

# The regulation of online platforms in Europe and in the US from the perspective of media law

**Week 1 (22 June – 26 June 2020)**

*Lecturers: András Koltay (Rector of the National University of Public Service, Professor of Pázmány Péter Catholic University) / Zsolt Zódi (Senior Researcher, National University of Public Service):*

Platforms are becoming increasingly important part of our economy and everyday life. We order taxi and book accommodation, watch and share videos and photos, and socialize on platforms. Though platforms started to dominate certain sectors of economy and our activities at the beginning of the last decade, therefore they are relatively new phenomena, governments endeavored to regulate them from the beginning.

First, as an early attempt they were categorized as *intermediaries*, a concept that was born right before the platforms, mainly describing internet service or hosting providers, and the like. According to this approach, platforms do not have a responsibility over the content uploaded, and transactions performed on them. This approach still serves as a basis for the regulation in most of the countries. But from the beginning of the last decade the intermediary approach proved to be more and more insufficient, and the legal discourse started to shift to constitutional law (basic rights), and media law direction.

Our course gives an introduction to the platform ecosystem, and to the recent regulatory landscape of the EU and the US, with a special emphasis on media regulation. It also gives a short introduction to other legal aspects, like data and consumer protection and competition law, and an outlook to the plans and drafts that can affect the future legislation.

**Day 1: 9:00 - 11:00**

## **Introduction to the world of platforms & basics of media law**

**(András Koltay and Zsolt Zódi)**

- The significance of platforms: what does “platform society” mean? The definition and types of platforms. Social platforms, search engines, matching platforms, and enabler platforms. Exchange platforms and maker platforms. “Big five”: Facebook, Amazon, Apple, Microsoft, Google.
- Mechanism of platforms and how they differ from their “offline” counterparts. The impact of platforms on society and economy. Challenges of regulation: why and how platforms differ from their “offline” foreshadows? What is their specialty?
- Legal aspects of regulation of platforms: constitutional issues (freedom of speech), privacy and data protection issues, antitrust and competition law issues, consumer protection issues, civil law (contract law) issues, taxation issues.
- Basic concepts of media regulation and its regulatory environment. Differences in regulating the press, radio, television and the Internet. Media pluralism, access to the media and protection from harms.

**Readings:**

- José van Dijck, Thomas Poell, Martijn de Waal *The Platform Society: Public Values in a Connective World*, OUP 2018 (Chapter 2 31-49)
- Julie Cohen: *Between Truth and Power*, OUP 2019 (Chapter 1 15-46)
- Alex Moazed: *Platform Types: Explained and Defined* By on 20 Oct, 2017  
<https://www.applicoinc.com/blog/what-makes-uber-different-from-android-how-to-make-sense-of-platform-businesses/>
- Rikke Frank Jørgensen: *Human Rights in the Age of Platforms*, MIT Press 2019
- Jan Oster, *European and International Media Law*, Cambridge UP, 2016

## **Day 2: 9.00 - 11:00 The (state, co- and private) regulation of platforms in the EU**

### **(Zsolt Zódi)**

- The e-Commerce Directive (2000/31/EC), and its main concepts, “intermediaries” and “information society services”.
- The AVMSD (2018/1808 EU) and the regulation of video sharing platforms
- Hate speech restrictions, protection of minors and of the public order, prevention of terrorism
- Fake news and political speech
- An introduction to “the patchwork of regulations” within the EU member states

### **Readings:**

- Relevant EU Court rulings (C-390/18 - Airbnb Ireland, C-18/18 - Glawischnig-Piesczek, C-434/15 - Asociación Profesional Elite Taxi, C-360/10 – SABAM, C 131/12 González, C-236/08 - Google France and Google etc.)
- Jaani Riordan, *The Liability of Internet Intermediaries*, OUP 2016
- András Koltay, *New Media and Freedom of Expression*, Oxford, Hart, 2019

## **Day 3 9:00 -11:00: The (state, co- and private) regulation of platforms in the US**

### **(András Koltay)**

- Media and free speech: Communications Decency Act
- Privacy and defamation
- Hate speech, protection of minors
- Fake news and political discourse

### **Readings:**

- Andrew Tutt, ‘The New Speech’ (2014) 41 *Hastings Constitutional Law Quarterly* 235
- Cass R Sunstein, *#Republic. Divided Democracy in the Age of Social Media* (Princeton, NJ, Princeton University Press, 2017)
- Jack M Balkin, ‘Old-School/New-School Speech Regulations’ (2014) 127 *Harvard Law Review* 2296
- Kate Klonick, ‘The New Governors: The People, Rules, and Processes Governing Online Speech’ (2018) 131 *Harvard Law Review* 1599
- András Koltay, *New Media and Freedom of Expression*, Oxford, Hart, 2019

**15.00 - 16:30 consultation**

**Day 4 9:00 - 11:00**

**Data protection, competition law, antitrust and consumer protection issues concerning platforms.**  
**New regulatory efforts in the pipeline, debates about the future regulation**

**(Zsolt Zódi)**

- The GDPR and its relevant regulation affecting the platforms (informed consent, purpose limitation, right-to-be-forgotten, profiling)
- Consumer protection on the platforms
- Competition law aspects of platforms in the EU and the US
- New consumer sales directive – (Omnibus Directive)
- Collective Redress Directive
- Platform-to-Business regulation (P2B)
- Digital Services Act
- Recommendations, Communications of the EU bodies and the Council of Europe

**Readings:**

- Patricia Rogosch - Erik Hohl: Data Protection and Facebook: An Empirical Analysis of the Role of Consent in Social Networks, LIR Verlag, Münster, 2010.
- Kenneth A. Bamberger & Orly Lobel, Platform Market Power, 32 Berkeley Tech. L.J. 1051 (2017)
- Digital Services Act: [https://www.politico.eu/wp-content/uploads/2019/08/clean\\_definite2.pdf](https://www.politico.eu/wp-content/uploads/2019/08/clean_definite2.pdf) 24-25
- Omnibus Directive: European Parliament Legislative Observatory, 'EU consumer protection rules: enforcement and modernisation 2018/0090(COD)', [https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2018/0090\(COD\)&l=en](https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2018/0090(COD)&l=en)
- Directorate-General for Justice and Consumers: Exploratory study of consumer issues in online peer-to-peer platform markets Legal Analysis Report , 2017 [https://ec.europa.eu/info/sites/info/files/annex5\\_task5\\_reportmay2017.pdf](https://ec.europa.eu/info/sites/info/files/annex5_task5_reportmay2017.pdf)

**Day 5 9:00 – 11.00**

**Test**