

THE REGULATION OF ONLINE PLATFORMS IN EUROPE AND IN THE US FROM THE PERSPECTIVE OF MEDIA LAW

First week (28 June – 2 July 2021)

Lecturers: András Koltay (Rector of the University of Public Service, Professor of Pázmány Péter Catholic University) / Zsolt Zódi (Senior Researcher, University of Public Service):

OVERVIEW OF THE COURSE

Platforms are becoming increasingly important part of our economy and everyday life. We order taxi and book accommodation, watch and share videos and photos, and socialize on platforms. Though platforms started to dominate certain sectors of economy and our activities at the beginning of the last decade, therefore they are relatively new phenomena, governments endeavored to regulate them from the beginning.

First, as an early attempt they were categorized as *intermediaries*, a concept that was born right before the platforms, mainly describing internet service or hosting providers, and the like. According to this approach, platforms do not have a responsibility over the content uploaded, and transactions performed on them. This approach still serves as a basis for the regulation in most of the countries. But from the beginning of the last decade the intermediary approach proved to be more and more insufficient, and the legal discourse started to shift to constitutional law (basic rights), and media law direction.

Our course gives an introduction to the platform ecosystem, and to the recent regulatory landscape of the EU and the US, with a special emphasis on media regulation. It also gives a short introduction to other legal aspects, like data and consumer protection and competition law, and an outlook to the plans and drafts that can affect the future legislation.

GRADE EVALUATION

- Participation: 40% of the overall grade.
- A final examination lasting no longer than 45 minutes that will consist of essay-style question(s).

28 June (Monday), 3 pm – 5 pm

Introduction to the world of platforms & basics of media law (András Koltay and Zsolt Zódi)

- The significance of platforms: what does “platform society” mean? The definition and types of platforms. Social platforms, search engines, matching platforms, and enabler platforms. Exchange platforms and maker platforms. “Big five”: Facebook, Amazon, Apple, Microsoft, Google.
- Mechanism of platforms and how they differ from their “offline” counterparts. The impact of platforms on society and economy. Challenges of regulation: why and how platforms differ from their “offline” foreshadows? What is their specialty?

- Legal aspects of regulation of platforms: constitutional issues (freedom of speech), privacy and data protection issues, antitrust and competition law issues, consumer protection issues, civil law (contract law) issues, taxation issues.
- Basic concepts of media regulation and its regulatory environment. Differences in regulating the press, radio, television and the Internet. Media pluralism, access to the media and protection from harms.

Readings

- OECD: An Introduction to Online Platforms and Their Role in the Digital Transformation https://read.oecd-ilibrary.org/science-and-technology/an-introduction-to-online-platforms-and-their-role-in-the-digital-transformation_53e5f593-en#page1 19-69.
- András Koltay, 'The concept of media freedom today: new media, new editors and the traditional approach of the law' *Journal of Media Law*, vol. 7 (2015) No. 1, 36.
- Rikke Frank Jørgensen: *Human Rights in the Age of Platforms*, MIT Press 2019
- Jan Oster, *European and International Media Law*, Cambridge UP, 2016

29 June (Tuesday), 3 pm – 4 pm

The (state, co- and private) regulation of platforms in the EU and in the US (Zsolt Zódi)

- The e-Commerce Directive (2000/31/EC), and its main concepts, “intermediaries” and “information society services”
- The AVMSD (2018/1808 EU) and the regulation of video sharing platforms
- Hate speech restrictions, protection of minors and of the public order, prevention of terrorism
- Communications Decency Act and the regulation of platforms in the US

Readings

- András Koltay, 'The Private Censorship of Internet Gatekeepers' *University of Louisville Law Review*, vol. 59 (2020) 267.
- Kate Klonick, 'The New Governors: The People, Rules, and Processes Governing Online Speech' *Harvard Law Review* Vol. 131 (2018) 1599.

29 June (Tuesday), 4 pm – 5 pm

Data protection, competition law, antitrust and consumer protection issues concerning platforms. New regulatory efforts in the pipeline, debates about the future regulation (Zsolt Zódi)

- The GDPR and its relevant regulation affecting the platforms (informed consent, purpose limitation, right-to-be-forgotten, profiling)
- Consumer protection on the platforms
- Competition law aspects of platforms in the EU and the US
- Platform-to-Business regulation (P2B)
- Digital Services Act
- Digital Markets Act
- Regulatory problems and efforts for protecting workers on “gig-platforms”
- Recommendations, Communications of the EU bodies and the Council of Europe

Readings

- Kenneth A. Bamberger & Orly Lobel, "Platform Market Power", 32 *Berkeley Tech. L.J.* 1051 (2017)
- Lina M. Khan, "Amazon's Antitrust Paradox," *Yale Law Journal* 126, no. 3 (January 2017): 710-805
- Valerio De Stefano, "The Rise of the Just-in-Time Workforce: On-Demand Work, Crowdsourcing, and Labor Protection in the Gig-Economy," *Comparative Labor Law & Policy Journal* 37, no. 3 (Spring 2016): 471-504
- Digital Services Act proposal:
<https://eur-lex.europa.eu/legal-content/en/TXT/?qid=1608117147218&uri=COM%3A2020%3A825%3AFIN>
- Digital Markets Act proposal:
<https://eur-lex.europa.eu/legal-content/en/TXT/?qid=1608116887159&uri=COM%3A2020%3A842%3AFIN>

30 June (Wednesday), 3 pm – 4 pm
Consultation

2 July (Friday), 3 pm – 4 pm
Test