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Global watch on culture and digital trade

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DIGITAL CULTURAL GOVERNANCE: FROM NEW REGULATIONS TO STRATEGIC PARTNERSHIPS

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Analytical report, April 2022

The April report begins with the discussions toward the Digital Markets Act (DMA) and Digital Services Act (DSA) within the European Union (EU) and with the normative importance of the new legislations for appropriately regulating large online platforms. It also deals with the online music market and the results from the new Global Music Report 2022 released by the International Federation of the Phonographic Industry. Then, the report turns to Russia, by exploring the ways in which streaming platforms have recently changed their practices in the country. Finally, the report highlights new data about the business plans and strategic partnerships of streaming platforms, focusing on Netflix, Spotify, Disney Plus, and HBO Max.

Regulation issues, digital trade and culture

Digital Markets Act: new rules for online platforms

End of March 2022, the European Parliament and the Council reached a political agreement on the Digital Markets Act (DMA). The goal of the new legislation is to put in place a series of obligations for big online platforms – the so-called gatekeeper platforms - including Google, Meta, Amazon.

According to POLITICO, the legislation is to apply to platforms with a market capitalization of 75 billion EUR or more or with a turnover in the European Economic Area equal to or above 7.5 billion EUR. To be designated as “gatekeepers” these companies must also provide certain services, such as browsers, messengers or social media, which have at least 45 million monthly end users in the EU or 10 000 annual business users.

The new legislation will focus on anti-competitive practices of large online platforms, by increasing consumer choice and empowering businesses to bypass the platforms to reach their customers. According to EURACTIV, in the initial proposal, the EU executive anticipated up to 80 people working on DMA enforcement by 2025. Finally, it is worth noting that a proposal of the European Commission to introduce in the DMA a new article for fair, reasonable and non-discriminatory conditions specific to the remuneration of online content was rejected, because this proposal was too much linked to the Copyright Directive. Instead, according to the final text, the large online platforms should publish how they apply the principles related to the remuneration of online content in practice and the “Commission would consider the compliance of platforms to the regulation”.

Digital Services Act: supervision fee

The Digital Services Act (DSA) is a modernized version of the EU e-commerce rules established in 2001. It focuses on intermediary services, hosting services, online platforms and very large platforms. The goal is to impose new rules regarding several issues, such as transparency reporting, transparency of recommender systems and user choice for access to information, cooperation with national authorities following orders, reporting criminal offenses, data sharing with authorities and researchers, user-facing transparency of online advertising, etc.

The DSA is entering the final stages of the EU legislative process and is expected to be finalized in the coming months, following negotiations between the European Commission, the European Parliament and the Council. During these negotiations, the Commission proposed the introduction of a supervisory fee applying to very large online platforms and search engines, for which the Commission is set to oversee the enforcement of the DSA.

As such, the proposal of the European Commission is to charge the very large online platforms, such as Google or Facebook, in order to give the Commission enough resources to monitor their compliance to the provisions of DSA. A similar mechanism is already established with the European Central Bank, which charges a supervisory fee to all supervised banks.

In addition, Asha Allen, advocacy director for Europe, online expression and civic space at the Centre for Democracy and Technology, pointed out the DSA is going “to be a game changer, with far-reaching implications well beyond the European jurisdiction”, adding that “the EU could set a precedent for the most comprehensive and holistic legislative framework for platform and content governance”.

Worldwide activities of online platforms

Music market

According to the International Federation of the Phonographic Industry (IFPI), global music sales grew for the seventh consecutive year in 2021, with total revenues rising 18.5% to 25.9 billion USD. The Global Music Report 2022 shows that the growth has been driven by streaming (including both paid subscription and advertising), which grew 24.3% year-on-year to 16.9 billion USD and now represents 65% of total global revenues (see Table 1). Within that, the number of paid subscription streaming revenues increased 21.9% to 12.3 million USD, with in total 523 million users of paid subscription accounts. According to the study, downloads and other digital revenues were the only field to see a decline in 2021 and fell by 10.7% as “the trajectory of digital music consumption continued to move from an ownership to an access model”.

Among the world’s regions, Middle East-North Africa was the fastest-growing region, with a remarkable growth of 35%, followed by Latin America (+31.2%), where streaming revenues accounted for 85.9% of the Latin American market, one of the highest proportions in any region. Finally, there was overall revenue growth of 22% in the United States and Canada, as well as 16.1% revenue growth in Asia, which accounted for 23% of the global market.

With respect to live music industry, including music sponsorship and music ticket sales, the projected figure for 2021 is 14.15 billion USD, compared to 28.56 billion USD in 2019.

Table 1

Revenues (in USD) / Year	1999	2002	2008	2012	2013	2015	2017	2019	2021
Total physical revenues	24.1	21.7	12.0	7.6	6.8	5.8	5.2	4.3	5.0
Total streaming	-	-	0.3	1.0	1.4	2.8	6.5	11.4	16.9
Downloads and other digital revenues	-	-	3.4	4.4	4.3	3.7	2.6	1.5	1.1
Performance rights	-	0.7	1.2	1.6	1.8	1.9	2.3	2.6	2.4
Synchronisation revenue	-	-	-	0.2	0.3	0.4	0.4	0.5	0.5
Total revenues in USD	24.1	23.4	16.7	14.7	14.4	14.5	17.0	20.2	25.9

Streaming platforms in Russia

Spotify closed its office in Russia in early March and announced that it also will fully suspend its online services in Russia following the invasion of Ukraine and the new law recently introduced in the country which will punish fake news about military operations with up to 15-year jail sentences. The streaming platform will lose 1.5 million premium subscribers. According to the company's statement, "recently enacted legislation further restricting access to information, eliminating free expression, and criminalizing certain types of news puts the safety of Spotify's employees and possibly even our listeners at risk.

In a similar vein, Netflix decided to suspend its service in Russia and to stop projects (productions and post-productions) and acquisitions in the country. According to POLITICO, people in the country will no longer be able to sign up for a new subscription and current Russian subscribers will be temporarily suspended "until the situation in Ukraine changes".

The US streaming platform has around one million subscribers in Russia, a relatively small number compared to the total paid memberships across the globe. Finally, Hollywood majors, such as Disney, Warner Bros., Sony, Paramount Pictures and Universal, paused all film debuts in Russia.

New business plans

End of March, Google announced a multi-year agreement with Spotify – called "user billing choice" -, that will let a small number of participating developers bypass Google Play billing on Android – letting Spotify use its own payment platform. As such, Spotify will not be obliged to give Google its entire 15% fee, but it will be a service commission without having more details on the commission structure involved. It is worth noting that today's app stores charge service fees ranging from 15% to 30% and, recently, several companies, such as Spotify, have taken Apple and Google to court asking regulators to investigate the anti-competitive character of an up-to-30% service fee. According to TechChurch, "Google already offers a similar system in South Korea following the arrival of new legislation requiring it" and the agreement between Spotify and Google will be the first time that "Google will test the system in multiple worldwide markets".

In addition, Disney Plus will introduce a cheaper ad-supported subscription option for its streaming service, which will be available in the US by the end of 2022, before expanding internationally in 2023. HBO Max has already introduced a cheaper option with commercials, which is also limited to HD content (and not 4K). Instead, Netflix pointed out that the company "is not necessarily against advertising, but an ad-supported model is not something that's in our plans", saying that Netflix is focused on "optimizing for long-term revenue".

Strategic partnerships and new acquisitions

According to Variety, early March, Nippon TV and Disney Plus announced a strategic collaboration agreement that will include co-production efforts on local language content for the global streaming audience and the availability of both companies' content on their respective platforms. Previously, the streamer said it would release over 20 Korean titles in 2022, including at least 12 Korean originals, and is committed to green-light over 50 Asian originals by 2023.

Besides, according to Media Partners Asia, in Southeast Asia, Korean-language content was "the largest consumed video content category", followed by regional content, particularly Thai and Indonesian, with US content driven to third place in some markets. Disney, the Hong-Kong-based Viu and Netflix are the largest video-streaming platforms in the region with 7.2 million, 6.5 million and 6.4 million subscribers, respectively.

In addition, Netflix has signed a memorandum of understanding with the Taiwan Creative Content Agency (TAICCA), a Taiwan government agency formed in 2019, which is "involved in content funding and promotion". The agreement will promote Taiwan's audiovisual content to the international market and will reinforce Taiwan "as a hub for Chinese-language production", insofar as major streaming platforms, such as Netflix, Disney Plus or Amazon Prime Video, do not operate in mainland China.

According to BusinessTech, Netflix announced a content investment of R900 million (62 million USD) in South Africa, covering four productions – one international and three local – which will be filmed in the country in 2022 and 2023. Over the last five years, the investment of Netflix in South African productions has reached R2 billion (137.6 million USD) and more than 80 South African films and television series have been available in the catalogue of the US-based streaming platform.

Finally, end of March, Netflix purchased Boss Fight Entertainment, a mobile game developer with 130 employers based in Allen, Texas, representing the third acquisition of Netflix in the video game industry since the last summer. This deal is part of Netflix's efforts to expand into the video game market and to include mobile games with its subscription package. According to the NYT, the company bought a studio called Night School in September and recently bought Next Games.

Additional readings for the April report:

- Regulating content won't make the internet safer – we have to change the business models, The Conversation, 18 March 2022, Link.

- Why Apple, Disney, IKEA and hundreds of other Western companies are abandoning Russia with barely a shrug, The Conversation, 9 March 2022, Link.

Indicative sources

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- EU negotiators agree new rules to rein in tech giants, POLITICO, 24 March 2022, Link.
- DMA: EU negotiators split on whether text covers remuneration for rightsholders, EURACTIV, 28 March 2022, Link.
- Censorship law leads Spotify to fully suspend service in Russia, Music ally, 28 March 2022, Link.
- Netflix suspends service in Russia, CNBC, 6 March 2022, Link.
- Google Play to pilot third-party billing option, starting with Spotify, TechChurch, 23 March 2022, Link.
- Disney Plus is adding a cheaper ad-supported subscription tier later this year, The Verge, 4 March 2022, Link.
- Netflix signs cooperation agreement in Taiwan, Variety, 21 March 2022, Link.
- Netflix commits over R900 million to South Africa's film and TV industry, BusinessTech, 24 March 2022, Link.
- Netflix buys another video game studio as it builds out its gaming business, The New York Times, 24 March 2022, Link.
- Nippon TV and Disney strike local content and co-production deal, Variety, 9 March 2022, Link.

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