

Maria Donde – speaking notes

Today I will say a bit about the potential role for regulators in tackling disinformation, including in the context of the UK online regulation proposals.

Background on Ofcom and current/proposed regulation of online services:

- Ofcom has long worked in the area of content regulation and oversight. This has meant upholding standards in accuracy impartiality, ensuring plurality, and PSB oversight. We now face a very different set of responsibilities: a new role of oversight of online platforms and services.
- The UK implemented the revised AVMSD in November 2020, when Ofcom became the regulator for certain video-sharing platforms under the VSP regime.
- We have also been confirmed as the UK Gov's intended regulator for the proposed Online Safety Regime. The estimated timeline is:
 - The Draft Online Safety Bill published in May 2021
 - The 'pre-legislative scrutiny' phase has run through the Autumn and relevant Parliamentary Joint Committee [published its report in December 2021](#)
 - The Draft Online Safety Bill will then be reviewed by Parliament beginning early 2022. We expect the regime to commence in 2023/24.
- The proposed regime is: a regulatory framework for platforms that facilitate user interaction, with a focus on company system and processes. This will involve a supervisory/Duty of Care regime setting expectations for companies to fulfil to manage risks. In very brief summary, there will be different obligations/expectations for different types of risks:
 - For illegal content or content that could harm children, all in-scope firms will have to take account of risks and act accordingly
 - For "Legal but harmful" content: high-risk, high-reach services (Category 1) have to assess risks based on what they are willing to tolerate. This may include some disinformation. They must specify in their Terms & Conditions how this content is dealt with. They must ensure that these terms and conditions are clear and accessible and that they are applied consistently.
- The enforcement role envisaged for Ofcom would focus on ensuring those requirements are met and platforms are held to account. Government proposes to give us robust information gathering and enforcement powers,

The likely shape & focus of regulation of disinformation:

- The OSB is just one online regulation proposal and arguably not one that is primarily concerned with online disinformation. The DSA at EU level might be argued to be taking a broader approach that looks at the risks posed by intentional manipulation and amplification more explicitly.
- One thing they have in common, though, is an emphasis on transparency and information gathering. This is because:
 - Despite recent initiatives to combat disinformation, the current lack of transparency and accountability of platforms continues to be a major obstacle in understanding the nature and scale of the problem. We are actually still quite some way from fully

understanding the effects of algorithmic curation in terms of impact on disinformation.

- Formulating regulatory responses in this area will be an iterative process based on analysis and re-analysis of information that regulators need additional powers to obtain from platforms.
 - Shining a light on what is happening in a more systematic way is expected to have a impact. The key challenge for regulators will be to design information gathering & transparency regimes that are forensic, not too cumbersome (to avoid big player advantage) and can speak to a range of stakeholders (including the public)
- Ofcom's approach will involve a combination of tools and powers set out in the Bill to tackle disinformation. That means transparency, further understanding of platform design, media literacy, research and researchers' access, and enforcement. We believe that our activities should platforms to take a more systematic and proactive approach to this problem, helping reduce disinformation in the online ecosystem. Specifically we would expect to:
 - Seek to understand platforms' approach to improving the safety of online users, in particular Category 1 companies to account in relation to their obligations to carry out risk assessments and consistent application of their own T&Cs.
 - Shed light on the actions platforms are taking to counter mis- and disinformation across their services and to implement systemic changes to platform design.
 - Form a Disinformation Advisory Committee of disinformation experts, platform representatives, and civil society members. Its main function will be to advise Ofcom on its own transparency reports, and media literacy duties, and more generally how in-scope service providers should deal with disinformation.

Regulators and transparency: focus on independence

- Other regulators may take different approaches, particularly given the updates to the EU Code on Disinformation and the likely status it will have under the DSA when that is adopted. But it does seem that ensuring greater transparency will be at the core of regulators' function. In some cases regulators may play some kind of independent audit role, indeed there have been proposals for this role under the DSA to be played by independent regulators.
- Independence of regulators with oversight powers is critical. For trust as well as efficacy and respect for human rights.
- Cooperation and coordination between independent regulators also becomes crucial. Disinformation amplification means understanding tech (AI, deep fakes, fake accounts) but also different regulatory frameworks eg data protection and competition. In the UK, a group of regulators including Ofcom, the Competition and Markets Authority and the Information Commissioner's Office formed the [Digital Regulators Cooperation Forum](#) for just that reason (noting that, among other things, the work programme for the DRCF includes algorithmic processing & digital advertising technologies)

Other relevant tools in regulatory toolkit

- Media literacy: Education and critical understanding are essential tools for recognising both unreliable sources and trustworthy content. Regulators can play a very wide range of roles, from research to evaluation tools, to coordinating activity by practitioners and even helping to design and deliver educational tools and campaigns themselves. Ofcom recently published a

new [approach to media literacy](#) and there are good overviews about regulators' activities available from the [EPRA regulators' network](#) and the [European Audiovisual Observatory](#).

- Measuring and supporting plurality: Ofcom recently identified risks to plurality associated with the role of algorithmic content curation and users' understanding in [our future of plurality report](#). Regulators have a range of duties and powers related to plurality (eg concentration, analysis of market etc), and they may be able to analyse structural dependencies between media and platforms that impact the sustainability of the types of media that produce trustworthy content to counter disinformation.
- Supporting and sustaining Public Service Media. PSM plays a significant role in Europe in providing reliable information and helping to educate. Many regulators frequently have an oversight role, and eg Ofcom recently conducted a review of PSM in the UK and made [recommendations](#). More concrete discussions about general interest content prominence are taking place in EU and the forthcoming European Media Freedom Act is likely to have relevant provisions.