

Dynamic Coalition on Platform Responsibility (DC PR)

The necessity of creating the DC PR

Online platforms, such as social networks and other interactive online services, give rise to transnational “cyber-spaces” where individuals can gather and express their personalities imparting and receiving information and ideas. By reason of their transnational dimension as well as of their private nature, online platforms are regulated through contractual provisions, unilaterally established by the platforms’ providers and enshrined in the platforms’ Terms of Service (ToS).

Hence it may be argued that, by regulating the use of information within a specific online platform, ToS undertake a normative function that may be compared to that of the “Law of the Land”. However, differently from the Law of the Land, the contractual provisions delineated in the ToS can be applied in different jurisdictions, thus affecting platform users in spite of their geographical location. Furthermore, the private decisions that may be taken by the platform provider in order to implement the ToS (e.g. removing content which is not compatible with the ToS provisions) are not subject to the constitutional guarantees that frame national jurisdictions.

In addition, it should be noted that the spectrum of rights and remedies that are granted to platform users through the ToS may be difficult to comprehend or even read in its entirety, and similar platforms may be regulated through very different provisions that might be unilaterally modified by platform providers.

For these reasons, it seems necessary to engage in a common multi-stakeholder effort aimed at producing model contractual provisions, which can be incorporated in ToS in order to provide intelligible and solid mechanisms to protect platform-users’ human rights and foster platform providers’ responsibility.

Such an effort appears necessary to equip platform users with common and easy-to-grasp tools to guarantee the full enjoyment of their human rights. From this perspective, the absence of binding international rules in this area despite the universal nature of human rights represents a real challenge, which can only be effectively overcome through a multistakeholder effort, taking place in accordance with the UN “Protect, Respect and Remedy” Framework (endorsed by the UN Human Rights Council with the adoption of the UN Guiding Principles on Business and Human Rights). Hence, the concept of “platform responsibility” aims to stimulate behaviour in line with the principles laid out by the UN Guiding Principles on Business and Human Rights, focusing on the responsibility of private corporations to respect human rights and to grant an effective grievance mechanism.

The ability of users to recognize and reward this type of behaviour has the potential to generate

a virtuous circle, whereby consumer demand drives the market towards human rights-compliant solutions. Accordingly, the utilisation of model contractual-provisions may prove instrumental to foster trust in online services for content production, use and dissemination, allowing platform-users to directly identify those platforms that ensure the respect of their rights in a responsible manner.

The establishment of the DC PR seems therefore necessary to initiate a multi-stakeholder endeavour aimed at the elaboration of the aforementioned model contractual-provisions.

An Action Plan

The establishment of the DC PR aims at fostering a cooperative multi-stakeholder effort in order to elaborate concrete and interoperable solutions to protect platform-users' human rights.

To that end, the involved stakeholders will interact via the DC PR mailing list in order to jointly delineate a set of model contractual-provisions, defined as Platform-User Protections (PUPs).

While the long-term objective of the DC is to produce model contractual clauses that ensure the protection of individual rights in a range of contexts, the first exercise of the DC will be the definition of a set of PUPs focusing on the specific issue of content removal. The aforementioned goal will be achieved through several steps:

- a) A consultation period aimed at identifying current best practices, *e.g.* recognising current contractual provisions/mechanisms utilised by platform providers for content removal and the related remedies to challenge the removal decision;
- b) The elaboration of draft PUPs and the circulation of the different draft as Request for Comments on the DC PR mailing-list;
- c) Finalisation of PUPs as soon as the "rough consensus" around the most appropriate wording will crystallise;
- d) Definition of appropriate PUP labels (similar to those utilised to characterise the various Creative Commons Licenses) to be associated with each PUP. The utilisation of PUP labels will be instrumental to enable platform providers to signal the inclusion of PUPs in their ToS and help Internet users to easily identify the platform-providers who are committed to securing the respect of human rights in a responsible manner.

In recent years, several initiatives have been organised in order to scrutinise and assess platforms' ToS, particularly in the context of intermediary liability. For this reason, the first step of the DC PR will be to take stock of the existing initiatives in order to envisage the most accurate strategy to put in place the aforementioned steps. Such stocktaking exercise will take place at the first meeting of the DC PR that will be open to all interested stakeholders.

Contact person

Luca Belli

Coordinators

Luca Belli, CERSA, Paris II (PRES Sorbonne University)
Primavera De Filippi, Berkman Center for Internet and Society
Nicolo Zingales, TILEC (Tilburg University)

Website

platformresponsibility.info

Mailing-list

<http://lists.platformresponsibility.info/listinfo/dcpr>

Interested stakeholders:

Civil Society

- Ms Rebecca MacKinnon, New America Foundation
- Mr Félix Tréguer, La Quadrature du Net
- Ms Jillian York, Electronic Frontier Foundation
- Mr Allon Bar, Ranking Digital Rights
- Mr Martin Husovec, European Information Society Institute
- ICT for Change

Academia

- Mr Christopher T. Marsden, University of Sussex
- Ms Kirsten Gollatz, Alexander von Humboldt Institute for Internet and Society
- Mr Norberto Andrade, Berkeley Center for Law & Technology
- Mr Giancarlo Frosio, Center for Internet & Society, Stanford Law School
- Ms Francesca Musiani, Ecole des Mines
- Ms Roxana Radu, Graduate Institute for International and Development Studies
- Mr Stephan Kulk, Centre for Intellectual Property Law (CIER), Utrecht University
- Prof Oreste Pollicino, Bocconi University
- Mr Reuben Binn, University of Southampton

Private Sector

- Mr Marco Pancini, Google
- Mr Anton Battesti, Facebook
- Mr Matthjis van Bergen, ICT Recht
- Mr Sacha van Geffen, GreenHost
- Mr Christian Busca, Peppercorn

Intergovernmental organisations

- Mr Paolo Lanteri, WIPO
- Ms Alessandra Falcinelli, European Commission