

# Global watch on culture and digital trade

## **GLOBAL DIGITAL CULTURAL GOVERNANCE: CHALLENGES FOR REGULATION AND ECONOMIC EXPANSION**

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Analytical report, February 2022

The February report begins with the negotiations on the Digital Services Act (DSA) and the Digital Markets Act (DMA) within the European Union (EU), as well as with the UNESCO Recommendation on the Ethics for Artificial Intelligence (AI). It also deals with new policy developments toward the regulation of online cultural streamers, focusing on the case of France, Russia and China. Then, the report turns to several cross-national activities of online platforms, highlighting new partnerships and economic plans developed by global tech companies (Netflix, Spotify, Microsoft, Disney, etc.) in different sectors, such as audiovisual, music and video game industry.

### **Regulation issues, digital trade and culture**

#### **EU negotiations on the Digital Services Act and Digital Markets Act**

End of January 2022, the European Parliament agreed to amendments to the draft version of the DSA that the European Council adopted on November 25. The draft DSA was approved with 530 votes in favor, 78 against, and 80 abstentions within the Parliament. The amendments deal with targeted advertising, the obligation of platforms to remove illegal content, algorithm-based ranking, etc.



The Digital Services Act is a modernized version of the EU e-commerce rules established in 2001. It focuses on intermediary services, hosting services, online platforms and very large platforms and it imposes new rules regarding several issues, such as transparency reporting, transparency of recommender systems and user choice for access to information, cooperation with national authorities following orders, reporting criminal offenses, data sharing with authorities and researchers, user-facing transparency of online advertising, etc. The DSA includes significant mechanisms for the removal of illegal content and creates a stronger public oversight of online platforms. For instance, the [DSA](#) incorporates measures to “counter illegal goods, services or content online, such as a mechanism for users to flag such content and for platforms to cooperate with ‘trusted flaggers’”.

However, as the [Parliament Magazine](#) mentioned, some criticisms were formulated by the Culture and Education Committee in the European Parliament. According to the conservative member Sabine Verheyen, the draft DSA lacks “in precision regarding new obligations for the media industry, potentially threatening its freedom of expression - a view supported by Legal Affairs (JURI) committee opinion rapporteur Geoffroy Didier”.

For finalizing the text, four political [trilogues](#) between the Commission, the Parliament and the Council are planned on 31 January, 15 February, 15 March and the week commencing on 4 April.

Together with the DSA, the [Digital Markets Act](#) is also one of the centerpieces of the EU digital strategy. The DMA introduces specific criteria for defining a large online platform as a gate-keeper and seeks to establish a fairer market environment for business users, consumers and tech start-ups. It is worth noting that the [European Parliament](#) has incorporated connected television issue into the scope of the DMA. In this context, France’s streaming service [Salto](#) is urging European authorities to deal with the competitive asymmetry between major platforms and national streamers, including by “changing remote controls that often include a Netflix and/or Amazon Prime Video button”. Since January 2022, the EU institutions have entered negotiations in order to finalize the provisions of the text.



## **UNESCO Recommendation on the Ethics of Artificial Intelligence**

End of November 2021, UNESCO member states adopted a non-binding Recommendation on the Ethics of Artificial Intelligence in order to define a common set of values and principles for the development of ethical AI globally. The Recommendation covers the ethical issues related to the AI to the extent that they are within UNESCO's mandate regarding education, science, culture, communication and information. According to the Recommendation (page 5), "AI technologies can enrich cultural and creative industries, but can also lead to an increased concentration of supply of cultural content, data, markets and income in the hands of only a few actors, with potential negative implications for the diversity and pluralism of languages, media, cultural expressions, participation and equality".

The Recommendation is articulated around policy areas, such as data policy, development and international cooperation, gender, etc. The policy area 7 focuses specifically on the cultural sectors. Among the various propositions, the Recommendation explicitly invites technology companies and other stakeholders "to provide a diverse supply of and plural access to cultural expressions, and in particular to ensure that algorithmic recommendation enhances the visibility and discoverability of local content".

### **France's new regulations on audiovisual streamers**

Following long-term negotiations between the French authorities, online streamers and television channels, France's broadcasting authorities announced that Netflix, Amazon, Disney Plus and Apple TV Plus signed an agreement to start investing 20% of their annual revenues on French content. The investment will be between 280 million USD and 330 million USD per year. Netflix will be the key contributor with 225 million USD annually. According to Variety, streamers have to dedicate 80% of the 20% invested in French content to audiovisual works (shows, movies, documentaries). The remaining 20% will go to fund movies that will be theatrically released. The agreement follows the implementation of the European Audiovisual Media Services Directive adopted in 2018.



In addition, end of January 2022 and following controversial debates, a new agreement toward media chronology was concluded. According to the new rules, online audiovisual streamers will benefit from having access to new movies 15 months after their theatrical release, compared to 36 months under the previous regulation. Following this agreement, Netflix also communicated plans to invest 45 million USD per year on 10 independent movies in France. Pay-TV operator Canal Plus, the Vivendi-owned pay TV group, will be able to showcase a movie six months after its theatrical release instead of eight under the previous regulation. It also signed a new pact with industry's professional organizations to invest 680 million USD in French and European films from 2022 to 2024.

### **Russia imposes new rules on streaming platforms**

End of December 2021, Roskomnadzor, Russia's media regulator, registered Netflix as "audiovisual services" and ordered it to provide streaming of state federal television channels to its user base. Starting in March 2022, Netflix will have to stream state channels, including the Russia Orthodox Church channel. The regulator's register applies to online streaming services with over 100 000 daily users. Netflix and other streaming services, such as Amazon Prime Video, must also apply controversial provisions banning content which promotes "extremism". In addition, according to The Moscow Times, the Russian media regulator imposed "fines to Google and Meta (previously Facebook) totaling 125 millions USD, accusing them of failing to remove content that the Russian regulator reported as illegal".

### **China's new regulation on copyright deals for music platforms**

Early January, the National Copyright Administration of China (NCAC) stated that online music platforms are not allowed to sign exclusive copyright agreements, seeking to fight against monopolistic behavior and unfair competition from the country's technology sector. The decision was announced at a meeting with digital music platforms and record copyright companies. According to Reuters, in 2021, Tencent was ordered by China's regulator to end all exclusive music copyright agreements, since the firm has held more than 80% of exclusive music library resources. It is worth noting that in 2015 the Chinese authorities ordered music streaming platforms to remove millions of unlicensed songs over the infringement of copyright.

## Worldwide activities of online platforms

### **Struggle for subscribers**

2021 marked a downward trend in subscriber growth for Netflix, representing the company's lowest growth year since 2015. Netflix added 18.2 million customers in 2021, down about 50% from the pandemic record year (37 million gained in 2020), which was its best subscriber growth ever. However, it is worth noting that Netflix signed up 8.28 million customers in the fourth quarter of 2021. In its letter to shareholders, the company mentioned that "competition has intensified over the last 24 months as entertainment companies all around the world develop their own streaming offering". Netflix has about 222 million total subscribers across the globe. Subscriptions in the United States and Canada stand at 75.2 million, representing around 33% of the total amount of subscribers, followed by Europe, the Middle East and Africa (74 million). In 2021, 90% of its paid subscriber additions were coming from outside the US and Canada region. In addition, as of the end of 2021, Disney reported 179 million total subscriptions across Disney Plus, ESPN Plus and Hulu. Finally, HBO Max reached 73.8 million subscribers globally.

According to a new streaming music report, three large music-streaming platforms account together for around 60% of the global market share of music subscribers. Spotify was the largest music streaming service across the globe as of the second quarter of 2021 with a market share of 31%. Apple Music was in second place with 15% market share, followed by Amazon Music with 13%. In addition, even though the China-based Tencent Music and NetEase are mostly available in their domestic market, they account for a combined 19% share of the global subscription market. Finally, YouTube Music and Deezer reach respectively 8% and 2% of the global market share.

### **New partnerships and geographical expansion**

The Walt Disney Company's streamer Disney Plus announced plans for a dynamic launch during the summer of 2022 across Europe, Africa and West Asia. As such, Disney Plus will launch in 42 new countries, including Algeria, Egypt, Greece, Poland, Romania, Saudi Arabia, South Africa, Turkey, the United Arab Emirates and Israel, as well as in 11 new territories, including Denmark's Faroe Islands and France's French Polynesia.



In addition, in February 2021, Netflix announced the creation of the Netflix Fund for Creative Equity in order to fund organizations that help underrepresented communities find job in television and film. The resources of the Fund are 100 million USD over the next five years. In this context, end of January 2022, Netflix communicated plans for committing one million USD toward a scholarship fund for film and television students in the Sub-Saharan Africa region. It launches with an open call for applications from the Southern African Development Community region and other calls will be launched later.

Finally, mid-January 2022, Microsoft has acquired Activision Blizzard Inc., a leader in game development, interactive entertainment content publication and third-largest gaming company by revenue, behind Tencent and Sony. According to Verge, “it’s Microsoft’s biggest push into gaming” and it will boost its own video game subscription services, such as Xbox Game Pass, which has around 25 million subscribers. The deal is worth 75 billion USD, the biggest gaming industry deal in history. Microsoft chief executive stressed “Gaming is the most dynamic and exciting category in entertainment across all platforms and will play a key role in the development of metaverse platforms”. As such, the deal shows the importance of metaverse market for the big US tech companies. The networks of virtual, more immersive online worlds where people socialise, play and work, represent probably “the next evolution of the Internet”.

**Additional readings for the February report:**

- Which platforms will be caught by the Digital Markets Act? The ‘gatekeeper’ dilemma, Bruegel, 14 December 2021, [Link](#).
- How Microsoft’s Activision Blizzard takeover will drive metaverse gaming into the mass market, The Conversation, 21 January 2022, [Link](#).
- Microsoft buys Activision Blizzard: with the video game industry under new management, what’s going to change, The Conversation, 23 January 2022, [Link](#).

## Indicative sources

- UNESCO, Draft Text of the Recommendation on the Ethics of Artificial Intelligence, [Link](#).
- European Parliament adopts position on Digital Services Act, The Parliament Magazine, 21 January 2022, [Link](#).
- DSA: MEPs gear up for negotiations ahead of kick-off trilogue, EURACTIV, 26 January 2022, [Link](#).
- French streaming platform Salto calls for change of pro-US TV remotes, EURACTIV, 26 January 2022, [Link](#).
- UNESCO Member States adopt AI ethics recommendation, ComputerWeekly.com, 1 December 2021, [Link](#).
- Netflix, Amazon et Disney pourront diffuser des films plus récents en France, Le Monde, 24 January 2022, [Link](#).
- Netflix, Amazon, Disney Plus, Apple TV Plus to Invest as Much as 300USD Million in French Content Annually, Variety, 9 December 2021, [Link](#).
- Russia to Require Netflix to Stream State Television Broadcasts, The Moscow Times, 29 December 2021, [Link](#).
- China bans most exclusive copyright deals for digital music platforms, Reuters, 6 January 2022, [Link](#).
- Netflix Plunges After Forecast for New Customer Disappoints, Bloomberg, 20 January 2022, [Link](#).
- Disney Plus Confirms 42-Country Summer Launch Across Europe, Africa and West Asia, Variety, 25 January 2022, [Link](#).
- Microsoft to acquire Activision Blizzard for 68.7 billion USD, The Verge, 18 January 2022, [Link](#).

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