

Summary: IGF 2021 Introductory Session on Emerging Regulation

November 2nd, 2021

Session Information

Moderator: Jovan Kurbalija (Diplo Foundation)

Panelists: Alison Gillwald (Research ICT Africa), Sisi de la Peña (ALAI) and Olaf Kolkman (ISOC)

Rapporteur: Mayra Osorio (Derechos Digitales)

Emerging Regulation issue area Working Group co-facilitators: Roman Chukov and Jutta Croll

Time: 15:00 (UTC)

Session link: <https://www.youtube.com/watch?v=gduoup4GFec>

Discussion

The aim of this session was to prepare the buildup for the annual meeting of Internet Governance Forum happening in December 6-10 in Katowice - Poland, through the analysis of the digital regulation emerging trends. Due to the complexity in understanding this topic in general, some key areas were identified by the MAG WG in order to facilitate the introduction to the debate. The main cross cutting topics were the issue of dealing with monopolies and big tech companies, content policy appearing in different contexts and data governance. The main thoughts were the following:

There has been a range of perspectives among stakeholders (such as governments, society, big platforms and users) about how to work together. Some of the main challenges identified are the following: how users can engage with the digitalization process; how to interact as society with digital economies where no boundaries are found; and, how to develop an interinstitutional coordination between all actors to the final user, in order to dialogue about the benefits, consequences and impacts of digitalization in each sector.

We heard from speakers as an example of that, that there are two trends in Latin America: on one hand, the regulation policies are focused on big companies without thinking about how that regulation is going to impact entrepreneurs, because these corporations have the financial, technical and human capabilities to overcome these regulations unlike the new actors. Plus, these regulations not always consider all parties visions, and therefore there is no interinstitutional coordination. On the other, over regularization could be dangerous due to governments using the big platforms to its benefit, for censorship of contents or disconnecting from the internet certain services.

Then, the discussion moved to the internet global infrastructure, and how it is bringing at the same time economic and social prosperity and harm. As a result, regulation might play a role but it needs to follow up the guidelines of the critical properties of the internet¹ through an accessible infrastructure, an open architecture which enables people to collaborate with the internet and create mechanisms to strengthen it, the use common global identifiers to improve the internet experience, and a technology neutral general-purpose network in order to give an approach to stablish the internet regulations. One example given about the regulation that can

¹ Link to the critical properties: <https://www.internetsociety.org/issues/internet-way-of-networking/>

happen at this level is the new Internet Protocol (IP) proposal promoted by China; in this regard, it was highlighted that there is a need of divide the technical from the political approach.

Another topic discussed in the session was the data governance. The main remarks pointed out to the uneven availability of data and the inequal distribution of harms and opportunities of taking advantage of data that particularly impacts on the global south; on one hand despite the fact that more people and services are connected, the digital inequity is reflected not only between people who have connection to the internet and who is not, but among who have marginal connections. In that sense, data justice is moving forward of the idea of data protection to an approach that reevaluates that inequity and injustice are there, not only at individual but rather also at collective level. This is because data governance has been analyzed from a commercial approach and not from an equity and justice one; in this regard, digital policy must be cross cutting to ensure the data governance, what is intended to do with this integrated regulation is create an enabling environment in which it reduces the uneven distribution of opportunities that is currently seen.

Moreover, it was stablished that data has no value for itself, the real value is in being able to process and optimize that data. Then, the developed countries have an advantage because they have the capabilities to do so, and global south, specifically Africa stays behind and underrepresented in these new emerging data driven technologies that are emerging.

Finally, the issue WG announced that has been organized Workshop Sessions (WS) and one Main Session for the annual event that touch in several of the topics discussed in this Introductory Session of the issue area, which are listed as follows:

Main session: “Regulation and the open, interoperable, and interconnected Internet - challenges and approaches” Date: Thursday 9 December 2021, 10:15-11:45 UTC

Regulation, competition and innovation

- WS #175 Clash of Digital Civilizations: Governments and Tech Giants
- WS #77 Antitrust regulation of Internet platforms in global outlook
- WS #121 Platform economy: (post-pandemic) chances for SMEs
- WS #169 Regulating digital platforms from and for the Global South
- WS #123 Trust Me, I am a Seller: Regulating Online Business Accounts
- WS #115 Fan the Flames? Regulating Competition in Digital Markets
- WS #100 Forging Trust in the Digital Economy: A Consumer Perspective
- WS #130 The risks of pursuing digital autonomy
- WS #124 Gaming and its uniting power Information

Data governance and trust, globally and locally

- WS #80 Trustworthy data flows – what’s at stake and what is needed?
- WS #51 A Meaningful Standard for Necessary Scope of PI Processing
- WS #175 Clash of Digital Civilizations: Governments and Tech Giants

Content moderation and human rights compliance

- WS #17 Content Moderation BEYOND Social Media

Protecting consumer rights

- WS #51 A Meaningful Standard for Necessary Scope of PI Processing
- WS #123 Trust Me, I am a Seller: Regulating Online Business Accounts
- WS #115 Fan the Flames? Regulating Competition in Digital Markets
- WS #100 Forging Trust in the Digital Economy: A Consumer Perspective

Overall

- WS #243 Level Up: Methods for Localizing Digital Policy and Norms

Proposed policy questions for this issue area

- **Regulation, competition and innovation:** How could regulatory and self-regulatory frameworks help foster more competitive Internet-related markets, a larger diversity of business models, and more innovation? How to enable equitable access to data, marketplaces or infrastructures for fostering competition and innovation on the Internet?
- **Content moderation and human rights compliance:** How to ensure that government regulation, self-regulation and co-regulation approaches to content moderation are compliant with human rights frameworks, are transparent and accountable, and enable a safe, united and inclusive Internet?
- **Data governance and trust, globally and locally:** What is needed to ensure that existing and future national and international data governance frameworks are effective in mandating the responsible and trustworthy use of data, with respect for privacy and other human rights?
- **Data transfers, trade, cooperation and trust:** What is the role of local and international norms and principles in facilitating trustworthy international data transfers for trade and cooperation?
- **Protecting consumer rights:** What regulatory approaches are/could be effective in upholding consumer rights, offering adequate remedies for rights violations, and eliminating unfair and deceptive practices from the part of Internet companies?

Some extra questions from the participants (to discuss in the future):

- “Could you expect failure of Facebook without major security and economic damage for our society?”
- “Maybe we should at some point talk about Afghanistan?”
- “Would like to know what the speakers think of regulations arising from the purported need for ‘digital sovereignty’. Should we be worried about the potential risks of fragmentation due to this concept? Or is it rhetoric?”
- “How does DNS Abuse fit into the Critical Properties?”
- “What are your views of the proposed idea of the New IP from China?”