



Policy Digests offer an overview of the latest digital policy developments in Digital Policy Lab (DPL) member countries, including regulatory and non-regulatory initiatives aiming to combat online harms such as disinformation, conspiracy theories, hate speech, illegal, extremist or terrorist content. In addition to general updates, each Policy Digest provides a snapshot of topic-specific proposals relevant to the upcoming DPL session.<sup>1</sup>

## Section 1 Digital policy developments

### EU: Parliament and Council deliberate on Digital Services Act (DSA) proposal

**Type** Regulatory; content-focused (illegal) and systemic

**Legislative status** Committee vote in Parliament postponed, Competitiveness Council (COMPET) to vote on General Approach on 25 November 2021, trilogue negotiations to begin in 2022

The European Parliament and the Council of the EU are currently advancing their positions on compromise amendments to the European Commission's [Digital Services Act \(DSA\) proposal](#). Here are some of the most pressing issues:

- **Advertising, recommender systems and user control:** The Committee on the Internal Market and Consumer Protection (IMCO) [continues to elaborate on](#) compromises on the basis of the 2297 amendments tabled in IMCO and the opinion giving committees. Amendments would prohibit tracking-based advertising, introduce conditions for fair consent choice, prohibit the use of dark patterns, increase transparency of recommender systems, switch off profiling by default and empower users to modify the parameters of such systems, among other proposals. On 8 November 2021, whistle-blower Frances Haugen provided a testimony to IMCO members, outlining the need to set democratic rules, including strong rules for content moderation and far-reaching transparency obligations.
- **Media exemption:** In its final opinion adopted on 11 October 2021, the Committee on Legal Affairs (JURI) [introduced an](#) amendment to include a media exemption clause according to which Very Large Online Platforms (VLOPs) would need to ensure the protection of freedom of expression and pluralism of the media. The amendment refers to press publications, audiovisual media services and other editorial media. Journalists, fact-checkers, and researchers [urged](#) MEPs to reject such proposal to avoid loopholes for actors that present their content as journalism whilst sharing false, hateful or misleading information, either intentionally or unintentionally.
- **Enforcement powers and key principles:** In the Working Party Competitiveness and Growth meeting on 11 November 2021, the latest [compromise text](#) of the Slovenian Presidency received broad support from delegations. Notably, the compromise extends the powers of the Commission for supervision and enforcement of the DSA as regards VLOPs. It preserves key principles set up by the e-Commerce Directive: the country of origin principle, the principle of the conditional liability exemption, and the prohibition of general monitoring obligations.

### UK: Parliament scrutinises Online Safety Bill (OSB)

**Type** Regulatory; content-focused (illegal/harmful), partially systemic

**Legislative status** Joint Select Committee to report by 10 December 2021

In May 2021, the UK government [published](#) the Online Safety Bill (OSB) to establish a new regulatory framework to tackle harmful content online.

- Most of the Bill's duties are content-related: notably, the draft introduces a duty to minimise the presence of "priority illegal content" and to conduct an illegal content risk assessment.

<sup>1</sup>We welcome any feedback from DPL members in relation to developments that may have been missed, which can be added to a revised version circulated after the respective session. Looking ahead, we also welcome own submissions from DPL members who wish to be featured in the digest.

- Safety duties relating to “content harmful to adults” (referring to “significant adverse physical or psychological impact” on individuals) require the most risky “Category 1 services” to conduct adults’ risk assessments, to make clear in the terms and conditions how such content would be “dealt with” and to ensure that this is applied consistently.
- The detailing of the Bill’s preliminary design is to be executed by secondary legislation, with Ofcom guidance and Codes of Practice to follow.

## Canada: Government proposes new approach to address harmful content online

**Type** Regulatory; content-focused (harmful/illegal)

**Legislative status** Public consultation closed, government to introduce legislation by early 2022

In September 2021, Canadian Heritage closed a public consultation process on its proposed legislative and regulatory framework to establish new rules for online communication service providers (OCSPs) to address “harmful content”.

- The legislation would target five categories of harmful content: terrorist content; content that incites violence; hate speech; non-consensual sharing of intimate images; and child sexual exploitation content.
- While those categories draw upon existing criminal law, they would be modified to “tailor them to a regulatory – as opposed to criminal – context”. OCSPs would capture major platforms such as Facebook, Twitter, or YouTube, and would be obliged to remove such content within 24 hours of being flagged, institute internal procedural safeguards for users, and provide transparency reporting to a new regulator, the Digital Safety Commissioner.

## Germany: Parliament adopts a bill to amend the Network Enforcement Act (*Netzwerkdurchsetzungsgesetz* or *NetzDG*)

**Type** Regulatory; content-focused (illegal), partially systemic

**Legislative status** Entered into force in 2017, amendments partially in effect

In June 2021, the Act to Amend the Network Enforcement Act entered into force. The NetzDG obliges social media networks with 2 million or more registered users in Germany to remove certain content that is “obviously illegal” within 24 hours after receiving a user complaint. Where the (il)legality is not obvious, the network normally has up to seven days to decide on the case. If the illegality of the content is not obvious on its face, the social network has seven days to investigate and delete it.

- The amendment aims to improve appeals procedures and arbitration, transparency reporting and data access for researchers, as well as user-friendliness of complaints procedures.
- As part of the legislative package to combat right-wing extremism and hate crime, a new provision obliges social networks to forward content, IP address and port number of user(s) to the Federal Police Office, if content has been reported as a violation of the NetzDG. This obligation will be effective from February 2022.

## France: New “Bronner Commission” to propose measures to combat disinformation

**Type** Task force; disinformation, hate and conspiracy theories

**Status** Commission to introduce proposals by end of 2021

In September 2021, the Elysée tasked a new commission entitled “Les lumières à l’ère numérique” (also known as “Bronner Commission”), a team of fifteen experts including historians, academics and journalists, with making a series of concrete proposals in the fields of education, prevention and regulation to combat the spread of conspiracy theories, hate and disinformation. The commission will also define scientific consensus on the impact of the internet on the public debate. The commission chair, sociologist Gérald Bronner, noted an initial focus would be the ways in which algorithms cause “digital enslavement” by shaping the conversation.

## France: Legislators approve Law to strengthen respect for the principles of the Republic

**Type** Regulatory; content-focused (illegal) and systemic

**Legislative status** Published in August 2021




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Introduced in October 2020, the [Bill to strengthen respect for the principles of the Republic](#) (“Loi confortant le respect des principes de la République”) was approved by the French Constitutional Council in August 2021.

- Article 42 of the Law obliges operators of online platforms (whose user activity on French territory exceeds a certain threshold determined by decree), to combat the dissemination of illegal hate speech online. The obligations precede many of the proposed measures in the EU’s Digital Services Act.
- Obligations include increased transparency of content moderation processes, notification mechanisms, statement of reasons, and terms of services that explain content take-down and suspension procedures in a clear and precise manner.
- Very large online platforms are obliged to conduct annual risk assessments of the systemic risks stemming from the functioning and use of their services with regard to illegal hate speech and the violation of fundamental rights as well as reasonable, effective and proportionate risk mitigation measures based on the outcome of such assessments.
- The obligations will expire on 31 December 2023.

## Section 2 Topic-specific snapshot: “Cross-harms threats to election integrity”

This section provides a snapshot of DPL government approaches to and some platform policies (using Facebook as an example) on different types of cross-harms threatening electoral integrity. It is not intended to be exhaustive. The overview below showcases content-related regulatory proposals that follow the principle “what is illegal offline should be illegal online”. More systemic approaches pursue an architecture of asymmetric and proportionate due diligence obligations, tailored to the risks posed by functionalities of the online service. Regulatory and non-regulatory approaches towards online advertising are frequently dealt with in a separate, but complementary manner. Government responses to threats posed by foreign interference activities often stem from national security-focused taskforces.

	Illegal content	Legal but harmful content	Online political & issue-based ads	Foreign interference
 <b>Australia</b>				
<a href="#">Electoral Integrity Assurance Taskforce (2018)</a> Taskforce Federal agencies provide guidance to the Australian Electoral Commission on issues within the electoral environment, including cyber activity, electoral fraud, foreign interference or disinformation	✓	✓	✓	✓
<a href="#">Online Safety Act (2021)</a> Regulatory Content-focused (prohibited online content based on the National Classification Scheme)	✓			
<a href="#">Counter Foreign Interference Taskforce (2019)</a> Taskforce Increase in intelligence collection, assessment and law enforcement capabilities				✓
<a href="#">National Counter Foreign Interference Coordinator (2018)</a> Coordinator Whole-of-government approach, administration of CFI Strategy				✓
<a href="#">Electoral Legislation Amendment (2018)</a> Regulatory Electoral funding and disclosure reform, foreign donors				✓
 <b>Canada</b>				
<a href="#">Canada Declaration on Electoral Integrity Online (2021)</a> Self-regulatory Participating platforms to address electoral disinformation, cyber-threats, transparency of online political advertising and inauthentic coordinated behaviour	✓	✓	✓	✓
<a href="#">Facebook 2021 Canadian Election Integrity Initiative</a> Platform policy Civic engagement and security, political ad authenticity and transparency, fact-checking partnerships		✓	✓	
<a href="#">Elections Modernization Act (2019)</a> Regulatory Election-specific transparency obligations			✓	
<a href="#">Security and Intelligence Threats to Elections Task Force (2020)</a> Task Force Election-specific, clandestine or criminal activities				✓
<a href="#">Critical Election Incident Public Protocol (2019)</a> Protocol Election-specific communication				✓
 <b>France</b>				
<a href="#">Law against the manipulation of information (2018)</a> Regulatory Election-specific transparency obligations for online platform operators			✓	
<a href="#">“Vigilance” (2021)</a> Agency Monitoring foreign information operations targeting elections				✓

## Germany

### Network Enforcement Act (2017)

Regulatory Content-focused (certain sections of the criminal code, social media networks with two million or more users in Germany)

Illegal content



Legal but harmful content

Online political &amp; issue-based ads

Foreign interference

### Removal of Coordinated Social Harm (2021)

Platform policy Networks of 'users who organise to systematically violate policies to cause harm'



### Expanding Facebook Protect Ahead Of The German Federal Election (2021)

Platform policy Voluntary safety program for candidates, campaigns and elected officials



### Interstate Media Treaty (2020)

Regulatory Transparency obligations for algorithms, freedom from discrimination for journalistic-editorial offers (media intermediaries); ads transparency obligations, special requirements for ads of 'a political, ideological, or religious nature (broadcasting and teledmedia)



### Prohibited ads related to the US 2020 Election and Germany 2021 Election

Platform policy Prohibited ads related to voting and 'ads about social issues, elections or politics'



## Ireland

### Online Safety and Media Regulation Bill (2021)

Regulatory Content-focused ('harmful content', online services for user-generated content)



### General Scheme of the Electoral Reform Bill 2020

Regulatory Election-specific transparency obligations (online platforms and sellers)



## Netherlands

### Code of Conduct Transparency Online Political Advertisements (2020)

Self-regulatory Transparency (online platforms and political parties)



## New Zealand

### Harmful Digital Communications Act (2015)

Regulatory Communication principles, thresholds for proceedings, liability of online content host



### Media content regulatory review (2021)

Regulatory Content-focused ('illegal/harmful', 'platform-neutral')



### Updated ASA Guide on Election and Referenda Advertising (2020)

Self-regulatory Advertising Standards Code, complaints about paid election advertising, including communications from social media platforms



## Sweden

### Civil Contingencies Agency (2014)

Agency Release of the Countering information influence activities - A handbook for communicators (2019)



## Switzerland

### Geneva Internet Platform (2014)

International platform Global Internet governance, initiated by the Federal Department of Foreign Affairs and the Federal Office of Communications



### Digital Foreign Policy Strategy 2021-2024

Strategy "Cyberspace" chapter refers to disinformation and propaganda





### The Audiovisual Media Services Regulations 2020

Regulatory Content-focused ('restricted material' and 'relevant harmful material')

### Online Safety Bill (2021)

Regulatory Content-focused ('priority illegal content'); duties to protect 'content of democratic importance' and 'journalistic content' (category 1 services posing greatest risk)

### Elections Bill (2021)

Regulatory Transparency obligations (imprints regime for 'digital material')



### S.4066 - Platform Accountability and Consumer Transparency (PACT) Act (2021)

Regulatory Transparency, accountability, and protections for consumers online (interactive computer services)

### Third-party fact-checking program

Platform policy Identify 'viral misinformation', reduce distribution, apply a warning label

### S. 1356 - Honest Ads Act (2019-2020)

Regulatory Transparency and accountability of 'digital political ads'

### Ad authorisations process

Platform policy Promote authenticity of ads relating to 'social issues, elections, or politics' ('paid for' disclosures)

### Coordinated Inauthentic Behavior (2018)

Platform policy Stop 'coordinated efforts to manipulate public debate for a strategic goal where fake accounts are central to the operation'



### Digital Services Act proposal (2020)

Regulatory Notice and action mechanism, statement of reasons, trusted flaggers, user-facing transparency of online advertising (online platforms); risk assessments and mitigation, user control over recommender systems, data sharing with authorities and researchers (VLOPs)

### Code of conduct on countering illegal hate speech online (2016)

Self-regulatory Content-focused (illegal hate speech)

### Guidance for strengthening the Code of Practice on Disinformation (2021)

Self-regulatory / co-regulatory Instrument to fulfil DSA obligations to assess and mitigate the systemic risks; ads transparency and accountability (signatories)

### Legislative proposal for regulation on the transparency and targeting of political advertising (2021)

Regulatory Harmonised transparency obligations and rules on the use of targeting and amplification techniques (providers of political advertising and related services)

### Draft report of the Special Committee on Foreign Interference in all Democratic Processes in the EU, including Disinformation (2021)

Special Committee Motion for Parliament resolution on a coordinated EU strategy against foreign interference

Illegal content  
Legal but harmful content  
Online political & issue-based ads  
Foreign interference

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#### About the Digital Policy Lab

The Digital Policy Lab (DPL) is an inter-governmental working group focused on charting the regulatory and policy path forward to prevent and counter disinformation, hate speech, extremism and terrorism online. It is comprised of a core group of senior representatives of relevant ministries and regulators from key liberal democratic countries. The DPL aims to foster inter-governmental exchange, provide policymakers with access to sector-leading expertise and research, and build an international community of policy practice around key regulatory challenges in the digital policy space. We thank the German Federal Foreign Office for their support for this project.