

Preface by the author and acknowledgements

The idea of this book was born when the European Union published the first drafts of DSA and DMA, in spring 2021. At that time, we just finished the collection of manuscripts for the book "Perspectives on Platform Regulation" and anticipated the regulatory wave that was coming to regulate the digital field. What we could not foresee, was, how extensive this regulatory wave grew, with yet new proposals being issued by the Commission, not only strictly related to platforms, but related to data, to strategic litigation against public participation (SLAPP) and on European media freedom. The overwhelming task of processing the proposals and the developing drafts extended the writing process with more than a year. Finally, I needed to limit the scope to maintain the focus and keep the discussion within reasonable limits. Therefore, the parts on the Data Act, the Data Government Act and on the SLAPP directive were omitted. Even so, the moving target of the ever-changing regulatory proposals presented a great challenge. Finally, we waited with the closure of manuscript until February 2024, when the final content of the discussed Acts was already available. Some of the Acts were renumbered during the official publication. Where possible, these adjustments were added during early June 2024.

Not only the developing legislative drafts represented a moving target, but also the changing political environment, and changes in the platform market. On 24 February 2022, Russia launched a war against Ukraine. The related hybrid warfare induced legislative interventions in the media by banning the Russian state-financed propaganda-channel RT,¹ and induced changes in the draft European Media Freedom Act.² Twitter (now X) was acquired by Elon Musk, whose rather arbitrary ideas caused a considerable turmoil in the organisation and also in the user experience. It decided not to comply with the European Code of Practice on Disinformation,³ which

1 Council Regulation (EU) 2022/350 of 1 March 2022 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.

2 Article 16 EMFA.

3 „EU: Twitter leaves voluntary pact on fighting disinformation,” DW, last modified May 27, 2023, <https://www.dw.com/en/eu-twitter-leaves-voluntary-pact-on-fighting-disinformation/a-65751487>.

move substantially weakens the effect of the DSA's co-regulation scheme. To avoid penalty, Musk announced that he considered blocking access to X from the EU.⁴

Then, in November 2022, ChatGPT was made available for the wide public. The freely available foundational AI model was highly capable to generate textual content, passing not only the Turing Test, but even various university exams successfully. This put the development of AI into a new perspective, including doomsday scenarios and the inevitable hype. Bill Gates compared its significance to the invention of the internet.⁵

The book consists of three parts. The first part offers a discursive analysis on the changes that the public discourse has encountered in the past decades. The period in focus is the "platform age", this is being discussed in historical perspective. The implications to the democratic function, and the understanding of media freedom and pluralism are analysed. I argue that state – and to some extent the European Union – has a certain positive obligation to actively ensure media freedom and pluralism, which requires a different approach than in the previous media age. (Under "previous media age" I understand the 20th century when these notions were developed and elaborated.)

The second part discusses the initiatives and strive of the European Union to establish a common, modern, democratic media order for the Union. I describe how this attempt has been on the table since the end of the 20th century, and how various steps paved the way towards today's EMFA, in 1989, 1997, 1999 – only to freeze into a policy-paralyse after platforms took over the commercial and communication market from 2004 onwards. I argue that the EU, both in its role as an economic entity, but even more as a nascent political community, cannot evade the path of forging a common regulatory framework for media. The part includes a detailed analysis of the EMFA.

The third part explores how the new regulatory framework for online platforms may affect the public discourse. The Digital Services Act, the Digital Markets Act, the Act on Transparency of Political Advertising and the AI Act and their impacts on freedom of expression and the public

4 „Musk considers removing X platform from Europe over EU law – Insider,” *Reuters*, last modified October 19, 2023, <https://www.reuters.com/technology/musk-considers-removing-x-platform-europe-over-eu-law-insider-2023-10-18/>.

5 Tristan Bove, „Bill Gates says ChatGPT will ‘change our world’ but it doesn’t mean your job is at risk,” *Fortune*, last modified February 10, 2023, <https://fortune.com/2023/02/10/bill-gates-chatgpt-jobs-chatbot-microsoft-google-bard-bing/>.

discourse are analysed, with the intention to be clear also for non-legal audiences, in particular thinking of scholars in media studies.

The book closes with a summary and bird's-eye view of the discussed topics, taking the broader geopolitical environment in consideration.

The writing of this book would not have been possible without the support of the Institute for Information, Telecommunication and Media Law at the University of Münster. The friendly and liberating atmosphere of the institute and of the friendly city of Münster have constantly inspired me to work. I am immensely grateful for Professor Holznagel, who was deeply emphatic with my hesitations and delays. He furnished me with the necessary amount of critical and sceptical remarks, combined with inspiration and support, but most of all, with his patience that allowed me to work in my pace. The colleagues at ITM were an inexhaustible source of new energy and witty discussions.

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This manuscript has undergone linguistic refinement with the assistance of various AI tools, including ChatGPT, DeepL, LanguageTool, Quillbot and potentially others that I cannot recall due to the limitations of my

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human memory. All AI enhancement tools were deployed under my close supervision and meticulously reviewed. All thoughts are exclusively mine, unless credited to others. All mistakes are mine.