



How responsible should I be?
Users in the EU regulatory
framework for online content
sharing platforms

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Online content sharing platform service

- Legal definition of a service provider includes definition of a service
- a provider of an information society **service** of which the main or one of the main purposes **is to store and give the public access** to a large amount of copyright-protected works or other protected subject matter **uploaded by its users**, which it **organises and promotes** for profit-making purposes.

Online video-sharing platform

- Definition and responsibility in organizing content
- the principal purpose of the service or of a dissociable section thereof or an essential functionality of the service is devoted **to providing programmes, user-generated videos**, or both, to the general public, **for which the video-sharing platform provider does not have editorial responsibility**, in order to inform, entertain or educate, by means of an electronic communications network within the meaning of point (a) of Article 2 of Directive 2002/21/EC and **the organisation of which is determined by the video-sharing platform provider**, including by automatic means or algorithms in particular by displaying, tagging and sequencing

Regulatory approach to platforms - copyright

- Defining OCSP + online content sharing service
- MS ensure platform-oriented scope of the communication to the public right
- OCSSP –relevant authorizations
 - Some users' uploads covered
- No authorization – liability exemption conditions [FILTERING]
 - commercial uploads by users
 - If commercial uses are authorized, OCSSP acts included,
 - Commercial uploads within E & Ls? – quotation, criticism, review, parody, pastiche, (reporting in connection with the current events)

User's rights – MS obligations

- Ability (right?) to rely on exceptions for quotation, criticism, review, parody, pastiche
 - Ensuring freedom of expression
- Use of a complaint & redress mechanisms
- Access to court or relevant judicial authority to „assert” an exception or limitation
 - Users rights and enforcement?

Regulatory approach to platforms – media law

- Defining an online video-sharing platform + service provider
- MS – ensure that OVSP take appropriate measures:
 - Adequately shaping platform policies
 - Provide age verifications systems
 - Provide media literacy measures and tools
 - Provide functionalities to users
 - to declare commercial communications
 - To report or flag harmful/illegal content
 - To rate illegal and harmful content
 - To apply parental control

The scope of platforms' responsibility

- **to take appropriate measures** with respect to three types of content:
 - impairing physical mental or moral development of minors
 - containing incitement to violence or hatred directed against a group of persons or a member of a group based on any of the grounds referred to in Article 21 of the Charter
 - constituting criminal offence as harmonized in EU law (terrorism, child pornography, racism and xenophobia)
- Qualitative standards for commercial communications that **are and are not sold, marketed, or arranged by platform provider**

Appropriate measures – how to responsibly „organize” a service?

- Access to a service [impact on users' behaviour]
 - What is in terms and conditions of a service
 - Explaining the availability and consequences of using service's functionality
 - Media literacy measures and tools (campaigns and trainings)
- Use of a service: [tools for users]
 - Declaring there is a commercial communication
 - Reporting or flagging harmful and illicit content
 - Rating content
 - age verification and parental control systems for users

User's rights – MS obligations

- possibility to use "functionalities" of a service
 - Measures adopted by platforms under control of NRA or 'bodies'
- Use of a complaint mechanisms – on flagging, rating, application of age restrictions or preventing the availability
- Access to out-of-court dispute resolution
- Access to court to „assert" user right
 - right to freedom of expression?

Thank you for you attention