Diversity of content in the digital age – towards guiding principles

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DIVERSITÉ DES CONTENUS À L'ÈRE NUMÉRIQUE
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Disclaimer

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Background

Social media and content platforms have increasingly transformed the whole value chain in media and cultural sectors and they represent an unprecedented change in creation, production, distribution, broadcasting and consumption of media and cultural contents as well as in remuneration and financial sustainability of content creators. The reality of dematerialisation of media/cultural goods and services, of growing technological convergence and of deterritorialisation raises tremendous challenges for the *raison d'être* of media and cultural policies, turning upside down the entire functioning of media and cultural industries[2]. In this context, social media and content platforms have become major enablers of global flow of contents, with unparalleled gatekeeping powers. In addition, access and exposure to diverse and reliable content becomes a key policy condition for sustaining inclusive and resilient democratic societies.

The challenge of ensuring and promoting "diversity of content in the digital age" becomes crucial and it is strongly linked to four key policy areas: access and discoverability of local and national content online; remuneration and economic viability of content creators; access to diverse and reliable sources of information, including local news; effects of algorithms on the exposition to diverse content. Over the last 15 years, a large number of normative instruments (guidelines, recommendations, resolutions, declarations, frameworks and others) have been developed and implemented with respect to one or more areas mentioned above. So the key questions of the study can be phrased as follows:

(i)   What has been developed and adopted by stakeholders as regards normative instruments related to one or more areas mentioned in the study?

(ii)   What guiding principles concerning diversity of content in the digital age might stakeholders consider, including their normative relevance to a potential future declaration on the diversity of content?

Note too that the roots of the research presented in this leadership paper lie in the Canadian Heritage's International engagement strategy on diversity of content.

Comparative overview of normative instruments

In total, the comparative qualitative analysis encompasses 23 documents[3]. The normative instruments analysed in this study provide a wide range of proposed principles, norms and measures and they give us the opportunity to think about what governance of diversity of content should look like.

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[2] Rioux Michèle, Gagné Gilbert, Deblock Christian, Tchéhouali Destiny, Fontaine-Skronski Kim & Vlassis Antonios (2015), *For a Diversified Networked Culture: Bringing the Convention on the Protection and Promotion of the Diversity of Cultural Expressions in the Digital Age.* Report of Centre d'études sur l'intégration et la mondialisation, Université du Québec à Montréal. Link.

[3] A comparative analysis of different legal instruments, declarations, guidelines, and frameworks that relate to diversity of content in the digital age does not yet exist. In terms of limitations, the present leadership paper did not collect all available instruments related to diversity of content, but focused on those with a strong degree of connexion to the challenge of diversity of content in the digital age and with a view to assess substantive complementarities and gaps, rather than providing a complete mapping of each and every instrument. Besides, the leadership paper also examines numerous books and journal articles generally discussing manifold aspects of cultural, media and Internet governance.

The normative instruments have been developed by different types of actors: (i) international organisations; (ii) regional organisations; (iii) national governments; (iv) multi-stakeholder forums and networks; as well as (v) experts. In this view, the originators of the instruments and their form are very different. Some documents are signed by multiple actors, some by a few actors. Besides, some instruments are negotiated as legalised ones, some are to be qualified as white papers, inquiries and reports. Positively, it can be said that the geographic origin of these documents is rather broad.

The comparative analysis will be divided in five sections: general principles; access and discoverability of local and national content online; remuneration and economic viability of content creators; access to diverse and reliable sources of information, including local news; effects of algorithms on the exposition to diverse content. The following comparative overview also provides short description with respect to historical and political background of instruments, showing their origins and scope (see also Annex regarding a detailed overview of the contents from normative instruments).

General principles – Contents of documents

Several of the documents address some general principles and considerations related to diversity of content in the digital age.

Convention on the Protection and Promotion of Diversity of Cultural Expressions

The **Convention on the Protection and Promotion of the Diversity of Cultural Expressions** adopted by UNESCO in 2005 – and in effect since 2007 – is unquestionably one of the most prominent and recognized international legal instruments in the global cultural governance. As of March 2020, it has received the support of 148 Member States and of the European Union (EU).

The Convention highlights the importance of the following principles: principle of respect for human rights and fundamental freedoms, principle of sovereignty, principle of equal dignity and respect for all cultures, principle of international solidarity and cooperation, principle of sustainable development.

Operational Guidelines on the Implementation of the Convention in the Digital Environment

In June 2017, the Parties to the 2005 Convention on Protection and Promotion of Diversity of Cultural Expressions approved **Operational guidelines of the Implementation of the Convention in the Digital Environment.** The goal was to take into account the new economic and industrial environment created by digital technologies and reaffirm the principles of the 2005 Convention in the digital context. These guidelines provide a strategic framework for understanding, interpreting and implementing the Convention in a digital environment, where cultural goods and services are created, produced, distributed, disseminated, consumed and/or stored electronically[4].

The Operational Guidelines focus especially on the fact that "the distinctive nature of cultural activities, goods and services as vehicles of identity, values and meaning does not change in the digital environment. Consequently, the recognition of the dual nature of cultural goods and services

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[4] Vlassis Antonios (2017), Building a digital agenda for cultural diversity: UNESCO, new governance norms for culture and power dynamics. *Quaderns del CAC,* 20(43), 47-54.

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(cultural and economic) is also applicable to cultural expressions in the digital environment or those produced with digital tools (2)". In addition, the Guidelines emphasize the "principle of technological neutrality" (8.1) and the "respect for human rights in the digital environment" (8.10).

UN Guiding Principles on Business and Human Rights

In the framework of UN Human Rights Council, the **Guiding Principles on Business and Human Rights** adopted in 2011 provide global standards for preventing and addressing the risk of adverse human rights impacts linked to business activity. It consists of 31 foundational and operational principles, grounded in three main pillars: the state duty to protect against human rights abuses, the corporate responsibility to respect human rights, and the access to remedy.

The document points to the fact that "business enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved" (11).

2018 Report of the Special Rapporteur on content regulation

Drawing on the Guiding Principles on Business and Human Rights, in 2018, David Kaye, the UN special rapporteur on the promotion and protection of the right to freedom of opinion and expression released the first-ever UN report that examines the **regulation of user-generated online content**. The report highlights the role of States and social media companies in providing an enabling environment for freedom of expression and access to information online.

The report refers to companies' duty to embark on radically different approaches to transparency at all stages of their operations, from rule-making to implementation and development of "case law" framing the interpretation of private rules. According to the report, "transparency requires greater engagement with digital rights organizations and other relevant sectors of civil society and avoiding secretive arrangements with States on content standards and implementation". The report addresses the impact of companies on the public sphere and their duty to open themselves up to public accountability.

OSCE Tallinn Guidelines on National Minorities and the Media in the Digital Age

In the framework of the Organisation for Security and Co-operation (OSCE) in Europe, the OSCE High Commissioner on National Minorities launched in 2019 the **Tallinn Guidelines on National Minorities and the Media in the Digital Age.** The 37 Guidelines address specific challenges related to structures and processes for a pluralistic discussion between and within majorities and minorities in the digital age and to the important role of communication technologies in conflict cycles.

The Guidelines focus on the importance of enabling environment for freedom of expression and media freedom, as well as for robust, pluralistic public debate, in which everyone, including persons belonging to national minorities, can participate effectively and express their opinions, ideas and identities without fear.

EU Code of Practice on Disinformation

In 2018, the EU released a **Code of Practice on Disinformation**, aiming to achieve the objectives set out by the Commission's Communication presented in April 2018. The Code defines a wide range of commitments and it was signed by several representatives of online platforms and leading social

networks, which agreed, on a voluntary basis, to self-regulatory standards to fight online disinformation.

The Code of Practice invites the Signatories to be mindful of the fundamental right to freedom of expression and to an open Internet, and of "the delicate balance which any efforts to limit the spread and impact of otherwise lawful content must strike".

EU Audiovisual Media Services Directive

In the framework of the Digital Single Market, the EU adopted the revised version of the Audiovisual Media Services Directive (AVMSD) in November 2018.

The AVMSD acknowledges that both self- and co-regulatory instruments "can play an important role in delivering a high level of consumer protection". In this context, measures aimed "at achieving general public interest objectives in the emerging audiovisual media services sector are more effective" if they are taken with "the active support of the service providers themselves". Besides, the AVMSD points to the fact that "transparency of media ownership is directly linked to the freedom of expression, a cornerstone of democratic systems".

EU Directive on copyright and related rights in the Digital Single Market

Related to the implementation of a Digital Single Market, the EU also adopted the **Copyright Directive** in April 2019. It might be argued that taking also into account the AVMSD and the EU Code of Practice on Disinformation, recently "regulatory developments in Europe have gone further than anywhere else"[5].

The Copyright Directive "stipulates innovation, creativity, investment and production of new content, also in the digital environment" and it highlights the fact that the protection of copyright and related rights also contributes to "the Union's objective of respecting and promoting cultural diversity".

Joint Declaration on Freedom of Expression and the Internet

In 2011, the **Declaration on Freedom of Expression and the Internet** was jointly drafted by four different special rapporteurs on freedom of expression and of the Media from international and regional organisations: UN Special Rapporteur, the OSCE Representative, the Organisation of American States (OAS) Special Rapporteur and the African Commission on Human and People' Rights Special Rapporteur.

The Joint Declaration points to the fact that approaches to regulation developed for other means of communication – such as telephony or broadcasting – cannot simply be transferred to the Internet but, rather, need to be specifically designed for it (1c) and that self-regulation can be an effective tool in redressing harmful speech, and should be promoted (1d).

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[5] Neil Garry (2019), *Culture and working conditions for artists: Implementing the 1980 recommendation concerning the Status of the Artist.* Paris, UNESCO, p. 43.

Recommendation on the free, transboundary flow of information on the Internet

In 2015, the Council of Europe adopted a **Recommendation on the free, transboundary flow of information on the Internet.**

The Recommendation contains a number of general suggestions for free and transboundary flow of information on the Internet. It states, "the right to freedom of expression, including the right to receive and impart information and ideas without interference and regardless of frontiers constitutes a cornerstone of democratic society and is one of the basic conditions for its sustainability and progress and for the development of every human being" (1). Besides, the recommendation refers to the States' duty to "protect and promote the global free flow of information on the Internet". In this sense, States "should ensure that interferences with Internet traffic within their territory pursue the legitimate aims set out in Article 10 of the ECHR (European Convention on Human Rights) and other relevant international agreements and do not have an unnecessary or disproportionate impact on the transboundary flow of information on the Internet". Finally, the recommendation focuses on the due-diligence principles and the value of self-regulation.

Council of Europe Resolution: Social media: social threads or threats to human rights

In 2019, the Parliamentary Assembly of Council of Europe adopted the resolution "Social media: social threads or threats to human rights?".

The resolution recognizes the positive contribution of social media to the well-being and development of our societies, pointing to the fact that "social media companies are key participants in the regulation of the information flow on the internet and the way they operate has a significant impact on freedom of expressions, including freedom of information, but also – in a more insidious way – on the right to privacy".

Council of Europe Resolution: Public service media in the context of disinformation and propaganda

In 2019, the Parliamentary Assembly of Council of Europe adopted the resolution "Public service media in the context of disinformation and propaganda".

The resolution considers that "public service media should be a forum for pluralistic public debate and a means of promoting a broader democratic participation of individuals, and also a factor of social cohesion and integration of all people, groups and communities". It also recognizes the need for robust and diverse media ecosystems.

UK Online Harms White Paper

In April 2019, the UK government's Department for Digital Media, Culture and Sport and the Home Office jointly published a new **Online Harms White Paper**. The white paper calls for a new system of regulation for online platforms with the goal of preventing online harms, including disinformation and extremist content.

The White Paper discusses the critical importance of "a culture of transparency, trust and accountability, and consistent standards of transparency" for the new regulatory framework (3.13).

Canada's Digital Charter

In May 2019, Canada released a short **Digital Charter**. The ten-principles Charter emphasizes the fundamental challenge of trust in the digital age, dealing with issues related to privacy, data security, etc.

The Charter focuses on the importance of a Level Playing Field. According to this principle, "the Government of Canada will ensure fair competition in the online marketplace to facilitate the growth of Canadian businesses and affirm Canada's leadership on digital and data innovation, while protecting Canadian consumers from market abuses".

ACCC – Digital Platforms Inquiry – Final Report

In July 2019, the Australian Competition & Consumer Commission published a 619-pages **Inquiry into digital platforms**. The inquiry looks at the effects that online platforms have on competition in media and advertising services markets. The inquiry highlights the intersection of data protection and privacy, consumer protection and competition, including in total 23 recommendations. A large part of the inquiry focused on two key tech companies, Google and Facebook.

The inquiry recommends "proactive investigation, monitoring and enforcement of issues in markets in which digital platforms operate" and suggests to digital platforms "to provide codes of conduct governing relationships between digital platforms and media businesses (…)".

Paris Call for Trust and Security in Cyberspace

In November 2018, at the UNESCO Internet Governance Forum, France launched the **Paris Call for Trust and Security in Cyberspace**. It is based around nine common principles to secure cyberspace and it encourages States to cooperate with private sector partners and civil society. As far as March 2020, the Paris Call has been supported by 78 States[6], 343 organisations and members of civil society and 633 companies and private sector entities (including Facebook, Google and Microsoft).

The Paris Call recognizes that the same rights that people have offline must also be protected online, and also reaffirm the applicability of international human rights law in cyberspace and it focuses on the responsibilities of key private sector actors in improving trust, security and stability in cyberspace. The Paris call addresses the necessity "of a strengthened multi-stakeholder approach and of additional efforts to reduce risks to the stability of cyberspace and to build-up confidence, capacity and trust". Finally, it recognizes the importance of working together, "in the existing fora and through the relevant organizations, institutions, mechanisms and processes to assist one another and implement cooperative measures".

Toronto Declaration: Protecting the rights to equality and non-discrimination in machine learning systems

In May 2018, the **Toronto Declaration: Protecting the rights to equality and non-discrimination in machine learning systems** was launched at RightsCon[7] Toronto. The Declaration calls on both governments and tech companies to ensure that algorithms respect basic principles of equality and

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[6] The Paris call has not yet received the support from the United States, China, Russia, Brazil, South Africa and India.
[7] RightsCon is the world's leading summit on human rights in the digital age.

non-discrimination. It was prepared by a coalition of researchers, human rights and technology groups, such as Amnesty International, Access Now and others.

The Declaration focuses on the importance of the right to equality and non-discrimination and on the fact that the use and misuse of machine learning systems may affect the right to privacy and data protection, the right to freedom of expression and association, to participation in cultural life, equality before the law, and access to effective remedy. The Declaration considers that inclusion, diversity and equity are key components of protecting and upholding the right to equality and non-discrimination.

Montreal Declaration for a Responsible Development of Artificial Intelligence

In December 2018, the Université de Montréal in collaboration with the Fonds de recherche du Québec, unveiled the **Montréal Declaration for Responsible Development of Artificial Intelligence**. It is based on research and consultations with citizens, experts, public policymakers and industry stakeholders. It consists of ten principles.

The Declaration suggests that the development and use of artificial intelligence systems (AIS) must respect three key principles: well-being principle, respect for autonomy principle and solidarity principle.

Global Network Initiative on Freedom of Expression and Privacy

The Global Network Initiative (GNI), a non-governmental organisation (NGO) launched at the end of 2008, was founded upon the declaration "**Principles of Freedom of Expression and Privacy**". The GNI's mission is to promote "a collaborative approach to protect and advance freedom of expression and privacy" among technology companies and human rights groups. One of its core activities is the independent assessment of participating companies and their compliance with the GNI's basic principles. In total, 13 ICT (Information and Communication Technologies) companies have joined the GNI. Among them, let us mention Facebook, Google, Microsoft, Verizon Media.

The initiative recommends that the right to freedom of expression should not be restricted by governments, except in narrowly defined circumstances based on internationally recognized laws or standards and ICT companies should comply with all applicable laws and respect internationally recognized human rights, wherever they operate. The initiative focuses on the importance of collaborative approach to problem solving.

International Declaration on Information and Democracy

In November 2018, the Information and Democracy Commission made up of 25 prominent figures, released the **International Declaration on Information and Democracy**, establishing basic principles for the global information and communication space. The drafting of the Declaration was an initiative of international NGO Reporters Without Borders.

The Declaration acknowledges that the communication and information space "should guarantee the freedom, independence and pluralism of news and information. As a common good, this space has social, cultural and democratic value and should not be reduced to its commercial dimension alone". It also focuses on various general principles, such as the right to information, freedom of expression, privacy, responsibility, transparency of powers, pluralism or accountability.

Access and discoverability of national and local content – Contents of documents

The following documents address access and discoverability of national and local content in more detail:

Convention on the Protection and Promotion of Diversity of Cultural Expressions

The UNESCO Convention focuses on principle of equitable access and principle of openness and balance, pointing out that equitable access to a rich and diversified range of cultural expressions from all over the world and access of cultures to the means of expressions and dissemination constitute important elements for enhancing cultural diversity and encouraging mutual understanding. The Convention also acknowledges that each Party may adopt measures aimed at protecting and promoting the diversity of cultural expressions within its territory, including measures that, in an appropriate manner, provide opportunities for domestic cultural activities, goods and services among all those available within the national territory (article 6).

Operational Guidelines on the Implementation of the Convention in the Digital Environment

According to the UNESCO Guidelines, Parties to the 2005 Convention should promote equitable access and balance in the flow of cultural goods and services in the digital environment (8.6). The Guidelines encourage the diversity of digital media and they recommend cooperation between online platforms and the rights holders of these goods and services in order to improve the online distribution of cultural goods and services and to better find the content being disseminated (16.7). Besides, digital literacy, public education and awareness on using the Internet and on mastering digital tools are conditions for access and discoverability of national and local content (17.7).

OSCE Tallinn Guidelines on National Minorities and the Media in the Digital Age

The Guidelines invite States to adopt a range of measures to support initiatives by the media to foster intercultural dialogue by offering content, programmes and services for all of society and thereby sustain shared points of reference and to support the production of content by national minorities and its widespread dissemination across different platforms. On the other side, the Guidelines specify that these measures should not interfere with the editorial and operational independence of the media. The Guidelines also emphasize measures to promote visibility and findability of content from national minorities. The Guidelines points to the importance of the pluralism in the evolving media environment and to the fact that persons belonging to national minorities can access a wide range of media providing content that corresponds to their needs and interests, including in their own languages. Finally, the Guidelines encourage States to incentivize the production, dissemination and promotion of national minority content, including in minority languages, and especially online.

EU Audiovisual Media Services Directive

The Directive addresses the presence and prominence of European content in the catalogues of the online platforms. It suggests that online platforms' catalogues should contain a 30% share of European works and that they are given sufficient prominence. It also focuses on the labelling in metadata of audiovisual content that qualifies as a European work. Besides, according to Directive,

prominence can be ensured through various means such as a dedicated section for European works that is accessible from the service homepage, the possibility to search for European works in the search tool available as part of that service, the use of European works in campaigns of that service or a minimum percentage of European works promoted from that service's catalogue, for example by using banners or similar tools. Finally, the Directive recognizes the right of States to require media service providers to contribute financially to the production of European works, including via direct investment in content and contribution to national funds.

Australian Competition and Consumer Commission – Digital Platforms Inquiry – Final Report

One the key recommendations of the inquiry is the stable and adequate funding for public broadcasters.

Global Report Reshaping cultural policies

In 2018, UNESCO published the Global Report **Re/Shaping Cultural Policies**. Based notably on the analysis of the Quadrennial Periodic Reports submitted by Parties of the Convention on diversity of cultural expressions, the Report examines changes in cultural policies at the global and country level in ten areas of monitoring.

The Global Report focuses on the major role of States regarding the access and discoverability of national and local content. States should adopt digital plans and strategies to invest in local cultural production, grant specific status to cultural goods and services in trade agreements addressing e-commerce and provide adequate resources and skills for civil society organisations. Finally, the report emphasizes the development of new collaborative partnerships between public sector, private sector and civil society.

Remuneration and economic viability of content creators – Contents of documents

Six of the examined documents deal with the issue of remuneration and economic viability of content creators.

Convention on the protection and promotion of the diversity of cultural expressions

The Convention consider that Parties shall endeavour "to recognize the important contribution of artists, others involved in the creative process, cultural communities, and organizations that support their work and their central role in nurturing the diversity of cultural expressions".

Operational Guidelines on the Implementation of the Convention in the Digital Environment

Addressing this issue in detail, the Guidelines postulate that Parties shall adopt national, regional or local policies and programmes and funding schemes that contribute to creation and to the fair remuneration of creators and performers. According to the Guidelines, Parties shall adopt national, regional or local policies and programmes and funding schemes that recognize and value the work of creators in the digital environment, by promoting: fair and equitable remuneration for artists and cultural professionals; transparency in the distribution of income between digital distributors, Internet service providers (ISP) and rights holders as well as among rights holders; access to necessary bandwidth; respect for and protection of intellectual property rights, allowing for

collective management, if applicable, and for collective bargaining of digital rights; and electronic legal deposit systems to document and archive their works.

EU Directive on copyright and related rights in the Digital Single Market

According to the Copyright Directive, it is crucial to foster the development of the licensing market between right-holders and online content-sharing service providers and right-holders should receive appropriate remuneration for the use of their works or other subject matter. The role of EU Member States is to ensure that authors and performers receive on a regular basis and taking into account the specificities of each sector, timely, adequate and sufficient information on the exploitation of their works and performances from those to whom they have licensed or transferred their rights, notably as regards modes of exploitation, revenues generated and remuneration due.

Australian Competition and Consumer Commission – Digital Platforms Inquiry – Final Report

The inquiry recommends mandatory take down code to assist copyright enforcement on digital platforms and grants for local journalism.

International Declaration on Information and Democracy

By sharing the vision that intellectual property should not create closed systems in the information and communication space the Declaration suggests that the product resulting from the creative work of gathering, processing and disseminating information confers the right to fair remuneration.

Global Report Reshaping cultural policies

The report highlights the importance of States and other stakeholders to invest in local quality content production.

Access to diverse and reliable sources of information – Contents of documents

Although not all the documents focus on the issue of access to diverse and reliable information, most of the documents tackle the issue and make concrete recommendations.

Operational Guidelines on the Implementation of the Convention in the Digital Environment

Without addressing the aspect in detail, the Guidelines invite Parties to the 2005 Convention to promote the respect for fundamental freedoms of expression, information and communication and for privacy and other human rights as pre-requisites for the creation, distribution and access to diverse cultural expressions.

OSCE Tallinn Guidelines on National Minorities and the Media in the Digital Age

The Tallinn Guidelines invite States and State or public actors to refrain from disseminating, supporting or endorsing in any way disinformation, propaganda or inflammatory discourse which aim to, or are likely to, undermine friendly relations among States and/or the sovereignty of other States. Besides, according to Guidelines, Internet intermediaries should uphold human rights principles, respect human rights online, and voluntarily accept and apply all international human rights and women's rights instruments in the digital environment.

EU Code of Practice on Disinformation

The Code of Practice points to the fact that the Signatories improve the findability of trustworthy content and prioritize, through technological means, relevant, authentic, and accurate and authoritative information where appropriate in search, feeds, or other automatically ranked distribution channels. The Code of Practice highlights the role of online platforms to facilitate content discovery and access to different news sources representing alternative viewpoints, also providing users with easily accessible tools to report disinformation.

Council of Europe Resolution: Social media: social threads or threats to human rights

The Resolution explicitly invites social media companies to rethink and enhance their internal policies to uphold firmly the rights to freedom of expression and information, promoting the diversity of sources, topics and news, as well as better quality of information, while fighting effectively against the dissemination of unlawful material through their users' profiles and countering disinformation more effective. On the other side, the role of States is to encourage and support collaborative fact-checking initiatives and other improvements of content moderation and curation system.

Council of Europe Resolution: Public service media in the context of disinformation and propaganda

The Resolution from the Council of Europe's Parliamentary Assembly focuses on the importance of States both to ensure editorial independence, as well as sufficient and stable funding for public service media and to guarantee that they are capable of producing accurate, reliable news and information and ensuring quality journalism deserving the trust of the public. Besides, the role of States is to support multi-stakeholder collaborations aiming to develop new tools for user-generated content fast checking and artificial intelligence-driven fact checking.

Joint Declaration on Freedom of Expression and the Internet

The Declaration stresses that States should only seek to restrict content pursuant to an order by an independent and impartial judicial authority, and in accordance with due process and standards of legality, necessity and legitimacy. By dealing with the right to privacy and the issue of censorship, the Declaration invites States and intergovernmental organisations refrain from establishing laws or arrangements that would require the "proactive" monitoring or filtering of content.

UK Online Harms White Paper

The White Paper recognizes the role of companies to take proportionate and proactive measures to help users understand the nature and reliability of the information they are receiving, to minimise the spread of misleading and harmful disinformation and to increase the accessibility of trustworthy and varied news content. In addition, companies should promote authoritative news sources and diverse news content, countering the "echo chamber" in which people are only exposed to information, which reinforces their existing views.

Canada's Digital Charter

The Charter recognizes the principle of strong democracy, inviting the government of Canada to defend freedom of expression and protect against online threats and disinformation designed to undermine the integrity of elections and democratic institutions.

Australian Competition and Consumer Commission – Digital Platforms Inquiry – Final Report

The final report proposes a Digital Platforms Code to counter disinformation and it recommends monitoring efforts of digital platforms to implement credibility signalling.

International Declaration on Information and Democracy

By sharing the vision that the democratic process is violated through the manipulation of information, the Declaration acknowledges that reliable information underpins the exercise of freedom of opinion, respect for other human rights and all democratic practices, including deliberation, election, decision-making and accountability.

Information Disorder: Toward an Interdisciplinary Framework for Research and Policy Making

In 2017, the Council of Europe published a report related to **information disorder**[8]**.** The 110-page report includes 35 recommendations for tech companies, national governments, media organisations, civil society, education ministries, as well as grant-making foundations. The report does not reflect the official policy of the organisation.

The report encourages social networks to invest in technology and staff to monitor mis-, dis- and mal-information in all languages. It also calls for paying attention to audio/visual forms of mis- and dis-information, insofar as fabricated, manipulated or falsely contextualized visuals are more pervasive than textual falsehoods. The report focuses on the importance of building fact-checking and verification tools, by recommending that technology companies build tools to support the public in fact-checking and verifying rumors and visual content, especially on mobile phones. Finally, it recommends to enforce minimum levels of public service news to the platforms and to encourage platforms to work with independent public media organisations to integrate quality news and analysis into users' feeds.

Effects of algorithms on exposure to diverse content – Contents of documents

Several documents address the issue of **the effects of algorithms on exposure to diverse content.**

Operational Guidelines on the Implementation of the Convention in the Digital Environment

The Guidelines point to the fact that Parties shall promote dialogue between private operators and public authorities in order to encourage greater transparency in the collection and use of data that generates algorithms, and encourage the creation of algorithms that ensure a greater diversity of cultural expressions in the digital environment and promote the presence and availability of local cultural works. The Guidelines also highlight the necessity to introduce greater transparency and readability of indexing and content referencing modes in order to ensure that the digital

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[8] Wardle Claire, Derakhshan Hossein (2017), *Information Disorder: Toward an Interdisciplinary Framework for Research and Policy Making*, Strasbourg, Council of Europe, DGI (2017) 09.

mechanisms (recommendation algorithms) determining the content available to the users provide a wide range of diverse cultural expressions in the digital environment.

OSCE Tallinn Guidelines on National Minorities and the Media in the Digital Age

The Tallinn Guidelines underline the role of intermediaries which use algorithm-based search or recommendation systems to provide greater transparency in respect of how those systems work and how they impact on minority content and to provide for improved levels of individual autonomy over the personal data and preferences that they use, including those which can lead to their identification (or not) as persons belonging to national minorities.

EU Code of Practice on Disinformation

The Code of Practice invites the Signatories to take the reasonable measures to enable privacy-compliant access to data for fact-checking and research activities and to cooperate by providing relevant data on the functioning of their services including data for independent investigation by academic researchers and general information on algorithms.

Joint Declaration on Freedom of Expression and the Internet

The Joint Declaration deals with the no discrimination in the treatment of Internet data and traffic, based on the device, content, author, origin and/or destination of the content, service or application.

UK Online Harms White Paper

The White Paper requires companies to ensure that algorithms selecting content do not skew towards extreme and unreliable material in the pursuit of sustained user engagement.

Montreal Declaration for a Responsible Development of Artificial Intelligence

By focusing on the diversity inclusion principle, the Declaration points to the fact that the development and use of Artificial Intelligence Systems (AIS) must be compatible with maintaining social and cultural diversity and must not restrict the scope of lifestyle choices or personal experiences. The Declaration provides a series of more specific recommendations about the inclusive role of AIS against the homogenization of society through the standardization of behavior and opinions, the importance of taking into consideration the multitude of expressions of social and cultural diversity present in the society, as well as the necessity of not limiting the free expression of ideas and of hearing diverse opinions, both being essential conditions of a democratic society.

International Declaration on Information and Democracy

The Declaration emphasizes that every public or private sector entity imbued with a form of power or influence has – within the limits of the public interest – transparency obligations in proportion to the power or influence it is able to exercise over people or ideas.

Information Disorder: Toward an Interdisciplinary Framework for Research and Policy Making

The report invites companies to provide transparent criteria for any algorithmic changes that down-rank content, highlighting the need for transparency around these changes. According to the report, algorithmic tweaks or the introduction of machine learning techniques can lead to unintended consequences, whereby certain types of content is de-ranked or removed. In this respect, without this transparency, there will be claims of bias and censorship from different content producers. In addition, the report recommends that users should be given the chance to consciously change the algorithms that populate their social feeds and search results. Finally, by emphasizing the goal of diversifying exposure to different people and views, the report suggests to use the existing algorithmic technology on the social networks in order to design algorithms, which provide exposure to different types of content and people.

Algorithms and human rights

In 2017, the Council of Europe published a report related to **algorithms and human rights**[9]. The report was prepared by the committee of experts on Internet intermediaries, a subordinate structure to facilitate the work of the Steering Committee on Media and Information Society.

According to the report, by engaging with trans-disciplinary, problem-orientated and evidence-based research, as well as the exchange of best practices, public entities and independent non-state actors should initiate and support research that helps to better understand and respond to the human rights, ethical and legal implications of algorithmic decision-making. Finally, the report stresses that States should not impose a general obligation on internet intermediaries to use automated techniques to monitor information that they transmit, store or give access to, as such monitoring infringes on users' privacy and has a chilling effect on the freedom of expression.

Overall observations

With respect to objectives, design and structure of the normative instruments analysed above, five overall observations can be made, all of which can potentially have an impact on the drafting of a future declaration on "diversity of content in the digital age".

Normative pathways

It becomes clear that a future instrument on diversity of content in the digital age will be located at the junction of two normative pathways: cultural governance pathway and Internet governance one.

On the one hand, cultural governance instruments, such as the Convention on Protection and Promotion of Diversity of Cultural Expressions or Operational Guidelines on the Implementation of the Convention in the Digital Environment, are based, among others, on two main principles: first, the recognition, even in the digital environment, of the distinctive and dual nature (between economic and cultural one) of cultural activities, goods and services as vehicles of identity, values and meaning and second, the recognition of sovereign right of States to formulate, to adopt and to

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[9] Committee of experts on Internet intermediaries (2017), *Algorithms and Human Rights – Study on the human rights dimension of automated data processing techniques and possible regulatory implications.* Strasbourg, Council of Europe, DGI(2017)12.

implement policies and measures for the protection and promotion of the diversity of cultural expressions, even in the digital environment. As noted by I. King and A. Schramme, "cultural governance (…) is defined as government direct or indirect involvement in the promotion and administration of programs of cultural organisations (including museums) existing in specific geographic boundaries with unique financial and administrative arrangements"[10].

On the other hand, from the inception of Internet governance instruments - such as EU Code of Practice on Disinformation or Joint Declaration on Freedom of Expression and the Internet -, it is desirable for the Net to be free of State regulation and in this view cyberspace self-governance would fully realise liberal democratic ideas. In general, Internet governance has been built on a deep scepticism towards the controlling capacity of the State. Self-regulation has emerged as the dominant method of regulation in the online environment today. The EU defines self-regulation as "the possibility for economic operators, the social partners, non-governmental organisations or associations to adopt amongst themselves and for themselves common guidelines at European level"[11]. In this respect, Internet governance instruments advocate for industry self-regulation as the appropriate way to handle cyberspace[12]. We should note too that self-regulation is different from de-regulation or non-regulation. De-regulation directly aims to remove any regulation perceived to be excessive and to hinder market forces. Self-regulation does not aim primarily to dismantle or dispense with a framework for private activity, but rather to change the actor who establishes this framework[13]. Self-regulation also implies implementation and enforcement by private stakeholders themselves without the involvement of statutory obligations[14].

However, it can be said that recently self-regulation in Internet governance has come under increasing pressure following social media failures: the illicit harvesting of personal data in the Facebook-Cambridge Analytical political scandal; the terrorist attack in Christchurch (New Zealand) and the use of social media to share toxic and violent online material, showing the vulnerability of internet platforms to extremist views; Facebook gave major companies, such as Netflix, Spotify, Amazon, Microsoft, Sony, more access to user's personal data. In this context, digital intermediaries and platform operators are invited to clarify rules set up on illegal and harmful content, data privacy, disinformation and advertising transparency and in several countries, calls to regulate these actors become straightforward, multiplying discussions about the effectiveness of self-regulation in Internet governance.

Normative strength

As far as the legal quality is concerned, most instruments have mainly a moral or reputational force and they are not of binding nature since they do not constitute multilateral treaties. Thus, most of the normative instruments analysed above play a role as "soft law". There are four main reasons, which can explain the multiplicity of soft law instruments on the examined areas:

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[10] King Ian W. & Schramme Annick (2019), *Cultural Governance in a Global Context: an international perspective on Art Organizations.* London, Palgrave Macmillan, p. 7.

[11] Interinstitutional agreement on better law-making. OJ C 321/01 2003, para 22.

[12] Segura-Serrano Antonio (2006), Internet regulation and the role of International Law. *Max Planck Yearbook of United Nations Law,* vol. 10, 191-272.

[13] Price Monroe E. & Verhulst Stefaan (2005), *Self-Regulation and the Internet*. Kluwer Law International. p. 6.

[14] Tropina Tatiana & Callanan Cormac (2010), *Self- and Co- regulation in Cybercrime, Cybersecurity and National Security.* Springer.

(i) The involved actors choose soft law when they are uncertain about whether the norms and measures they adopt today will be desirable tomorrow[15]. Soft law instruments allow States, private sector and other involved actors to retain flexibility to avoid any unpleasant surprises that inability to predict technological developments might hold.

In this view, (ii) the soft law instruments allow involved actors to adapt their expectations vis-à-vis changed circumstances. In a changing technological environment, the soft law norms and measures are expected to evolve more efficient rather than in the case of hard law instruments requiring formal renegotiation[16]. Put it differently, the above soft law instruments offer more effective ways to deal with uncertainty of a constantly changing technological environment.

In addition (iii), the multiple soft law instruments analysed above reveal that the areas of digital technologies, human rights, medias and cultural industries involve actors with different values, divergent preferences as well as different degrees of power[17]. Clearly, soft law instruments facilitate compromise and mutual consensus and soft commitments seem to be the optimal response.

However, among the analysed instruments, it is worth noting that one international instrument is part of hard legalisation: the UNESCO Convention on Protection and Promotion of Diversity of Cultural Expressions.

The existence of this legalised international agreement in the examined areas lead us to the fourth reason: (iv) legalised agreements entail high negotiating costs – process of coming together, collective learning about the issue, bargaining and consensus establishment – especially when issues are complex. "Negotiating hard, highly elaborated agreement among heterogeneous states is a costly and protracted process"[18]. Legalized instruments require also approval and ratification processes, which are more complex than for soft law instruments. In sum, legalized instruments involve higher contracting costs than the purely political agreements. For instance, in the 1990s and early 2000s, France and Canada, as norm entrepreneurs[19], played a major role in building the Convention on diversity of cultural expressions[20], convincing a critical mass of actors to be involved in designing this legalised instrument and bearing a large part of the contracting costs. Thus, the multiplicity of soft law normative instruments reveals either the so far absence of norm entrepreneurs to bear high contracting costs or the so far failure or unwillingness of norm entrepreneurs to convince a critical mass of actors in favour of putting in place a legalised instrument.

Finally, it is important to mention that the originator's authority of the instruments could play a key role. In this respect, if the originator is an established and esteemed international organization or regional organization, the soft law character of the instruments does not include binding obligations

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[15] Guzman Andrew T & Meyer Timothy L (2010), International Soft Law. *Journal of Legal Analysis.* vol. 2, issue 1, spring, 171-225.

[16] Guzman Andrew T & Meyer Timothy L (2010), *op.cit..*

[17] Abbott Kenneth W & Snidal Duncan (2000), Hard and Soft Law in International Governance. *International Organization,* 54(3), 421-456.

[18] Abbott Kenneth W., Snidal Duncan (2000), op.cit., p. 444.

[19] Finnemore Martha, Sikkink Kathryn (1998), International Norm Dynamics and Political Change. *International Organization,* 52(4), 887-917.

[20] Vlassis Antonios (2015), *Gouvernance mondiale et culture: de l'exception à la diversité.* Presses Universitaires de Liège.

yet the institutional framework could "increase the indirect incentive for Member States to comply with the respective principles"[21].

Multi-stakeholderism

The idea about multi-stakeholderism as a means of Internet governance is central in most normative instruments and the majority of those acknowledge that participation of all stakeholders involved is of importance. Here, it is worth mentioning that the starting point for the emergence of multi-stakeholder approach as key trend in Global Internet governance is the World Summit on the Information Society (WSIS), initiative launched by the International Telecommunications Union back in the late 1990s. A two-part summit took place in Geneva in 2003 and in Tunisia in 2005, defining Internet governance as following: "Internet governance is the development and application by governments, the private sector and civil society, in their respective roles, of shared principles, norms, rules, decision-making procedures and programmes that shape the evolution and use of the Internet"[22]. In addition, the UN-sponsored Tunis Agenda on the Information Society prescribed that "a multi-stakeholder approach should be adopted, as far as possible, at all levels' of Internet governance" (paragraph 37).

Given the complexity of issues and the multidimensional impact of Internet on so many diverse spheres, multi-stakeholder governance promises a wide representation where various actors should have a direct say in how Internet is governed and regulated. In addition, the multi-stakeholder model is appealing in several normative instruments, insofar as "bringing a diverse range of actors more closely into the decision-making process allows for the optimum utilisation of expertise"[23]. The different actors are able to offer technical and specific insights and perspectives not accessible to policy makers.

Human rights and fundamental freedoms

The recognition of human rights and fundamental freedoms and their respect is common point among the majority of normative instruments analysed above. The pillar of human rights is related to the objective of freedom of expression (information, communication, media), but also to the objective of the right to education and to culture (intercultural dialogue). In this regard, the main objectives of the instruments, such as tackling online disinformation or protection and promotion of diversity of cultural expressions, are accomplished only if human rights and fundamental freedoms are guaranteed. However, insofar as fundamental rights are at stake, the issue here is if self-regulation and outsourcing compliance's monitoring to private entities is an appropriate tool for respecting the fundamental principles of these normative instruments or stronger regulatory oversight is needed (see below)[24].

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[21] UNESCO (2015), *Principles for governing the Internet: a comparative analysis.* Paris, UNESCO, p. 34.
[22] Working Group of Internet Governance Report, Chateau de Bossey, 2005, p. 4.
[23] Carr Madeline (2015), Power Plays in Global Internet Governance. *Millennium: Journal of International Studies,* 43(2), 640-659.
[24] Quintel Teresa & Urlich Carsten (2019), Self-regulation of Fundamental Rights? The EU Code of Conduct on Hate Speech, related initiatives and beyond. In Bilyana Petkova & Tuomas Ojanen, *Fundamental rights protection online: the Future Regulation of Intermediaries.* Edward Elgar Publishing.

Monitoring and accountability

Legalisation strengthens the capacity for accountability, enforcement and monitoring compliance to norms. As we mentioned before, most of normative instruments are not legally binding and mechanisms of monitoring, accountability and enforcement are absent. However, in regards to this issue, it is important to emphasize three instruments:

(i)   Regarding the EU Code of Practice on Disinformation, representatives of online platforms, leading social networks, and advertising industry agreed, on a voluntary basis, to self-regulatory standards to fight disinformation. In January 2019, five online platforms and technology companies (Google, Facebook, Twitter, Microsoft and Mozilla) and seven trade associations[25] such as European Association of Communication Agencies submitted a first implementation report setting out the state of play of the measures taken to comply with their commitments. According to European Commission, the reports show that "further efforts must be deployed in other areas to improve the reliability of the online ecosystems and the protection of users"[26].

(ii)   With regard to the Global Network Initiative (GNI), companies participating in GNI are independently assessed every two years on their progress in implementing the GNI Principles. Only organisations accredited by GNI's Board are eligible to conduct assessments of member companies. The 2013/14 independent assessments focused on three GNI's founding companies – Google, Microsoft and Yahoo; the 2015/16 assessments focused on five companies – Facebook, Google, LinkedIn, Microsoft and Yahoo; finally the GNI 2018/2019 assessment process includes 11 companies – the largest number thus far.

(iii)   The UK Online Harms White Paper sets out plans for an independent regulator with enforcement powers that will oversee a duty of care on online platforms to safeguard their users from harmful content and behaviours.

Specific observations

Clearly, the documents analysed above are rather disparate and largely reflect concrete requirements applicable in a given political and historical context. However, regardless the disparity, four specific trends should be mentioned:

(i)   There are signs of shared normative elements with respect to many issues.

(ii)   There is no single existing document that covers explicitly all the specific needs concerning diversity of content in the digital age.

(iii)   The only instrument covering a wide range of issues related to diversity of content in the digital age is the UNESCO 'Operational Guidelines for the Implementation of the Convention in the digital environment', even though in the latter, access to reliable information has received less attention and the wording in this area is limited to vague statements.

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[25] It is worth noting that the two key European trade associations representing online platforms are European Digital Media Association (EDiMA) and DIGITALEUROPE. EDiMA submitted a short implementation report of 1 page, whereas European Commission did not receive report from DIGITALEUROPE.
[26] https://ec.europa.eu/digital-single-market/en/news/first-results-eu-code-practice-against-disinformation.

  (iv) Finally, there is a multiplicity of instruments, which does reflect the wide range of actors concerned with the diversity of content in the digital age.

The above comparative analysis of reviewed documents leads us to five specific observations related to diversity of content in the digital age and the four key areas examined:

First, most reviewed documents acknowledge that issues of transparency, accountability and trust are strongly linked to the sustainment of inclusive and democratic societies and to a healthy public discourse. It is revealing that regardless the specific direction of the instrument – cultural diversity, national minorities, disinformation - or its originator, the principles of transparency, accountability and trust are a common place among the instruments. However, taking into account the weak normative character of most of the existing instruments, the mechanisms of transparency and accountability are underdeveloped. It is worth mentioning that a core goal of accountability and transparency is "the increase of effectiveness by learning from mistakes and feedback from stakeholders"[27]. In other words, accountability, transparency and trust should be understood as key components of effectiveness of these instruments.

Second, summarizing the large number of relevant documents, it might be argued that access and discoverability of national and local content keeps a key place within the reviewed culture or media-based instruments such as Operational Guidelines for the implementation of the Convention in the digital environment, OSCE Tallinn Guidelines on National Minorities and the Media in the Digital Age or EU Audiovisual Media Services Directive. The instruments discuss concretely the challenges that access and discoverability of national and local content is facing and provide practical guidance on how to contribute to access and discoverability of local and national content. A general assessment is that the instruments point to a need for production of local and national content, its widespread dissemination and prominence across different platforms. In a number of documents, it seems to be generally accepted that the main success factor for access and discoverability of national and local content is the adoption and implementation by States of financial and regulatory mechanisms in production and dissemination of content.

Third, it can be said that access to diverse and reliable sources of information, including local news has an important place within the reviewed instruments. Over the years, the proliferation and the concretisation of the documents have increased. Recent revelations about online disinformation, fake news, online electoral manipulation, online hate speech explain this trend. Real and concrete suggestions on how stakeholders (States, private actors or civil society organisations) can contribute to access to diverse and reliable information are available in the reviewed documents.

Fourth, in contrast to the importance of granting people access to diverse and reliable information or discoverability of national and local content, remuneration and economic viability of content creators have only been occasionally addressed within the reviewed documents and have gained less attention. Only a relatively small fraction of the analysed documents concerns aspects related to remuneration and economic viability of content creators. In addition, only the propositions in Operational Guidelines for the implementation of the Convention in the digital environment and EU Copyright Directive are fairly detailed.

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[27] UNESCO (2015), *Principles for governing the Internet: a comparative analysis.* Paris, UNESCO, p. 81.

Canada

Fifth, most of normative instruments address the effects of algorithms on exposure to diverse content. Generally, the documents acknowledge that transparency regarding the effects of algorithms is of importance. Even though some propositions remain relatively vague, several instruments consider transparency of algorithms in more – technical – detail and implementation aspects are mentioned. The key message can be seen in the need for greater transparency of algorithms and in the importance to assess the implications of algorithms about the exposure to diverse content.

Converging and salient points

Here, it is worth clarifying some converging and salient issues for consideration between reviewed instruments and avenues for actions debated during the International Meeting on Diversity of contents in the digital age held in February 2019.

Creation, Access and Discoverability of Local, Regional and National Content

As far as regulatory approaches on discoverability of content, data privacy and reliable information are concerned, many documents are available and the scope of regulatory approaches is rather broad. In addition, establish content quotas on presence and prominence of local, regional and national content on platforms and support for development and implementation of metadata are avenues for action already developed by some normative instruments. Greater transparency through sharing of data and development of partnerships between traditional broadcasters and digital platforms are crucial issues for most normative instruments. Note too that several normative instruments mention the key role of public service media in the production and access to diverse and reliable content. However, support to smaller-sized content creators to ensure access and discoverability on large markets has not yet become an avenue for action in the reviewed documents.

Remuneration and Economic Sustainability of Content Creators

The remuneration and economic sustainability of content creators have not yet gained a high level of attention in the reviewed documents and they are hardly addressed in the normative instruments. Thus, only two normative instruments, that is the Operational Guidelines for the Implementation of the Convention in the digital environment and EU Copyright Directive concretely deal with some avenues for action, such as taxation to fund creation of content and remuneration of creators, financial support to creators and they explore how to establish appropriate remuneration of right-holders for the use of their works or other subject matter. However, the following avenues for action could be further developed: promoting different remuneration schemes (e.g. based on presence rather than consumption alone) and exploring how to compensate different categories of creators, as well as providing greater transparency with access to remuneration data to better understand various remuneration schemes.

Algorithms and integrity of the digital public sphere

The algorithms and integrity of the digital public sphere are quite well covered in the reviewed documents and they are extensively addressed in some instruments. In this respect, avenues for action, such as development of fast-checking initiatives, role for public broadcasters (in relation to reliable information), digital literacy, reviewing legal liability for online platforms, adjusting algorithm according to a user's preferences and concerns, algorithms impact assessment and ethical dimensions of algorithm's governance and accountability can be found in a number of existing documents and they gain a high level of attention from some reviewed instruments. This assessment does not mean that no further discussions are needed. The existing documents are not very forthcoming in terms of dealing with the following avenues for action: data standard and metrics related to audience engagement and measurement, algorithms' optimization adjusted towards public policy purposes, increased advertising transparency, identification of automated accounts, support for professional journalism.

Towards Guiding Principles

The analysis of the 23 normative instruments and reports has been done in respect of the diversity of content in the digital age. The analysis has examined the range of documents from the point of view of four policy priorities identified by the Canadian Heritage multi-stakeholder international engagement strategy. Taking into account of the richness of normative elements and of the fact that there is no existing instrument that covers all concerns related to the diversity of the content in the digital age, the study seeks to propose a series of principles for a potential future declaration on the diversity of content in the digital age. The principles are all at a general level, they could prove to be of value to stakeholders and consensus amongst the different stakeholders may be achievable.

The suggested principles take into account the following elements: above comparative analysis, overall and specific observations, converging and salient points, different normative strength of reviewed instruments, normative tensions between them, as well as recent normative developments in the EU, UK, Australia and Canada. The study proposes in total twelve (12) principles: five cross-cutting principles and seven principles for the four policy priorities. The seven principles for these four priorities are distinct, but they also reinforce each other.

Finally, it is worth here mentioning an element to be considered in following discussions: an important challenge in a future declaration consists with regard to accountability mechanisms. As discussed before, the accountability mechanisms would not have so much an impact on the twelve principles as such, but on the reality of implementing them.

Cross-cutting principles

Principle of respect for human rights and fundamental freedoms in the digital environment

Diversity of content in the digital age can be ensured and promoted only if human rights and fundamental freedoms, such as freedom of expression, information and communication, as well as rights to education, to – digital – literacy and to intercultural dialogue are guaranteed.

Principle of sovereignty

States have - in conformity with the Charter of the United Nations, the principles of international law and universally recognised human rights instruments - the sovereign right to adopt and implement measures and policies to ensure and promote diversity of content within their territory.

Principle of multi-stakeholder governance

A strengthened multi-stakeholder approach is necessary for working together and building-up confidence, as well as adopting and implementing cooperative measures for the diversity of content in the digital age.

Principle of sustainability

Ensure and promote diverse and reliable content in the digital age are vital assets for sustaining inclusive and democratic societies. Diversity of content in the digital age is an essential requirement for sustainable development for the benefit of present and future generations.

Principle of trust and mutual accountability

Public and private sector entities imbued with a form of power or influence develop a culture of trust and mutual accountability as a critical element for the effectiveness of the present declaration.

Access and discoverability of national and local content

Principle of equitable access and prominence

Promote equitable access to pluralistic digital media and to rich and diversified range of digital contents from all over the world and ensure availability and prominence of local and national content online are important factors for enhancing diversity of content in the digital age and encouraging intercultural dialogue.

Principle of openness and balance

When signatories adopt and implement cooperative measures to support diversity of content in the digital age, they should seek to promote, in an appropriate manner, balance in the flow of content and openness to content from other cultures of the world and to ensure that these measures are geared to the cross-cutting principles pursued under the present declaration.

Remuneration and economic viability of content creators

Principle of dialogue between content creators and online content-sharing service providers

Taking into account the specificities of each sector, promote dialogue between content creators – artists, performers, cultural professionals, journalists – and online content-sharing service with respect to timely, adequate and sufficient information for determining whether and under which conditions the works of creators and other subject matter are used, as well as regarding respect for and protection of intellectual property rights.

Principle of fair and appropriate remuneration

Recognize and value the content creators – artists, performers, cultural professionals, journalists – in the digital environment, taking into account the specificities of each sector.

Ensure fair, appropriate and proportionate remuneration for the use of contents of creators and keep a reasonable and equitable balance between content creators and online-content-sharing service providers.

Access to diverse and reliable sources of information, including local news

Principle of trustworthy information

Improve the findability of trustworthy content, by prioritizing relevant, authentic, accurate and authoritative sources of information.

Counter mis- and dis-information and dilute its visibility more effectively by supporting collaborative fact-checking initiatives and other improvements of content moderation and by providing users with easily accessible tools to report mis- and dis-information in all languages.

Principle of diverse information

Facilitate and increase accessibility to varied news content – including local news – and to diverse sources of information representing alternative viewpoints.

Counter the "echo-chamber" in which citizens are only exposed to information, which reinforces their existing views and help users understand the nature of the information they are receiving.

Effects of algorithms on exposure to diverse content

Principle of transparency

Ensure greater transparency in respect of the collection and use of data that generates algorithms and of how algorithm-based search and recommendation systems work and impact on diversity of digital content.

Encourage the development of transparent criteria for any algorithmic changes that rank content.

Provide relevant data on the functioning of algorithms, including data for independent investigation by academic researchers.

Annex: Detailed overview of contents from normative instruments

A. Normative instruments from International and Regional Organisations

Table I

Normative instrument/Area	General principles/General considerations	Access and discoverability of national and local content	Remuneration and economic viability of content creators
Convention on the Protection and Promotion of Diversity of Cultural Expressions	Principle of respect for human rights and fundamental freedoms Principle of sovereignty Principle of equal dignity and respect for all cultures Principle of international solidarity and cooperation Principle of sustainable development	Principle of equitable access Principle of openness and balance	
Operational Guidelines on the Implementation of the Convention in the Digital Environment	The distinctive nature of cultural activities, goods and services as vehicles of identity, values and meaning does not change in the digital environment. Consequently, the recognition of the dual nature of cultural goods and services (cultural and economic) is also applicable to cultural expressions in the digital environment or those produced with digital tools (2). Principle of technological neutrality (8.1)	Promote equitable access and balance in the flow of cultural goods and services in the digital environment (8.6); Encourage the diversity of digital media, including the multiplicity of digital distributors of cultural goods and services and digital actors (online platforms, Internet service providers (ISP), search engines, social networks), while also ensuring visibility and	Parties shall adopt national, regional or local policies and programmes and funding schemes that contribute to creation and to the fair remuneration of creators and performers (14.2); Parties shall adopt national, regional or local policies and programmes and funding schemes that recognize and value the work of creators in the digital environment, by promoting: fair and equitable remuneration for artists and

	Respect for human rights in the digital environment (8.10)	discoverability of national and local cultural content (16.1); Promote cooperation between online platforms (video, audio and other aggregators) and the rights holders of these goods and services (including licensing agreements and deployment of technical tools) in order to improve the online distribution of cultural goods and services and to better find the content being disseminated (16.7). Parties should set up programmes for digital literacy, public education and awareness on using the Internet and on mastering digital tools (17.7).	cultural professionals; transparency in the distribution of income between digital distributors, Internet service providers (ISP) and rights holders as well as among rights holders; access to necessary bandwidth; respect for and protection of intellectual property rights, allowing for collective management, if applicable, and for collective bargaining of digital rights; and electronic legal deposit systems to document and archive their works (14.6).
UN Guiding Principles on Business and Human Rights	Business enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved (11).		
2018 Report of the Special Rapporteur to the Human Rights Council on online content regulation	The companies must embark on radically different approaches to transparency at all stages of their operations, from rule-making to implementation and development of "case law" framing the interpretation of private rules. Transparency requires greater engagement with digital rights		

	organizations and other relevant sectors of civil society and avoiding secretive arrangements with States on content standards and implementation (71). Given their impact on the public sphere, companies must open themselves up to public accountability (72).		
OSCE Tallinn Guidelines on National Minorities and the Media in the Digital Age	Enabling Environment for Freedom of Expression and Media Freedom (I) States should take all appropriate measures to ensure that everyone, including persons belonging to national minorities, can exercise the right to freedom of expression in a practical and effective manner in the digital age. This includes the right to seek, receive and impart information, regardless of frontiers, in the languages and through the media of their choice (I1). States should take all appropriate measures to fulfil their positive obligation to create an enabling environment for robust, pluralistic public debate in which everyone, including persons belonging to national minorities, can participate effectively and express their opinions, ideas and identities without fear (I2).	States are encouraged to adopt a range of measures to support initiatives by the media to foster intercultural dialogue by offering content, programmes and services for all of society and thereby sustain shared points of reference. States should support the production of content by national minorities and its widespread dissemination across different platforms. Any measure taken to provide such support should not interfere with the editorial and operational independence of the media (12) States should take effective measures to guarantee pluralism in the evolving media environment and to ensure that persons belonging to national minorities can access a wide range of media providing content that corresponds to their needs and interests, including in their own languages. These could include	

		measures to promote such content and to ensure its visibility and findability (17). States should endeavour to incentivize the production, dissemination and promotion of national minority content, including in minority languages, and especially online. Media support schemes should take appropriate measures to cater adequately for the needs and interests of persons belonging to national minorities. To this end, existing schemes to promote general interest or pluralistic content, or particular types of independent media or content, could emphasize the need for content corresponding to the needs and interests of national minorities, including in their own languages, and especially online. Portions of the funds available under existing schemes could be earmarked for those purposes. The establishment of dedicated funding schemes is also encouraged. (30)	
EU Audiovisual Media Services Directive	Experience has shown that both self- and co-regulatory instruments, implemented in accordance with the different legal traditions of the Member States, can play an important role in delivering a high level of consumer protection. Measures aimed at achieving general	Providers of on-demand audiovisual media services should promote the production and distribution of European works by ensuring that their catalogues contain a minimum share of European works and that they are given sufficient prominence (35).	

public interest objectives in the emerging audiovisual media services sector are more effective if they are taken with the active support of the service providers themselves (13).

Self-regulation constitutes a type of voluntary initiative, which enables economic operators, social partners, non-governmental organisations and associations to adopt common guidelines amongst themselves and for themselves. They are responsible for developing, monitoring and enforcing compliance with those guidelines. Member States should, in accordance with their different legal traditions, recognise the role which effective self-regulation can play as a complement to the legislative, judicial and administrative mechanisms in place and its useful contribution to the achievement of the objectives of Directive 2010/13/EU. However, while self-regulation might be a complementary method of implementing certain provisions of Directive 2010/13/EU, it should not constitute a substitute for the obligations of the national legislator. Co-regulation provides, in its minimal form, a legal link between self-regulation and the national legislator in accordance with

The labelling in metadata of audiovisual content that qualifies as a European work should be encouraged so that such metadata are available to media service providers (35).

Prominence can be ensured through various means such as a dedicated section for European works that is accessible from the service homepage, the possibility to search for European works in the search tool available as part of that service, the use of European works in campaigns of that service or a minimum percentage of European works promoted from that service's catalogue, for example by using banners or similar tools (35).

Member States shall ensure that media service providers of on-demand audiovisual media services under their jurisdiction secure at least a 30 % share of European works in their catalogues and ensure prominence of those works (Article 13).

Where Member States require media service providers under their jurisdiction to contribute financially to the production of European works, including via direct investment in

	the legal traditions of the Member States (14).	content and contribution to national funds, they may also require media service providers targeting audiences in their territories, but established in other Member States to make such financial contributions, which shall be proportionate and non-discriminatory (Article 13).	
EU Copyright Directive	That harmonised legal framework contributes to the proper functioning of the internal market, and stimulates innovation, creativity, investment and production of new content, also in the digital environment, in order to avoid the fragmentation of the internal market. The protection provided by that legal framework also contributes to the Union's objective of respecting and promoting cultural diversity, while at the same time bringing European common cultural heritage to the fore (2).		It is therefore important to foster the development of the licensing market between right-holders and online content-sharing service providers. Those licensing agreements should be fair and keep a reasonable balance between both parties. Right-holders should receive appropriate remuneration for the use of their works or other subject matter (61). Member States shall ensure that authors and performers receive on a regular basis and taking into account the specificities of each sector, timely, adequate and sufficient information on the exploitation of their works and performances from those to whom they have licensed or transferred their rights, notably as regards modes of exploitation, revenues generated and remuneration due (Article 19).
Joint Declaration on Freedom of Expression and the Internet	Approaches to regulation developed for other means of communication – such as telephony or broadcasting – cannot		

	simply be transferred to the Internet but, rather, need to be specifically designed for it (1c).		
	Self-regulation can be an effective tool in redressing harmful speech, and should be promoted (1d).		
Recommendation on the free, transboundary flow of information on the Internet	The right to freedom of expression, including the right to receive and impart information and ideas without interference and regardless of frontiers constitutes a cornerstone of democratic society and is one of the basic conditions for its sustainability and progress and for the development of every human being (1).		
	States should protect and promote the global free flow of information on the Internet. They should ensure that interferences with Internet traffic within their territory pursue the legitimate aims set out in Article 10 of the ECHR and other relevant international agreements and do not have an unnecessary or disproportionate impact on the transboundary flow of information on the Internet (1.2).		
	Due-diligence principles (2)		
	Value of self-regulation (3)		

Table II

Normative instrument/Area	Access to diverse and reliable information, including local news	Effects of algorithms on exposure to diverse content
Operational Guidelines on the Implementation of the Convention in the Digital Environment	Promote respect for fundamental freedoms of expression, information and communication and for privacy and other human rights as pre-requisites for the creation, distribution and access to diverse cultural expressions (8.9).	Parties shall promote dialogue between private operators and public authorities in order to encourage greater transparency in the collection and use of data that generates algorithms, and encourage the creation of algorithms that ensure a greater diversity of cultural expressions in the digital environment and promote the presence and availability of local cultural works (16.2) Parties shall introduce greater transparency and readability of indexing and content referencing modes in order to ensure that the digital mechanisms (recommendation algorithms) determining the content available to the users provide a wide range of diverse cultural expressions in the digital environment (17.1).
OSCE Tallinn Guidelines on National Minorities and the Media in the Digital Age	States and State or public actors should refrain from disseminating, supporting or endorsing in any way disinformation, propaganda or inflammatory discourse which aim to, or are likely to, undermine friendly relations among States and/or the sovereignty of other States; obstruct integration in other States, and/or generate hostility towards particular groups, including national minorities. Internet intermediaries should uphold human rights principles, respect human rights online, and voluntarily accept and apply all international human rights and women's rights instruments in the digital environment (31).	Internet intermediaries should be allowed to, and encouraged to, offer their services in the languages of national minorities. They should also be encouraged to devise and implement strategic plans and concrete measures to enhance the availability, accessibility, prominence and findability of content produced by national minorities, including in minority languages, online. Intermediaries which use algorithm-based search or recommendation systems should be encouraged to provide greater transparency in respect of how those systems work and how they impact on minority content. They should also provide for improved levels of individual autonomy over the personal data and preferences that they use, including those which can lead to their identification (or not) as persons belonging to national minorities (11).

EU Code of Practice on Disinformation	Consistently with Article 10 of the European Convention on Human Rights and the principle of freedom of opinion, invest in technological means to prioritize relevant, authentic, and accurate and authoritative information where appropriate in search, feeds, or other automatically ranked distribution channels. Be that as it may, Signatories should not be compelled by governments, nor should they adopt voluntary policies, to delete or prevent access to otherwise lawful content or messages solely on the basis that they are thought to be "false" Dilute the visibility of disinformation by improving the findability of trustworthy content. Consider empowering users with tools enabling a customized and interactive online experience so as to facilitate content discovery and access to different news sources representing alternative viewpoints, also providing them with easily-accessible tools to report Disinformation	Take the reasonable measures to enable privacy-compliant access to data for fact-checking and research activities and to cooperate by providing relevant data on the functioning of their services including data for independent investigation by academic researchers and general information on algorithms.
Social media: social threads or threats to human rights (Council of Europe Parliamentary Assembly)	Social media companies should rethink and enhance their internal policies to uphold firmly the rights to freedom of expression and information, promoting the diversity of sources, topics and news, as well as better quality of information, while fighting effectively against the dissemination of unlawful material through their users' profiles and countering disinformation more effectively (5). States encourage and support collaborative fact-checking initiatives and other improvements of content moderation and curation systems, which are intended to counter the dissemination of deceptive and misleading information, including through social media (9.5).	

Public service media in the context of disinformation and propaganda (Council of Europe Parliamentary Assembly)	States guarantee editorial independence, as well as sufficient and stable funding, for public service media, to ensure that they are capable of producing accurate, reliable news and information and ensuring quality journalism deserving the trust of the public (6.1) States support multi-stakeholder collaborations aiming to develop new tools for user-generated content fast checking and artificial intelligence-driven fact checking (6.7).	
Joint Declaration on Freedom of Expression and the Internet	States should only seek to restrict content pursuant to an order by an independent and impartial judicial authority, and in accordance with due process and standards of legality, necessity and legitimacy. States should refrain from imposing disproportionate sanctions, whether heavy fines or imprisonment, on Internet intermediaries, given their significant chilling effect on freedom of expression (66). States and intergovernmental organizations should refrain from establishing laws or arrangements that would require the "proactive" monitoring or filtering of content, which is both inconsistent with the right to privacy and likely to amount to pre-publication censorship (67).	There should be no discrimination in the treatment of Internet data and traffic, based on the device, content, author, origin and/or destination of the content, service or application (5a).

B. Normative instruments from national governments, multi-stakeholder forums and networks

Table III

Normative instrument/Area	General principles/General considerations	Access and discoverability of national and local content	Remuneration and economic viability of content creators
UK Online Harms White Paper	Developing a culture of transparency, trust and accountability, and consistent standards of transparency, will be a critical element of the new regulatory framework (3.13).		
Canada's Digital Charter	Level Playing Field: The Government of Canada will ensure fair competition in the online marketplace to facilitate the growth of Canadian businesses and affirm Canada's leadership on digital and data innovation, while protecting Canadian consumers from market abuses.		
ACCC – Digital Platforms Inquiry – Final Report	Recommendation 4: Proactive investigation, monitoring and enforcement of issues in markets in which digital platforms operate. Recommendation 7 Designated digital platforms to provide codes of conduct governing relationships between digital platforms and media businesses (…).	Recommendation 9: Stable and adequate funding for the public broadcasters	Recommendation 8 Mandatory take down code to assist copyright enforcement on digital platforms. Recommendation 10: Grants for local journalism
Paris Call for Trust and	We reaffirm that the same rights that people have offline must also be protected		

Security in Cyberspace	online, and also reaffirm the applicability of international human rights law in cyberspace. We recognize the responsibilities of key private sector actors in improving trust, security and stability in cyberspace and encourage initiatives aimed at strengthening the security of digital processes, products and services. We recognize the necessity of a strengthened multi-stakeholder approach and of additional efforts to reduce risks to the stability of cyberspace and to build-up confidence, capacity and trust. We affirm our willingness to work together, in the existing fora and through the relevant organizations, institutions, mechanisms and processes to assist one another and implement cooperative measures.		
Toronto Declaration: Protecting the rights to equality and non-discrimination in machine learning systems	We focus in this Declaration on the right to equality and non-discrimination. There are numerous other human rights that may be adversely affected through the use and misuse of machine learning systems, including the right to privacy and data protection, the right to freedom of expression and association, to participation in cultural life, equality before the law, and access to effective remedy. Systems that make decisions and process data can also		

	undermine economic, social, and cultural rights; for example, they can impact the provision of vital services, such as healthcare and education, and limit access to opportunities like employment. This Declaration underlines that inclusion, diversity and equity are key components of protecting and upholding the right to equality and non-discrimination. All must be considered in the development and deployment of machine learning systems in order to prevent discrimination, particularly against marginalised groups.		
Montreal Declaration for a Responsible Development of Artificial Intelligence	Well-being principle: The development and use of artificial intelligence systems (AIS) must permit the growth of the well-being of all sentient beings. Respect for autonomy principle: AIS must be developed and used while respecting people's autonomy, and with the goal of increasing people's control over their lives and their surroundings. Solidarity principle: the development of AIS must be compatible with maintaining the bonds of solidarity among people and generations.		
International Declaration on	The communication and information space should guarantee the freedom,		Freedom of expression: Intellectual property, which is only

Information and Democracy	independence and pluralism of news and information. As a common good, this space has social, cultural and democratic value and should not be reduced to its commercial dimension alone. Dominant positions in the production, distribution or curation of information must be prevented where possible and controlled when unavoidable, in order to preserve the variety of facts and viewpoints.		applicable to creations and inventions, should not create closed systems in the information and communication space and should not be used to restrict public deliberation. The product resulting from the creative work of gathering, processing and disseminating information confers the right to fair remuneration.
Global Network Initiative on Freedom of Expression and Privacy	The right to freedom of expression should not be restricted by governments, except in narrowly defined circumstances based on internationally recognized laws or standards. These restrictions should be consistent with international human rights laws or standards, the rule of law and be necessary and proportionate for the relevant purpose. ICT companies should comply with all applicable laws and respect internationally recognized human rights, wherever they operate. Participants will take a collaborative approach to problem solving and explore new ways in which the collective learning from multiple stakeholders can be used to advance freedom of expression and privacy. Individually and collectively, participants will engage governments and international		

institutions to promote the rule of law and the adoption of laws, policies and practices that protect, respect and fulfil freedom of expression and privacy.	

Table IV

Normative instrument/Area	Access to diverse and reliable information, including local news	Effects of algorithms on exposure to diverse content
UK Online Harms White Paper	Disinformation: fulfilling the duty of care Companies will need to take proportionate and proactive measures to help users understand the nature and reliability of the information they are receiving, to minimise the spread of misleading and harmful disinformation and to increase the accessibility of trustworthy and varied news content (7.27). Areas to include in a code of practice: promoting authoritative news sources; promoting diverse news content, countering the "echo chamber" in which people are only exposed to information which reinforces their existing views (7.28)	Companies will be required to ensure that algorithms selecting content do not skew towards extreme and unreliable material in the pursuit of sustained user engagement (7.30).
Canada's Digital Charter	Strong Democracy: The Government of Canada will defend freedom of expression and protect against online threats and disinformation designed to undermine the integrity of elections and democratic institutions	
ACCC – Digital Platforms Inquiry –	Recommendation 14 Monitor efforts of digital platforms to implement credibility signalling	

Final Report	Recommendation 15 Digital Platforms Code to counter disinformation	
Montreal Declaration for a Responsible Development of Artificial Intelligence		Diversity Inclusion principle: The development and use of AIS must be compatible with maintaining social and cultural diversity and must not restrict the scope of lifestyle choices or personal experiences. 1. AIS development and use must not lead to the homogenization of society through the standardization of behavior and opinions. 2. From the moment algorithms are conceived, AIS development and deployment must take into consideration the multitude of expressions of social and cultural diversity present in the society. 3. AI development environments, whether in research or industry, must be inclusive and reflect the diversity of the individuals and groups of the society. 4.AIS must avoid using acquired data to lock individuals into a user profile, fix their personal identity, or confine them to a filtering bubble, which would restrict and confine their possibilities for personal development — especially in fields such as education, justice, or business. 5.AIS must not be developed or used with the aim of limiting the free expression of ideas or the opportunity to hear diverse opinions, both being essential conditions of a democratic society. 6 . For each service category, the AIS offering must be diversified to prevent de facto monopolies from forming and undermining individual freedoms.
International Declaration on Information and Democracy	Right to information: Freedom of opinion is guaranteed by the free exchange of ideas and information based on factual truths. Reliable information underpins the exercise of freedom of opinion, respect for other human rights and all democratic practices, including deliberation, election, decision-making and accountability. The integrity of the democratic process is	Transparency of powers Every public or private sector entity imbued with a form of power or influence has – within the limits of the public interest – transparency obligations in proportion to the power or influence it is able to exercise over people or ideas. This transparency must be assured in a swift, sincere and systematic manner.

	violated when information that could influence this process is manipulated.	
Global Network Initiative on Freedom of Expression and Privacy		Freedom of opinion and expression supports an informed citizenry and is vital to ensuring public and private sector accountability. Broad public access to information and the freedom to create and communicate ideas are critical to the advancement of knowledge, economic opportunity and human potential.

C. Reports drafted by experts and published by International and Regional Organisations

Table V

Report/Area	General principles/General considerations	Access and discoverability of national and local content	Remuneration and economic viability of content creators
Global Report Reshaping cultural policies (UNESCO)		States must adopt digital plans and strategies to invest in local cultural production. Grant specific status to cultural goods and services in trade agreements addressing e-commerce. Provide adequate resources and skills for civil society organisations. Develop new collaborative partnerships between public sector, private sector and civil society.	Invest in local quality content production.

Table VI

Report/Area	Access to diverse and reliable information, including local news	Effects of algorithms on exposure to diverse content
Information Disorder: Toward an Interdisciplinary Framework for Research and Policy Making (Council of Europe)	Adequately moderate non-English content. Social networks need to invest in technology and staff to monitor mis-, dis- and mal-information in all languages. Pay attention to audio/visual forms of mis- and dis-information. The problematic term 'fake news' has led to an unwarranted fixation on text-based mis- and disinformation. However, our research suggests that fabricated, manipulated or falsely contextualized visuals are more pervasive than textual falsehoods. We also expect fabricated audio to become an increasing problem. Technology companies must address these formats as well as text. Build fact-checking and verification tools. We recommend that technology companies build tools to support the public in fact-checking and verifying rumors and visual content, especially on mobile phones. Enforce minimum levels of public service news to the platforms. Encourage platforms to work with independent public media organisations to integrate quality news and analysis into users' feeds.	Provide transparent criteria for any algorithmic changes that down-rank content. Algorithmic tweaks or the introduction of machine learning techniques can lead to unintended consequences, whereby certain types of content is de-ranked or removed. There needs to be transparency around these changes so the impact can be independently measured and assessed. Without this transparency, there will be claims of bias and censorship from different content producers. Let users customize feed and search algorithms. Users should be given the chance to consciously change the algorithms that populate their social feeds and search results. For example, they should be able to choose to see diverse political content or a greater amount of international content in their social feeds. Diversify exposure to different people and views. Using the existing algorithmic technology on the social networks that provides suggestions for pages, accounts, or topics to follow, these should be designed to provide exposure to different types of content and people. There should be a clear indication that this is being surfaced deliberately, and while the views or content might be uncomfortable or challenging, it is necessary to have an awareness of different perspectives.
Algorithms and		Public entities and independent non-state actors should initiate and support

human rights (Council of Europe)		research that helps to better understand and respond to the human rights, ethical and legal implications of algorithmic decision-making. Therefore, they should support and engage with trans-disciplinary, problem-orientated and evidence-based research, as well as the exchange of best practices. States should not impose a general obligation on internet intermediaries to use automated techniques to monitor information that they transmit, store or give access to, as such monitoring infringes on users' privacy and has a chilling effect on the freedom of expression.