

# Global watch on culture and digital trade

## DIGITAL CONTENT, POWER RELATIONSHIPS AND REGULATION ISSUES

**By Dr. Antonios Vlassis (Center for International Relations Studies-CEFIR, Université de Liège)**

Analytical report, October 2021

The October report begins with the first meeting of the Trade and Technology Council between the United States (US) and the European Union (EU) and with the recent trade initiatives carried out by the US administration in order to counter China's rise in digital sectors. It also focuses on recent regulation developments regarding digital content in China, the Philippines, Thailand and Switzerland. Then, the report turns to several cross-national activities of online platforms, highlighting new initiatives developed by global platforms in Africa and emphasizing new acquisitions and alliances in the streaming market.

### Regulation issues, digital trade and culture

#### **Toward a US-EU alignment regarding digital trade?**

US and EU officials announced that they will hold the first meeting of the US-EU Trade and Technology Council (TTC) at the end of September. The goal of the TTC, launched on June 15 at the US-EU Summit in Brussels, is to serve as a forum to “coordinate approaches to key global trade, economic and technology issues and to deepen transatlantic trade and economic relations”. The US and the EU have established 10 TTC working groups, such as on data governance and technology platforms, investment screening, global trade challenges, export controls, etc.



In addition, according to a draft memo seen by [Reuters](#), the US and the EU intend to take a more unified approach to limit the growing power of tech companies.

As [Politico](#) noticed, through the TTC, the US administration seeks to create a diplomatic platform for establishing a joint approach in order to counter China's rise in digital sectors. Instead, EU officials [stated](#) that the TTC will not serve as a "confrontational" platform for bilateral talks geared at opposing China, adding that the US "will not be able to suggest 'changes' to the new EU legislative proposals", such as the artificial intelligence regulatory framework, the Digital Services Act and the Digital Market Act.

Finally, in mid-September, in a [letter](#) to US Trade Representative Katherine Tai, more than a dozen industry and business groups, including the US Chamber of Commerce, the Information Technology Industry Council or the Coalition of Services Industries, [called](#) on the Biden administration to develop digital trade rules with "trusted partners" in the Indo-Pacific region. According to the letter, "developing inclusive digital trade rules with trusted partners in the Indo-Pacific, whether by leading in the development of a new plurilateral agreement or pursuing the expansion of existing agreements, should be a critical element within a broader US trade agenda to counter protectionist digital economy trends".

### **China's new regulations for online platforms**

Recently, China has passed two new legislations related to digital trade: the Data Security Law and the Personal Information Protection Law. As the [South China Morning Post](#) stated, through the implementation of the two laws, "China has a range of measures which restrict cross-border data flows and enforce data localisation". Besides, [China's market regulator](#) stressed that licenses can be revoked if the platforms fail to take measures against companies and vendors who infringe intellectual property rights.

Under the new laws, companies that seek to transfer data overseas must undergo a review to address privacy, safety and cybersecurity concerns. In this sense, according to the 2018 US Clarifying Lawful Overseas Use of Data Act, the US could demand access to data, regardless of where it is stored. Under the new Chinese law, if a company holds data belonging to a US citizen stored on a Chinese server, it may not be able to legally transfer that data to the US government without proper approval.



Furthermore, in mid-September, fourteen major online content companies in China signed a “Self-Discipline Convention” that comes with broader copyright measures and seeks to help the Chinese government enforce order online. According to the agreement, “the participating platforms reached a consensus that in order to maintain a clean cyberspace environment and strengthen the construction of online cultural content, companies should carry out more proactive self-discipline”. The full list of companies that signed the agreement includes video- and music-sharing platforms like iQiyi, Tencent Video, YouKu, QQ Music.

Finally, the Chinese government intends to enact even stricter rules on the time children spend gaming online. The goal is to completely ban minors from playing videogames between Monday and Thursday and to allow one hour a day on Fridays, weekends and public holidays. In order to implement the new legislation, the government will rely on the games industry to enforce the rules using facial recognition.

### **Digital taxes**

In Switzerland, following a proposal by the Swiss government suggesting a review of the national audiovisual law, the two houses of Parliament have come to an agreement to levy a tax on foreign streaming services. Thus, several foreign streamers, such as Netflix, Amazon Prime, Disney Plus, would have to invest 4% of their gross income earned in Switzerland in national film production. The Swiss film industry could benefit from an additional 19.6 million USD per year. The proposed law would also oblige streaming platforms to have at least a 30% share of European films in their catalogues, as is the case under the Audiovisual Media Services Directive adopted by the EU in 2018. However, the proposed reform could be challenged by a referendum, since “a group of right leaning and centre political parties have threatened to force a public [consultation] on the issue”.

In the Philippines, the lower house of Congress approved a bill imposing a 12% value-added tax (VAT) on digital transactions in the country. It will require non-resident digital service providers, such as Facebook, Netflix or YouTube, to assess, collect and remit VAT on the transactions that go through their platforms. The bill aims to raise around 580 million USD. Finally, since September 1st, Thailand has imposed a VAT charge of 7% on foreign digital service operators. According to the Bangkok Post, so far, about 70 foreign e-service providers have registered to pay VAT in Thailand, including Netflix, Spotify, Viu and Tiktok.

## Worldwide activities of online platforms

### **New plans and subscriptions in Africa**

Netflix seeks to boost its service in new markets through a range of new plans. End of September, Netflix launched a free mobile plan in Kenya, which will be rolled out in the coming weeks to any user aged 18 or above with an Android phone. According to Netflix, the new ad-free plan will not require users to provide any payment information during the sign-up and it will make about one quarter of its movies and television shows catalog available to users. As Variety pointed out, “the streaming company’s hope is that by offering a 100% free tier, which includes about one-fourth of the content available in its paid-streaming plans in Kenya, more people will try out the service and end up subscribing”.

Besides, Netflix may end the year 2021 with 2.61 million streaming subscribers in Africa. According to the Hollywood Reporter, “South Africa and Nigeria will each supply 2.3 million and will be the only countries in Africa with more than 1 million subscriptions”. Showmax, owned by South African multimedia company MultiChoice, is currently ranked second with an estimated 0.86 million subscribers at the end of 2021. Finally, Disney Plus will launch in the region in 2022, “but only in an expected 12 countries”.

### **New alliances and acquisitions**

End of August 2021, Apple announced it had acquired Primephonic, the renowned classical music streaming service, created in 2017. Since early September, Apple has shut down Primephonic’s app and added its playlists and other exclusive audio content to Apple Music and it plans to debut a new classical music app next year. Acquiring Primephonic gives Apple valuable data for trying to fend off competitors like Spotify and Amazon Music. Primephonic said that as a startup, it would have been unable to “reach the majority of global music listeners and that it needed to partner with a larger music streaming company”.

End of September, Netflix announced a one-billion deal with the Roald Dahl Story Co., including a number of Dahl books such as Charlie and the Chocolate Factory, Matilda, and others.



Netflix's plan is to create several limited animated series based on the Roald Dahl's work, setting up "a potential family friendly franchise". According to the [Hollywood Reporter](#), Netflix's deal could be one of the biggest single investment ever in kids programming.

Finally, according to the Telegraph newspaper, four UK broadcasters - the BBC, ITV, Channel 4 and Channel 5 - would [reach](#) an agreement by November in order to create a single streaming app that will surface content from all the broadcasters. In addition, the four broadcasters are looking to strike deal with TV manufacturers in order to see dedicated buttons for the app on TV remotes, as is already done for Netflix in several cases. It is worth noting that the BBC and private operator ITV jointly own the British streaming platform BritBox, which is available in the US, UK, Canada, Australia and South Africa.

### **Business models and the future streaming market**

According to an interview published in the German news magazine Der Spiegel, Netflix CEO Reed Hastings [stressed](#) that the streaming market has not reached its saturation point "by far", adding that it will take "another 10 or even 20 years before linear TV disappears completely". He pointed out that the Netflix's business model should not be based on news or live sports. He explained that Netflix is an entertainment company that does not do journalism, adding that "it is difficult to produce news without making enemies, especially as a global company". Regarding sports broadcasts, Hastings underlined that "Netflix cannot control the source, insofar as a national soccer championship can make deals with whoever it wants". In this sense, the Netflix's business model will continue to rely on series, films and video games. It is worth noting that as part of a test, Netflix has launched two mobile games based on the Stranger Things for subscribers to download and play. This test is currently available in [Poland](#).

Finally, in an article published by Variety, the researcher and scholar [Gene del Vecchio](#) argued that Disney will be "addicted to increasing subscriptions" for its streaming platform Disney Plus even though "it means sacrificing theatrical revenue". The movie Black Widow is a representative case. The simultaneous launch in theaters and on Disney Plus cost Disney box-office revenue, since the film has suffered a massive drop of tickets on second weekend. "Disney made less money on the box-office, but Disney's new business model makes more money by selling one more subscription than it does by selling one more ticket".



**Additional readings for the October report:**

Plans for more distinctly 'British' TV could threaten the industry's potential for diverse brilliance, The Conversation, 22 September, [Link](#).

How to improve transatlantic relations without caving to Europe on technology and trade, The Hill, 17 September 2021, [Link](#).

La bataille pour la régulation des magasins d'application va se poursuivre, Le Monde, 16 September 2021, [Link](#).

China's new regulation of platforms: a message for American policymakers, Brookings, 14 September 2021, [Link](#).

## Indicative sources

- Transatlantic trade deal rises from the grave to fight China, Politico, 9 September, [Link](#).
- Exclusive: Big Tech targeted by US and EU in draft memo ahead of tech and trade meeting, Reuters, 23 September, [Link](#).
- EU official: Trade and tech council should not turn into an 'anti-China exercise', Inside US Trade, 17 September, [Link](#).
- Letter by industry and business groups to US Trade Representative Katherine Tai, 10 September, [Link](#).
- What China's new data laws are and their impact on Big Tech, South China Morning Post, 1st September, [Link](#).
- 14 Chinese content platforms signed a pledge to be 'self-disciplined' as the government cracks down on toxic fan behavior and celebrity worship, Insider, 13 September, [Link](#).
- Streaming services must now contribute towards the funding of Swiss cinema, Cineuropa, 20 September, [Link](#).
- Philippines lower house approves VAT for big tech firms, Reuters, 22 September, [Link](#).
- Netflix Launches a Totally Free Streaming Plan, Available Only in Kenya for Now, Variety, 20 September, [Link](#).
- Apple just bought a classical music streaming service, Fortune, 30 August, [Link](#).
- Disney's Addiction to Subscriber Gains Drives Disruption at the Expense of Theatrical Revenue, Variety, 30 August, [Link](#).

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### PUBLICATION DIRECTOR

Gilbert Gagné, Researcher at CEIM and Director of the Research Group on Continental Integration (GRIC).

### AUTHOR

Antonios Vlassis, Lecturer and Researcher, Center for International Relations Studies (CEFIR)-University of Liège, CEIM member.

### Centre d'études sur l'intégration et la mondialisation (CEIM)

UQAM, 400, Sainte-Catherine street East, Hubert-Aquin Pavilion, Suite A-1560, Montréal (Québec) H2L 2C5 CANADA. Phone number : 514-987-3000, ext. 3910 / Email: [ceim@uqam.ca](mailto:ceim@uqam.ca) / Website: [www.ceim.uqam.ca](http://www.ceim.uqam.ca)

### International Federation of Coalitions for Cultural Diversity (IFCCD)

33 Milton street, Suite 500, Montréal (Québec), H2X 1V1, CANADA. Phone number: 514 277-27666 / Email: [coalition@cdc-ccd.org](mailto:coalition@cdc-ccd.org) / Website : [www.ficdc.org](http://www.ficdc.org)

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