

## **DYNAMIC COALITION ON PLATFORM RESPONSIBILITY**

### **Report of the "inception" meeting at the 2014 IGF**

Reported by Nicolo Zingales and Luca Belli

#### **Meeting overview**

The first meeting of the Dynamic Coalition on Platform Responsibility (DCPR) constituted an "inception" meeting, designed to gather consensus and delineate a roadmap for the future engagement of DCPR members.

The meeting was introduced by two keynotes, highlighting the state of play of the platform responsibility debate and triggering an open debate amongst the DC PR members and the attendees.

The opening keynotes were delivered by:

- Mr Jan Kleijssen, Director, Information Society and Action against Crime, Directorate General of Human Rights and Rule of Law, Council of Europe;
- Ms Rebecca MacKinnon, Director of the Ranking Digital Rights project at New America Foundation.

Subsequently, DC PR members and attendees engaged in an open discussion aimed at identifying the key elements to be addressed by the DC PR and jointly delineating the DC PR roadmap. This meeting took the format of a "Birds of a feather session", allowing all interested individuals to jointly plan the future works of the DC PR.

The discussion started with an overview of the concept of platform responsibility, and of the relevant initiatives that the Council of Europe and other organisations (including the Global Network Initiative, Ranking Digital Rights, the Center for Democracy and Technology) have undertaken in this regard.

It was agreed that ToS are a crucial instrument to regulate global services that are provided on cloud-based transnational cyberspaces, defining the spectrum of rights and remedies that are granted to platform. However, ToS may be difficult to comprehend or even read in its entirety, differ from one platform to the other and may be unilaterally modified by platform providers. Furthermore, although ToS can provide mechanisms to seek redress in case of specific rights violations (e.g. copyright violation, online harassment, etc.) such mechanisms are not standardised and lack transparency, which is a fundamental due process requirement.

Moreover, it was stressed that Internet companies do not take sufficiently into consideration the effects of their business practices on Internet users' fundamental rights, and this lack of consideration may undermine users' trust. It was highlighted that online platforms' compliance to human rights is often framed around the duty of States to protect human rights, without undertaking due diligence with regard to online platforms' compliance with their responsibility to respect such rights.

A number of issues of process and substance were mentioned in response to a call for a focus on specific rights and challenges to be addressed by the DC PR.

Some of the procedural issues highlighted concern "responsibility" in decision-making (e.g. giving users the right to be heard and an effective remedy before an

impartial decision-making body, and obtaining their consent for changes in the contractual terms); some others concern “responsibility” in the policy-making (e.g. the need to have a commitment to the protection of human rights, the need for transparency and consultation, and due diligence in adopting ToS).

Likewise, emphasis was put in the need to promote “responsibility” in the concrete mechanisms in place to deal with substantive rights, such as privacy and freedom of expression (for example, concerning the disclosure of personal information and content removal).

It was suggested that the concept of responsibility, including in case of the conflict between different rights, could be grounded on HR case-law (e.g. ECtHR jurisprudence, etc.). Moreover, the point was made repeatedly that any framework should take into account the differentiation between users (e.g. adults and children; or people with and without continuous access to the Internet) and between platforms (both in terms of size and functionality).

### **Conclusions and future steps**

In the light of the abovementioned reasons, the participants to the first meeting of the DC PR agreed to establish a multi-stakeholder cooperation that can go beyond dialogue and produce concrete proposals. Particularly, participants suggested developing (i) recommendations to online platforms with regard to processes of compliance with internationally agreed human rights standards (“due diligence recommendations”); (ii) and the elaboration of a set of model contractual provisions protecting platform users’ rights and guaranteeing transparent mechanisms to seek redress in case of violations.

Participants also agreed that the preliminary step of the DC PR should be the compilation of existing projects and initiatives dealing with the analysis of ToS’ compatibility with human rights standards. To this end, all list members are invited to highlight relevant initiatives regarding (i) processes of due diligence for human rights compliance; (ii) the evaluation of ToS compliance with human rights standards. You are invited to highlight these initiatives until 10 October. Such initiatives and subsequently compiled into a document to be shared on the DC PR mailing-list.

Further to this compilation, a first recommendation draft regarding online platforms’ due diligence will be circulated to the mailing list by 30 October. This drafting will be elaborated by the DC PR coordinators in collaboration with any other interested DC PR member. The draft will be open for comments via the DC PR mailing list (<http://lists.platformresponsibility.info/listinfo/dcpr>) until 30 November. A second draft will be developed compiling the comments expressed via the mailing-list and shared for comments by 10 December 2014. The final version of the recommendation will be drafted by 30 December.

Subsequently, the first set of model contractual provisions will be elaborated building upon such recommendation. A call for inputs will be issued in order to gather suggestions on the content of these provisions.