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 Ződi (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 services 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 Ződi)

- 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)
• 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 Ződi)

• 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:
• Cass R Sunstein, #Republic. Divided Democracy in the Age of Social Media (Princeton, NJ, Princeton University Press, 2017
• 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 Ződi)

- 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:


Day 5 9:00 – 11.00

Test