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Global watch on culture and digital trade

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DIGITAL CULTURAL GOVERNANCE: BETWEEN PLURILATERALISM AND STRUGGLE FOR CULTURAL CONTENT

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Analytical report, March 2022

The March report begins with the discussions toward a plurilateral digital trade deal in the Indo-Pacific region and the US opposition to the Canadian digital services tax. It also deals with new growing policy demands toward streaming services coming from public authorities and the private sector. Then, insofar as the amount of money the major streaming services spend on content production and acquisition is widely rising, the report turns to the worldwide struggle for cultural content, focusing on Netflix, Disney Plus, HBO Max, and Amazon. Finally, the report highlights new data about the economic results and geographical expansion of global tech companies.

Regulation issues, digital trade and culture

Discussions toward a plurilateral digital trade deal

Early February 2022, the US Chamber of Commerce released recommendations for a digital trade deal, that will be necessary for containing the spread of digital trade barriers and securing new opportunities "which are endangered by the accumulation of discriminatory digital rules that often target American firms". According to Inside US Trade, the Chamber will prioritize digital trade because "digital protectionism is, in fact, on the rise around the world".

The Chamber stresses that "it is important to advance a digital trade agreement with a coalition of like-minded countries that share U.S. ambitions. Building on the model set out in the digital trade chapter of the United States-Mexico-Canada Agreement (USMCA) and the U.S.-Japan Digital Trade Agreement, the United States should launch negotiations for a high-standard plurilateral digital trade agreement with other economies that share this vision". According to the Chamber, the possible partners could be Australia, Canada, Chile, Colombia, Japan, Korea, Mexico, New Zealand, Peru, Taiwan, the UK, and the members of the Association of Southeast Asian Nations (ASEAN).

In addition, the Coalition of Services Industries released its 2022 Trade Agenda, mentioning as its first core priority the development of "a commercially meaningful Indo-Pacific Economic Framework with strong provisions on digital trade and of a subsidiary Asia-Pacific regional digital agreement with like-minded countries". Finally, in a letter, a broad group of business organizations, including the US-ASEAN Business Council and the Information Technology Industry Council, called on the US administration to develop an Indo-Pacific Economic Framework.

Mid-February 2022, the US administration released the US Indo-Pacific Strategy. One of the US priorities will be to lead an Indo-Pacific Economic Framework. According to the Strategy, the US administration will launch, in early 2022, "a new partnership that will promote and facilitate high-standards trade, govern the digital economy [...] build digital connectivity". Indeed, a broader goal of the US Strategy will be to counter China, shaping "the strategic environment in which it operates" and building "a balance of influence in the world that is maximally favorable" to the United States, its allies and partners.

US administration against the Canadian digital services tax

Last December, the Canadian government announced its plans to implement a 3 per cent digital services tax in January 2024 if the new international framework on taxation negotiated at the Organization for Economic Cooperation and Development (OECD) is not in place by the end of 2023. According to Inside US Trade, end of February 2022, the Office of the US Trade Representative warned the Canadian government that its planned digital services tax would be actionable under Section 301 of the Trade Act of 1974. The adoption of the tax could lead the US administration to impose retaliatory tariffs on Canadian goods.

On the one hand, according to the Canadian government, Canada's tax would apply to "certain revenue earned by large businesses from certain digital services reliant on the engagement, data and content contributions of Canadian users, as well as on certain sales or licensing of Canadian user data". On the other hand, the US administration stated that Canada should not act unilaterally, expressing "serious concerns about measures that single out American firms for taxation while effectively excluding national firms engaged in similar lines of business".

It is worth recalling that in November 2021 the US agreed to terminate its Section 301 investigations into digital services taxes imposed by India, Turkey, France, the United Kingdom, Austria, Spain and Italy and affecting primarily large US tech corporations, such as Google or Facebook. This decision came after a deal to manage the transition to a new global tax regime for large highly profitable corporations. Under the deal, these countries are expected to keep their taxes in place until a new international framework negotiated by the OECD will be implemented. However, if the amount that companies pay to these countries mentioned above exceed what they would have to pay under the new OECD rules, the companies will be eligible for a credit.

Denmark's new legislation on video streaming services

Early February, Denmark announced its plans to impose a tax to video streaming services, such as Netflix, HBO Max and Disney Plus. The tax will be up to 5 per cent of the turnover of streaming services with the aim to fund home-grown film and television. In addition, according to The Times, the streaming services will be "obliged to let officials inspect the algorithms that determine which movies and other content are recommended to their subscribers". The Danish Culture and Media minister, Ane Halsboe-Jorgensen, stressed that the streaming services could "pose threats to the Danish content that brings us together as a society […] Democratic discourse and the way we use media are going through a period of upheaval, not least because of digitisation. That's why we're doing things differently this time".

Growing demands toward streaming platforms

In an open letter, the CEOs of four big European telecom operators – Telefonica, Deutsche Telekom, Vodafone and Orange – have called on the European Commission to "make large content providers contribute to the infrastructural investments". The operators estimate that social media, video streaming and gaming count for more than 70 per cent of traffic. According to the letter, "the current situation is simply not sustainable. The investment burden must be shared in a more proportionate way", adding that "South Korea is currently discussing how to regulate the distribution of network costs following the traffic boost generated by the success of the series Squid Game". In addition, as Euractiv noted, early February 2022, French telecom operators presented a list of 15 proposals to candidates in the presidential race, including the recommendation for major digital content providers to contribute to the "costs of networks to ensure their economic and environmental sustainability".

In an interview to POLITICO, France Televisions President, Delphine Ernotte Cunci, stressed that "there is a Netflix button on remote controls. There must be a France Televisions button in the same way [...] general interest content should feature prominently on connected TV's home screens as well, because if not, the risk is that we will disappear". Besides, she added that "there is already a sentence in the European Audiovisual Media Services Directive that says that countries may take measures to ensure general interest content is appropriately put forward". It is worth mentioning that French deputies have already debated the visibility of linear TV channels on remote controls and connected TV's home screens.

Worldwide activities of online platforms

Struggle for cultural content

According to its annual report released early February 2022, Amazon spent 13 billion USD on video and music content in 2021, a two billion USD increase from 2020 when it spent 11 billion USD on content. According to the report, "total video and music expense includes licensing and production costs associated with content offered within Amazon Prime memberships, and costs associated with digital subscriptions and sold or rented content".

In addition, Disney plans to spend around 33 billion USD on content in 2022, an eight billion USD increase from 2021. This amount includes streaming programming, linear programming and sports content, which is quite expensive given long-term sports rights. Besides, Netflix, which does not program live sports, spent 17 billion USD on content in 2021. According to Advanced Television, Netflix is set to release "more original TV content in 2022 than ever before", with 398 shows already expected on the platform throughout the year.

RTL Deutschland agreed to a multi-year content deal with Warner Bros Entertainment in order to strengthen its streaming service RTL Plus. As such, RTL Plus will receive access to Warner Bros films and series including HBO originals. RTL Deutschland will also receive exclusive free-TV-rights to the Warner Bros library of films and series. The deal is effective from March 2022. According to RTL, "the deal contributes significantly to achieving the streaming targets for RTL Plus in Germany and Videoland in the Netherlands". Besides, Netflix announced its project to invest into German-language content, doubling investment to 570 million USD between 2021 and 2023. As such, early February 2022, the streaming platform has unveiled 19 upcoming films and series from Germany, Austria and Switzerland.

According to Variety, Amazon Prime Video has signed a multimillion-dollar long-term deal with the British Pinewood Group's Shepperton Studios for exclusive use of new production facilities. In 2022 and 2023, Amazon will launch several UK original series and it will film the forthcoming Lord of the Rings series, "The Rings of Power" in the UK.

In addition, Comcast will double its spending on content for its video streaming service Peacock in 2022, investing three billion USD in a mix of original programming and library acquisitions. The company plans to increase that figure up to five billion USD over the next couple of years. In the same vein, ViacomCBS, Paramount Plus' owner, announced its plans to spend six billion USD on streaming content by 2024.

Economic results and geographic expansion

In the fourth quarter of 2021, YouTube's advertising business continued to grow, generating 8.63 billion USD in ad revenue and surpassing Netflix's global revenue for the period (7.71 billion USD). The ad revenue in the fourth quarter represents an increase of 25.4 per cent year over year.

YouTube ended the year with 29 billion USD in ad revenue, up to 46 per cent over 2020. It is worth mentioning that the ad revenue does not include revenue from YouTube Music or YouTube Premium subscribers or YouTube TV.

According to the European Audiovisual Observatory, Netflix has a 35 per cent share in the European subscription video-on-demand market, followed by Amazon Prime Video, which had a 20.4 per cent share. According to the study, at the end of 2020, Netflix had 62.4 million European subscribers, compared to 36.5 million for Amazon Prime Video, 15.1 million for Apple TV+ and 14.6 million for Disney Plus, the latter which launched in a small number of European countries in 2020. The study looked at the development of the European television industry from 2016 to 2020.

Finally, Reuters reported that, in early March, HBO Max will launch in 15 European countries, including Poland, Portugal and Romania and it will be available in 61 territories across Europe and the Americas. The WarnerMedia’s streaming service plans to launch in another six European countries, including Greece and Turkey, later in 2022.

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