an in-depth understanding of a particular phenomenon, which is particularly useful in the study of complex and multifaceted issues such as platform governance. Moreover, the cases are analysed using a rigorous analytical framework, combining methods and theories to ensure the extrapolation of coherent conclusions. This ensures that the findings are not merely descriptive, but also provide insightful and nuanced perspectives, substantiated with novel empirical evidence.

Secondly, most case studies, except for platforms' funding programs, primarily address the EU, which is not representative of the global status quo and runs the risk of reinforcing Eurocentrism. For instance, one could argue that the analysis of EU citizens' contributions may have little value to researchers beyond the EU. However, it is undoubtable that the EU is a significant regulatory actor in the global context and, thus, the findings can inform policy discussions in other regions as well. Certainly, my own affinity with the context of some specific EU Member-states, namely France and Greece, influenced the formulation of the research design.

Lastly, we mostly focused on issues pertaining to the regulation of online content, excluding other facets of platform governance, like data governance, competition, privacy, cybersecurity, labour relations, etc. Yet, this was also a deliberate decision during the formulation of the research project based on my expertise and interest in understanding how our digital public sphere is constructed and how its governance is negotiated. What is more, the decision was also practical, as a thesis has to be limited in scope and time to avoid losing the focus of the issue at hand.

### 9.3. Future outlook

In a recent essay, media scholar Ethan Zuckerman argued in favour of governance, not moderation (2022); yet, the same was argued by Mark Zuckerberg (2021). Indeed, in recent years, (platform) governance has become somewhat of a buzzword. Nonetheless, little attention – especially beyond a niche part of academia studying the nuances of governance and regulation – has been paid to what it entails. Governance, as our extensive literature review in Chapter 4 showed, signifies multi-stakeholderism, the decentralisation and distribution of power, along with accountability and legitimacy.

Although, this is done not in a balanced and equitable way but rather asymmetrically and unfairly, with few stakeholders having the capacity to sway the regime’s structure. Both Zuckerman and Zuckerberg understand as much but are arguing in favour of different things: the former advocates for a decentralisation of decision-making processes to actively involve users in governing the spaces they inhabit (see Case Study #1), while the latter advocates for a centralised structure of power with elevated checks-and-balances (e.g., the Oversight Board or local governments’ laws).

Arguably, though, both accept the governance’s solutionist ethos. Zuckerman contends that we need better design and technical principles, while Zuckerberg advertises Facebook’s AI-fuelled content moderation system to proactively tackle “problematic content”. In terms of power, too, the redistribution envisioned in both cases does not tackle systemic inequalities, it is just differently exercised: either cooperatively in disparate instances or pseudo-cooperatively in centralised instances. All this to say that we should be wary of the concepts we adopt and how we employ them. For instance, as we also discussed in Chapter 4, it is crucial to avoid conflating the internet, and its governance, with the platformised internet, and platform governance so as to avoid limiting our capacity to imagine more emancipatory structures.

A key finding deduced from the present research was that platform regulation has been progressively becoming more and more sector-specific, at least in the West and, particularly, in the EU. For almost two decades, most of our commercial internet was built upon a common framework which, in the EU, derived from their legal status inscribed in the ECD of 2001, while Member-states were left to govern their digital spaces as they saw fit. This, accompanied by a general *laissez-faire* stance, permitted platforms’ power to grow at a capacity that exceeded even that of states. Conversely, what we are witnessing now aims at setting in place common rules for the whole EU jurisdiction, as well as specific rules for specific aspects of platform governance, like content governance. For example, we have specific rules for online

disinformation. Additionally, we also now have broader, systemic rules (i.e., with the DSA), which target to regulate how platforms go about applying these sectoral rules.

However, while our regulatory frameworks have become stricter, platforms have also become more embedded in the way that our societies are governed. Neoliberalism created the conditions for the emergence of multistakeholder capitalism and multistakeholder governance, in which the asymmetry of power is obscured behind the veneer of a faux pluralism. Polanyi's theory of 'double movement' is helpful in theorising about this negotiation of power, whereby public interest-driven regulation tries to re-embed markets into societies. Yet, as platform firms possess unique traits that make them ubiquitous and necessary for a wide gamut of our everyday life, I gather that their capacity to adapt to this double movement, that is to resist any profound structural change, has grown massively.

In other words, platforms are now so embedded in our systems of governance, that any solution will inevitably involve them as active agents, exercising power to ensure that their core business model, which is distributing power, is not disrupted. Simultaneously, this has allowed them to become more resilient to risks wrought by regulation. Certainly, as we discussed in the dissertation, capture of vested interests and excessive lobbying has also elevated their status quo. What is more, as evidenced by their market power, despite multiple crises, these companies seem to remain relatively unscathed. As we saw, they are laying off workers, while diversifying their investment portfolios, continuing to create monopolies.

This is because they have become so integrated in both our everyday life and our systems of governance. A handful of for-profit platform firms that have radically transformed how we receive information, how we interact with one another, how we get our news, how we think about ourselves and our world, colonising our social relations. This is where platform power originates from (Nielsen & Ganter, 2022): they are gradually transforming into institutional monoliths, further reinforcing the sense of the neoliberal dogma of "there is no alternative" (Queiroz, 2018), while appropriating our means of production and interaction for their gains (Couldry & Mejias, 2019a).

Therefore, platforms, along with their new complex structures of governance (Gillespie, 2018a; Klonick, 2018), have had sweeping effects on our digital public sphere, from the way we have been consuming and exchanging information to the way we have been producing it (Helmond, 2015; Nieborg & Poell, 2018; Owen, 2019). Indeed, as Plantin et al. note: "the rise of digital technologies, in a neoliberal, political, and economic climate, has simultaneously facilitated a '[platformisation]' of infrastructures and an '[infrastructuralisation]' of platforms" (Plantin et al., 2018, p. 298).

We should avoid overestimating platforms' power as this does not allow for a fruitful and creative attempt to reimagine how we could reshape our online ecosystems. Instead, we should seek to bring the issue of power, which is at stake, to the foreground, so that we do not simply try to find practical solutions to everyday problems but also press ourselves to think about the larger picture. Pragmatic approaches to platform governance like obligations about disinformation necessitate the involvement of platforms in enforcing them, but we ought to ask what this means from a political-economic perspective and what are the long-term consequences. In any case, the regulations studied in and for this dissertation are a step to the right direction, especially the DSA, which treats platforms for what they are: systems of governance.

At the same time, the present critical juncture not only allowed public authorities to adopt a more assertive stance with relation to platforms, but also made evident the dependencies on which platforms are themselves tied to. Also, it is in times like this that counter-movements and counter-cultures become more visible. The recent migration of Twitter users to Mastodon in protest to Musk's authoritarian-like decision-making is a trivial yet indicative sign of a broader realisation of our relation to these companies (Zavarise, 2022).

We ought not to have illusions though. Public outcry and social media activism have had tremendous successes, as Butler notes with regard to the Black Lives Matter movement for instance (Seeliger & Villa Braslavsky, 2022, p. 69). Yet, it is often other stakeholders who have stronger influence over decision-makers, most notably shareholders and advertisers. No recent story has made this clearer than Musk's takeover of Twitter, where dozens of high-profile advertisers left the platform in light of dubious decisions arbitrarily taken by Musk, like his decision to reinstate Trump's account (Bond, 2022), swamping the company's revenues (Hetzner, 2023).

Likewise, the recent developments in the banking sector, like the bankruptcy of Silicon Valley Bank (SVB), suggest that we are witnessing yet another cycle of (neoliberal) capitalism-induced crises. We insist on arguing that these crises are induced, and certainly aggravated, by capitalism due to its own contradiction of being itself "the real barrier of capitalist production" (K. Marx, 1906, Chapter 15). Thus, these cycles, which are getting shorter and shorter in an advanced and globalised world, act, as Marxist theorist David Harvey put it, as "chaotic means to bring the system back towards equilibrium so capitalist accumulation can resume" (2023).

In other words, they are meant to stabilise the system rather than disrupt it. In this regard, the speeding light in which governments, namely the US or Swiss, intervened in order to provide solutions and minimise the aftershock for the financial world is telling. Surely, this

is not a repetition of the 2008 financial crisis, where banks were bailed out using taxpayer money but, in the SVB's case, investors who had uninsured deposits will be "made whole," following increased pressure, which was expressed on Twitter, on US regulators from prominent Silicon Valley figures (Cox, 2023; Olinga, 2023). Thus, the supporters of venture capital, an investment model based on risk that has been the cornerstone of the Californian start-up industry, were not held to account but were instead rewarded; same for the policymakers, who deregulated the banking sector, and SVB's executives. So, the status quo perseveres, with those outside of the elite having to bear the consequences. As a result, it might be that we have learned very little from the financial collapse of 2008, especially as regards the role of regulators (Marcetic, 2023a)

Also, two recent incidents concerning TikTok's treatment by Western regulatory authorities further indicate the geopolitical dynamics that permeate their decisions: the decision of US policymakers to pass a nationwide restriction on the application's functionalities invoking issues of national security (Paul, 2023), as well as that of the European Commission to ban TikTok from devices used by EU institutions' employees (Goujard et al., 2023). As experts have written, these developments come at a time of significant geopolitical tensions between Western countries and China and, as such, could – and should – be seen as part of a Cold War-like strategy that does not seek to remedy real concerns about data privacy or national security (Angwin, 2023; Marcetic, 2023b).

Indeed, these concerns are legitimate and have been stoked by the obscure practices of TikTok and its Chinese parent company ByteDance: for example, the company has confirmed the surveillance of journalists in 2022 to identify the employees who leaked confidential information (Reuters, 2022). However, as this dissertation has shown, along with a myriad of other studies and reports, Western Big Tech, alongside the lack of effective regulation (e.g., a federal online privacy law in the US), are also a major part of the problem. Similarly, one cannot overlook the double-standards adopted by EU authorities, who despite imposing – and rightfully so - due diligence obligations on platforms, like the carrying out of risk assessments before implementing changes to their services (Art. 34 of the DSA), they did not carry out, or at least did not share, any such assessment for their decision about TikTok (Goujard et al., 2023).

The aforementioned examples bring to the surface the dialectical nature of power relations within society, where conflicting interests give rise to ideological and political-economic conflicts. As critical social scientists, our focus is on understanding the many processes that shape our connections to others, our methods of communication, how we gain and share information, our expressions and negotiations of identity, our exercise of rights, and

how we engage in public deliberation. Additionally, we are interested in identifying who has the ability to participate in decision-making processes and who is excluded from them or because of them. In this context, these examples and the case studies of this research project exhibit both the importance of, and the way to engage with systems of power, like platform governance, which is itself a locus of contestation.

Future research should seek to study platform governance from perspectives that have not been adequately considered, like from the lenses of sex workers (Tiidenberg, 2021), gig economy workers (Casilli & Posada, 2019), labour unions, like the recently certified Amazon Labor Union<sup>213</sup>, as well as queer people and people from the LGBTQ+ community (Duguay et al., 2020). These, too, are stakeholders who have a stake in platform governance, emphasising the inherent class struggle, but are often excluded from our studies and proposals for what alternative structures could look like. Equally important would be to continue studying undertheorised facets of platform governance, such as the relationship between news media organisations and online platforms and the implications of the emerging regulatory framework for the evolution of our digital public sphere.

Concluding, future scholarship should strive to be more inclusive and global in its approach. Indeed, it is imperative to adhere to an emancipatory framework and, even, experiment with methodologies that go beyond the traditional academic contours. Besides, academics alone will not create spaces that are governed and organised in the same fashion as those corporate spaces in which we are currently ensnared. Instead, we must nurture an inclusive dialogue to create spaces that would protect and empower people to challenge patriarchal, racist, classist, oppressing, and neoliberal structures. Studying the political economy of platforms' regulatory frameworks, as well as adopting a decolonial approach in "data and technology research" (Couldry & Mejias, 2021) is essential to that end. More importantly, we as academics should strive to inform our work with and ground it in the lived realities of people and movements grappling with structural inequalities. This approach will enhance our efforts to advance social justice and challenge the perpetuation of oppressive structures by powerful state and corporate actors.

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<sup>213</sup> <https://www.amazonlaborunion.org>.



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## Appendices

### APPENDIX A – Supplementary Material for Interviews

Table 3 - List of Interviewees

#	Name	Organisation	Title	Date
1.	Samuel Stolton	Euractiv (Now Politico EU)	Journalist	31/03/2021
2.	Emmanuelle Machet	European Platform for Regulatory Authorities (EPRA)	Coordinator	01/04/2021
3.	Owen Bennett	Mozilla (Now Ofcom)	Senior Policy Manager	07/04/2021
4.	Laura Kayali	Politico (EU)	Journalist	08/04/2021
5.	Patrick Breyer	European Parliament/Group of the Greens/European Free Alliance (EFA)	Member of the European Parliament	12/04/2021
6.	Lara Natale	CERRE	Senior EU Advisor	14/04/2021
7.	dr. Bernhard Rieder	EU Observatory on the Online Platform Economy	Academic Expert	15/04/2021
8.	dr. Alexander Schäfer	Federal Ministry of Justice and Consumer Protection (Germany)	Head of Department of Consumer Policy in the Information Society - Telecommunications and Media Law	16/04/2021
9.	Michèle Léridon	Superior Audiovisual Council (France)	Advisor and Member of the CSA	16/04/2021
10.	Camilla Bustani	Ofcom	Director, International	26/04/2021
11.	European Commission Staffer	DG CONNECT/ EU COM	European Commission Staffer	04/05/2021
12.	Julie Owono	Internet Without Borders/Facebook Oversight Board	Executive Director/ Member of the Board	27/05/2021
13.	Wout van Wijk	News Media Europe	Executive Director	27/05/2021
14.	Aurore Raoux	News Media Europe	EU Policy Manager	27/05/2021 – 03/11/2021
15.	Anna Mazgal	Free Knowledge Advocacy Group EU (Wikimedia)	Senior EU Policy Advisor	03/06/2021

16.	Aimilia Givropoulou	Homo Digitalis/European Parliament (EFA)	Advisor for Digital Policy	04/06/2021
17.	Alice Stollmeyer	Defend Democracy	Executive Director	23/08/2021
18.	Pierre Petillault	Alliance de la presse d'information générale	General Director	26/03/2022 – 22/10/2021
19.	Renate Schroeder	European Federation of Journalists	Director	05/11/2021
20.	Paul Keller	Open Future/Communia	Director of Policy	08/12/2021
21.	Thomas Bergmann & Jenny Weinand	European Broadcasting Union	Senior EU Policy Advisors	14/12/2021
22.	Ronan Costello	Twitter	EMEA Public Policy Manager	17/08/2021

Table 4 - Principal interview guide

Principal Themes	Indicative questions
Introduction	<ul style="list-style-type: none"> <li>• Could you please introduce yourself and tell me a few things about your work?</li> </ul>
Online platforms	<ul style="list-style-type: none"> <li>• What are the main problems caused by online platforms today? <ul style="list-style-type: none"> <li>• What are the main positive aspects of platforms?</li> <li>• What role have platforms played regarding the freedom of expression and/or media pluralism?</li> <li>• How important is content moderation for online platforms?</li> </ul> </li> </ul>
Regulation of platforms	<ul style="list-style-type: none"> <li>• What is your take on regulating platforms? <ul style="list-style-type: none"> <li>• Are there some lines that shouldn't be crossed concerning regulation?</li> </ul> </li> <li>• Are there some aspects that should be under regulatory scrutiny? <ul style="list-style-type: none"> <li>• What is your opinion on the public discourse regarding the regulation of platforms?</li> <li>• What would be the ideal way of policymaking in multi-stakeholder environments?</li> </ul> </li> </ul>
Civil society	<ul style="list-style-type: none"> <li>• What role does civil society play or should play in policymaking in your opinion?</li> <li>• (If applicable) What has your experience been in conferring with policymakers and other stakeholders?</li> <li>• (If applicable) What do you make of industry initiatives like the Facebook Oversight Board?</li> </ul>
Alternative models	<ul style="list-style-type: none"> <li>• What do you make of notions that recently became prominent, like decentralisation and web3? <ul style="list-style-type: none"> <li>• What could be some alternative models for platforms way of functioning in the future?</li> </ul> </li> </ul>

News media organisations	<ul style="list-style-type: none"> <li>• What role do you think news play in a society?</li> <li>• (If applicable) Should trustworthy news be given prominent position within social media networks?</li> <li>• What is your opinion on proposed regulation regarding news organisations and their right to compensation from platforms?</li> <li>• How important are journalist and/or publisher associations nowadays?</li> </ul>
European Union	<ul style="list-style-type: none"> <li>• How do you feel about the increased regulatory initiatives undertaken in the EU?</li> <li>• (If applicable) Could you please talk about your cooperation with EU authorities as regards these initiatives?</li> <li>• (If applicable) Could you please talk about your cooperation with other stakeholders, like civil society organisations and online platforms?</li> <li>• What is your opinion of lobbying, primarily from “Big Tech” groups, within the EU?</li> <li>• What do you make of certain Member-states passing their own regulatory bills? <ul style="list-style-type: none"> <li>• What is your take on the concept of the EU’s “regulatory fragmentation?” How do you think that the DSA will play into this?</li> </ul> </li> <li>• (If applicable) What do you think of the Codes of Conduct and Practice that the Commission has put in place?</li> <li>• (If applicable) What do you think of EU’s open consultations?</li> <li>• (If applicable) What is your opinion concerning the proposed “media exemption” or “non-interference principle” for the DSA? <ul style="list-style-type: none"> <li>• (If applicable) How has Brexit impact EU’s policymaking processes?</li> </ul> </li> </ul>

Table 5 – List of Themes/Sub-themes & Codes/Sub-codes

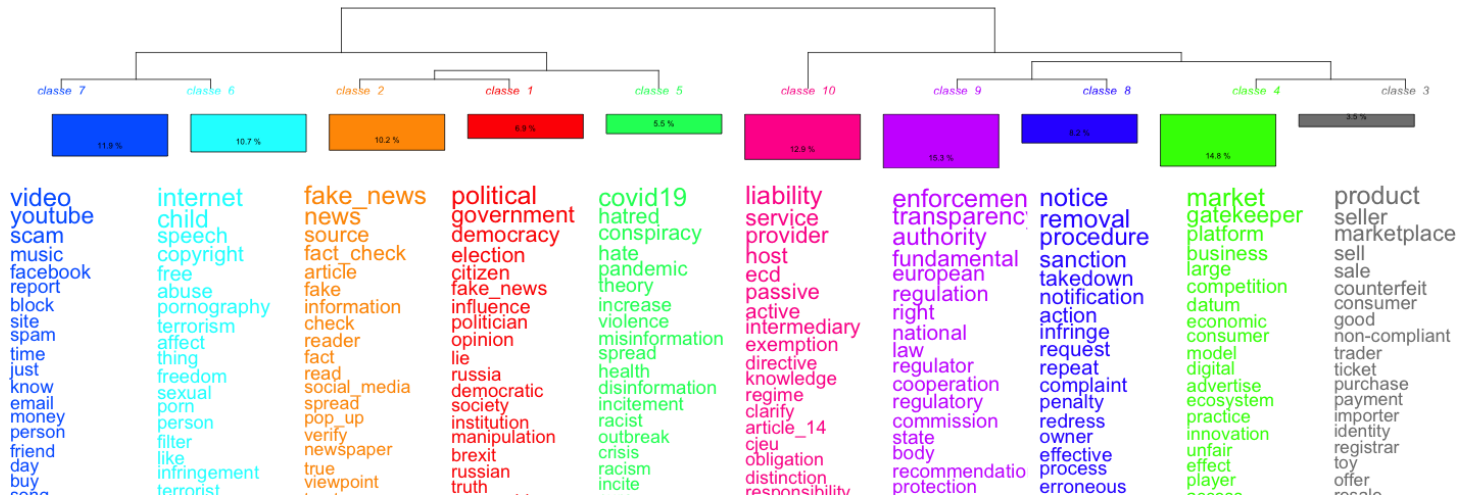
Themes	Sub-Themes	Codes	Sub-codes
Online Platforms	Alternative	Mozilla	
		Wikipedia	
	Social Media Platforms	Facebook	
			Facebook Oversight Board
			Frances Haugen
			Cambridge Analytica
		Google	
		Twitter	
		Filter bubbles	
		Polarisation	
	Content Moderation	AI/ML	
		Human rights	
			Freedom of expression
			Censorship
		Anonymity	

			Bots, trolls, fake accounts
		Trump	
		Christchurch	
		Disinformation	
			COVID-19
			Foreign manipulation (Russia, China, Macedonia)
		Illegal content	
	Platforms' Business Model	Advertising	
		Acquisitions	
News Media - Platforms Relationship	Challenges of News Media	Digitisation	
		Media pluralism	
		Media literacy	
		Media freedom	
	Education	Media pluralism/Freedom	
	Media failure/crisis	Advertising	
		Gatekeepers	
	Platform Dependency of News Media	Google News Initiative	
		Facebook Journalism Project	
		Fact-checking	
		Algorithms	
		Content moderation	
	Remuneration of News Media by Platforms	Australia NMBC	
		APIG	
		Copyright Directive	
Regulation of Platforms	UK Regulation	Brexit	
		Online Harms Act (Online Safety Bill)	
	EU Regulation	Public Consultations	
		EU CoC on Hate Speech	
		CoP on Disinformation	
		GDPR	

		Max Schrems	
		Digital Single Market	
		AVMS Directive	
		AI Act/White Paper	
		Copyright Directive	
		DSA	Trusted flaggers
			Media Exemption/non-interference principle
			Due diligence
			Systemic risks
			Risk assessments
		DMA	
	European digital sovereignty	Brussels Effect	
		Regulatory Fragmentation	
	Germany Regulation	NetzDG	
	France Regulation	Loi Avia	
		Loi séparatisme	
		CSA	
	US Regulation	Section 230	
		First Amendment	
Platform Governance	Reimagining Platform Governance	Interoperability	
		Access to Data	
		Data Privacy	
		Decentralisation	
		Transparency	
	Politics of Platform Governance	Multistakeholderism	Academia
			Civil Society
		Power Asymmetries	
		Techno-utopianism	
		Neoliberalism	
		Geopolitics	
		Lobbying	

# APPENDIX B – Supplementary Material for Part II

Figure 49 - DHC clusters based on citizens' replies to all three public consultations



## APPENDIX C – Supplementary Material for Part III

Table 6 - The top three countries in terms of total beneficiaries

Country	Google	Facebook	Facebook/Google	Grand Total
<i>US</i>	1455	543	207	2205
<i>Brazil</i>	389	26	9	448
<i>Canada</i>	211	36	93	422

Table 7 - Total beneficiaries of Facebook and Google's funding programs per continent

Continent	GNI	FJP	GNI/FJP	Total
<i>Africa</i>	110	8	2	121
<i>Asia</i>	755	75	22	893
<i>Europe</i>	1685	108	12	1805
<i>North America</i>	1931	657	254	2842
<i>South America</i>	853	66	20	939
<i>Oceania</i>	172	22	11	205
<i>Global</i>	4	6	-	10
<b>Grand Total</b>	5510	942	321	6773

Table 8 – Examples of intermediaries who distributed grants on behalf of Facebook and/or Google (indirect funding/direct mediation)

Beneficiaries	Country	Funding Project Title	Type of Organisation
<i>International Fact-Checking Network (Poynter)</i>	Global	FJP Fact-Checking Innovation Initiative	Non-Profit Organisation
<i>Canadian Journalism Foundation (CFJ)</i>	Canada	FJP Local News Accelerator	Philanthropy
<i>School of Journalism, Ryerson University / DMZ</i>	Canada	The Digital News Innovation Challenge (DNIC)	Education
<i>Native American Journalists Association</i>	US	FJP Scholarships	Journalist Association

Table 9 – Examples of intermediaries who reviewed applications on behalf of or in collaboration with Facebook and/or Google (indirect funding/indirect mediation)

<b>Beneficiaries</b>	<b>Country</b>	<b>Funding Project Title</b>	<b>Type of Organisation</b>
<i>The Walkley Foundation</i>	Australia	FJP COVID-19 Australian News Relief Fund Program	Philanthropy
<i>The Discourse</i>	Canada	FJP Community Network Grants	News Media Organisation
<i>Local Media Association (LMA)</i>	US	Local civic news organisations	Non-Profit Organisation
<i>Institute for Nonprofit News (INN)</i>	US	GNI-INN Sponsorships Lab	Journalist Association
<i>University of Lagos</i>	Nigeria	GNI COVID-19 Vaccine Counter-Misinformation Open Fund	Education

Table 10 – Examples of intermediaries who received funding from platforms to either support them or support other organisations through them (both direct and indirect funding/direct mediation)

<b>Beneficiaries</b>	<b>Country</b>	<b>Funding Project Title</b>	<b>Type of Organisation</b>
<i>European Journalism Centre</i>	Europe	FJP European Journalism COVID-19 Support Fund	Non-Profit Organisation
<i>Local Media Consortium (LMC)</i>	US	FJP Local civic news organisations	Journalist Association
<i>The Pulitzer Center</i>	US	FJP Local civic news organisations	Philanthropy
<i>Report for America</i>	US	FJP Local civic news organisations	News Media Organisation
<i>Medill School of Journalism, Media, Integrated Marketing Communications at Northwestern University</i>	North America	GNI The Data-Driven Reporting Project	Education



Table 11 - Table of Affected Individuals in Case Study #4

No	Users	Capacity	Policy penalty	Content	Policy Violation	Date of Action	Reinstated
1	Aris Chatzistefanou	Journalist	Post removed	Opinion concerning the case and the government handling	Violation of Community Standards	23/02/2021	N/A
2	Maria Louka	Journalist	Post removed	Opinion concerning the case and the government handling	Violation of Community Standards concerning Dangerous Individuals and Organisations	23/02/2021	N/A
3	Konstantinos Poulis & The Press Project	Journalist	Warning of the page “being unpublished”; reduced distribution and other restrictions	Posted photos of demonstrations for Koufontinas’s case	Recurring violations of Community Standards	27/02/2021	N/A
4	Association of Greek Judges & Prosecutors	Association	Post removed	Official announcement concerning the case	Unknown	24/02/2021	No
5	Marios Lolos	Photo-reporter	Restriction of “going live or advertising” for 60 days	Photos they took of the demonstrations	Violation of Community Standards concerning Dangerous Individuals and Organisations	01/03/2021	Yes (02/03/2021)
6	Tatiana Mpolari	Photo-reporter	Post removed	Photos they took of the demonstrations	Violation of Community Standards concerning Dangerous Individuals and Organisations	01/03/2021	Yes (02/03/2021)
7	Yannis Kemmos	Photo-reporter	Post removed	Photos they took of the demonstrations	Violation of Community Standards concerning Dangerous Individuals and Organisations	01/03/2021	N/A
8	Lefteris Partsalis	Photo-reporter	Post removed	Photos they took of the demonstrations	Violation of Community Standards concerning Dangerous	01/03/2021	Yes (02/03/2021)

					Individuals and Organisations		
9	Thanassis Kampagiannis	Lawyer/public figure	Many restrictions on his account	Multiple posts & re-shares concerning the case	Unknown	28/02/2021	N/A
10	Polymeris Voglis	Scholar/public figure	Restriction of “going live or advertising” for 30 days	Opinion concerning the case and the government handling	Violation of Community Standards concerning Dangerous Individuals and Organisations	28/02/2021	Yes (01/03/2021)

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