

# Regulatory challenges of the disintermediation of the audiovisual sector – what place for regulation, co- and self- regulation?

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Dis | inter | media | tion

# “Disintermediation” of the audiovisual sector (1)

## External developments (some examples)

- VoD service providers **source directly with/become producers**; direct2online renounces theatrical exhibits and ensuing promo effects
- UGC platforms offer **content from users** directly to other users
- TV **advertising** slots auctioned next to stations’ sales houses; online advertising marketed without involving media agencies
- OTT TV & video services incentivise “**cord cutting**”
- Recommendation engines may lead to **disintegrated schedules**, bypass of “curation” by service editors
- Mood-tailored scheduling produces “**personalised services**”; middleman cut out is e.g. music channel incl. its editors

# “Disintermediation” of the audiovisual sector (2)

## Internal developments (True Stories, thus episodic/anecdotic)

- **Automated Journalism:** “US Open: Nadal ./ Del Potro fantastic match” – middleman cut out is the sports journalist
- Usage **data-based script-writing:** “In min ‘8, there must be a sex scene!” – what about the script reader/editor?
- Algorithm-guided, **individualised programming:** editors’ role?
- **AI-“created” movie trailer:** scope of human creativity narrowed
- (Premium content) **packages unbundling** & downsizing
- **VFX** (visual effects) as substitute for “real” shooting

The importance of some links and respective actors in the AV value chain might have been mitigated against or even vanished ...

... but

- **new links have been introduced to the value chain**, and
- some actors (**intermediaries**) are **present along the entire value chain** –  
from content production over distribution to reception (incl. OS and devices) and, of course, financing

Well, if this is it ...?!

Loss of central authority to which final **editorial responsibility** had been attached in the past

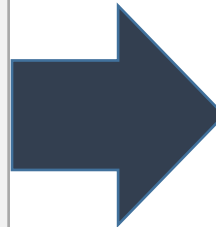
Forfeit of revenue streams formerly vested in **control over how/when/where/by whom** content was published

Decreasing fit of traditional **market assessment/ consumer protection tools** due to specificities of the platform/data economy

Overall: **acceleration of development** makes it even more difficult to devise a suited regulatory scheme

# Issues raised – regulatory options under discussion

- **Technical prerequisites** for mass communication (e.g. no scarcity)
- **Content** assessment according to respective **standards** (e.g. minors' protection; hate speech)
- **Commercial communications**
- **Diversity/media independence**
- Upfront clearance/acquisition of necessary **rights**
- e**Privacy**/protection of pers. data
- (Big) **data treasure** lifting
- [Market impact assessment]
- [tax; labour/social security; environment; transport]



- **Notification** instead of licence (e.g. “live streaming” activities)
- **Action** (blocking, filtering, deletion) against (allegedly) illegal content
- **Transparency**; when monetising UGC, qualitative rules applicable
- **Transparency; limitations**
- Mediation; content recognition technologies; **fair remuneration**
- Authorisation; a-/**pseudonymising**
- Interoperability; **access; disposal**
- [“DAAC”; transaction value; etc.]
- ...



Does  
*Dis* | ruption  
lead to  
*Re*–intermediation  
and/or  
full integration ?

And, if so, what to do about it?

# What kind of regulation?

- regulation?
- co-regulation?
- self-regulation?

# Important up-/downstream considerations (1)

- evidence-based approach
- problem-focussed
- prophylactic
- consumer-centric
- investment & innovation incentives
- trade-oriented/European competitiveness
- pro SME / pluralistic landscape of providers
- stakeholder governance
- level-playing field

- regulation?
- co-regulation?
- self-regulation?

# Important up-/downstream considerations (2)

- evidence-based approach
- problem-focussed
- prophylactic
- consumer-centric
- investment & innovation incentives
- trade-oriented/European competitiveness
- pro SME / pluralistic landscape of providers
- stakeholder governance
- level-playing field

- no additional regulation
- liberalisation/de-regulation
- adapted regulation
  
- regulation?
- co-regulation?
- self-regulation?

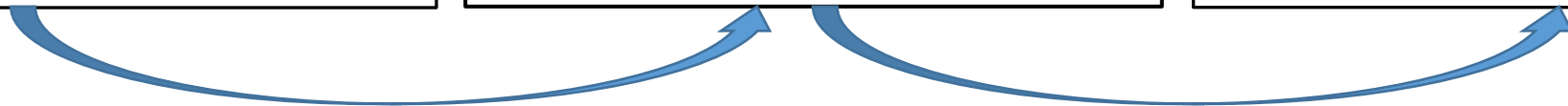


# Important up-/downstream considerations (3)

- evidence-based approach
- problem-focussed
- prophylactic
- consumer-centric
- investment & innovation incentives
- trade-oriented/European competitiveness
- pro SME / pluralistic landscape of providers
- stakeholder governance
- level-playing field

- no additional regulation
- liberalisation/de-regulation
- adapted regulation
- regulation?
- co-regulation?
- self-regulation?

- ex-ante and/or ex-post
- principles-based
- horizontal
- sector-specific
- top-down/agency-driven
- private enforcement
- minimum standards
- fully harmonised
- technologically neutral
- future-proof reg.
- Directive/Regulation



Please discuss!