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Original article



Regulating Journalism in the Digital Age

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Abstract. The research examined national and international legislation on activity of online news and the role of artificial intelligence in this sphere. Authors analyzed both international acts and recommendations, EU's, India's, Nepal's, UAE's, Kazakhstan's and UK's laws and ECHR's decisions. The core concepts are liberal (European) and strict (Eastern). The European approach to mass media involves self-regulation and some basic state restrictions, whereas the Eastern system focuses on developing an allowed-content standards and controlling state bodies. The authors concluded that such a classification is quite vague since many countries have some features of both approaches, so that co-regulation arises. The authors underlined trends in formulating the concept and its regulatory aspects. Due to legal uncertainty and linguistic diversity of definitions, online media may include social network accounts, providers of audiovisual media services, websites (both electronic versions of printed publications and separate publishing houses) and other Internet resources. All of them must abide by the decisions of the Press Councils and the Ombudsmen, obtain licenses and follow the rules of prohibited content, developing its own system of tracking and rapid response (including via artificial intelligence).

Keywords. Mass media, online news, artificial intelligence, digital media, EU's legislation, messengers, social networks.

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Научная статья

Регулирование журналистики в эпоху цифровых технологий

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Аннотация. В современных условиях ряд международных документов гарантирует свободу слова, в частности свободу средств массовой информации. С учетом динамичного развития общества и информационно-телекоммуникационных технологий возникает вопрос определения

и регулирования недавнего возникшего феномена «онлайн-СМИ». Европейский подход или либеральная концепция выражается в сочетании принципа саморегулирования и отдельные ограничения со стороны государства для благосостояния общества, в то время как восточный подход (жесткая концепция) – в создании системы стандартов разрешенного контента и государственных органов контроля за информацией и самими СМИ. При более детальном анализе законодательства стран ЕС, Индии, Непала, ОАЭ, Китая, Казахстана, Великобритании, деклараций региональных организаций и судебной практики ЕСПЧ и дел Советов по делам прессы можно сделать вывод о том, что такое деление довольно условно, поскольку некоторые государства стали заимствовать и адаптировать отдельные элементы двух подходов, переходя на так называемое «сорегулирование», которое повышает уровень доверия к СМИ. На основании рекомендаций докладчиков по вопросам свободы СМИ региональных организаций и ООН рассматривается также надгосударственная модель регулирования с учетом действующего законодательства страны происхождения контента («правило исходящего трафика»).

Вследствие правовой неопределенности и лингвистического многообразия определений, помимо соответствующих веб-сайтов (как электронные версии печатных изданий, так и отдельные издательства), к интернет-СМИ могут относиться издатели онлайн-курируемого контента, электронные версии издательских домов, аккаунты в социальных сетях и другие интернет-ресурсы, которые, таким образом, должны подчиняться решениям Советов по делам прессы и соответствующих омбудсменов и кодексам этики журналистов, в большинстве случаев получать лицензии и следовать правилам запрещенного контента, развивая собственную систему отслеживания и оперативного реагирования (в том числе посредством искусственного интеллекта). При этом интернет-СМИ иногда путают с «поставщиками аудио-визуальных услуг», которые являются общим понятием и включают в себя также стриминговые сервисы и интернет-мессенджеры. Именно факт распространения редакционного материала вне зависимости от платформы является зачастую предопределяющим критерием. Происходит постепенное размывание границ между печатными и электронными СМИ, которые попадают зачастую под регулирование Национальных советов по делам прессы и уже ныне существующих нормативно-правовых актов (хотя в некоторых странах можно найти специальное законодательство, оно обладает лишь малой спецификой).

Авторами отмечаются значительное влияние искусственного интеллекта (ИИ) на журналистику и возможные пути контролирования контента интернет-СМИ, однако возникает ряд вопросов, связанных с авторством и ответственностью. Статистика «авторитетных модераторов контента» показывает, что с каждым годом ИИ все лучше и лучше фильтрует запрещенную информацию, фейковые новости, страницы и дипфейки. Авторами рассмотрены некоторые инициативы в Европейском Союзе и Великобритании, однако компании часто отдают предпочтение сохранить концепцию «человек в петле» (англ. human-in-the-loop) для дополнительной проверки сомнительной информации вручную. На сегодняшний день существующий «информационный беспорядок» требует тщательного контроля, однако не позволяет полностью доверить работу машинам.

Авторы приходят к выводу о том, что отсутствует устоявшая единообразная практика, которая позволила выделить четкие критерии онлайн-СМИ, поэтому данный вопрос может стать предметом будущих исследований.

Ключевые слова. СМИ, интернет-новости, искусственный интеллект, цифровые медиа, законодательство ЕС, мессенджеры, социальные сети.

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Introduction

Under the article 19 of the Universal Declaration of Human Rights, adopted by the United Nations General Assembly on the 10th of December in 1948, and under the article 19 of the International Covenant on Civil and Political Rights, adopted by the United Nations General Assembly on the 16th of December in 1966, everyone has the right to freely seek, receive and impart information and ideas “either orally, in writing or in print, in the form of art, or through any other media of his choice”. Nowadays this list should also include information and telecommunication technologies. Its regulation has become prior both domestically and internationally. In 2011 during its 102nd session the Human Rights Committee pointed out in General Comments No. 34 that States parties should protect the independent and diverse media, especially taking into account rapidly developing online medium. Subsequently, in many states (e.g., members of the Organization for Security and Co-operation in Europe), “media freedom” has been recognized as a principle which secures a right to seek, receive, provide and disseminate one's thoughts and opinion via special technologies and by any legal means, encouraging media pluralism and prohibiting monopolization [1]. Such provisions can be found in the Declaration on mass communication media and Human Rights, adopted by the United Nations General Assembly on the

23th January in 1970, and in the Declaration on human rights and the rule of law in the Information Society, adopted by the Committee of Ministers of the Council of Europe on the 13th of May in 2005, but this principle hasn't been globally recognized yet [2; 3].

Methodology

On grounds of the comparative analysis and systematization of the regulatory framework, as well as recommendations of consultative bodies and judicial decisions, a study was conducted in accordance with the current state of affairs regarding the regulation of digital journalism or so-called “online news outlets”. Taking into account a wide range of ways to give the definition and picture different controlling models, authors tried to summarize the current situation and reflect best practice of both West and Eastern countries. India's, France's, Kazakhstan's and UAE's regulation reflect broad interpretation of the phenomenon whereas Croatia, Slovenia, Latvia, Hungary, Germany, Austria have more distinctive definitions. The European Court of Human Rights (ECHR) and such EU states as Germany, the Netherlands withal Cyprus have striking cases that elaborates the issue, so that online activity falls into different categories. Nepal and Indonesia follow in India's footsteps, since India is an example for Asian countries and the same applies to UAE (particularly Dubai) for Arabic

countries. In European Union the legislation turns out to be more or less similar. The UK's Code of ethics as a source of rules also draws attention in terms of e-journalists.

Artificial intelligence (AI) and AI-wise projects in content-making sphere are also subject of the discussion, as authorities proactively introduce the sorting-out-content system that may violate freedom of speech or protect readers from such Internet dangers as fake news, disinformation, libel and etc. What's why empirical evidence comes into first place and is sophisticatedly collected by authors.

Results: Different Approaches

Despite the different methods of the Internet regulation, the dominating concept is multilateral governance, described in the provisions of the Declaration of Principles and Plan of Action (Geneva) 2003 and in Tunis Commitment 2005, as well as in the UNESCO's ROAM-X Indicators 2016. It includes the human rights protection, openness and accessibility, media freedom, net neutrality, free flow of information and network compatibility and constitutes the liberal approach (also called European). Its specific features are self-regulation, impossibility of licensing withal compulsory registration. The decision of the Permanent Council of the Organization for Security and Co-operation in Europe No. 633 "Promoting tolerance and media freedom on the Internet" advocates for taking measures, so that the Internet remains an open and publicly accessible forum. In the case 5493/72 "Handyside v. the United Kingdom" (December 7, 1976) the ECHR states that each State choses its own attitude, taking into account the situation

existing on its territory with regard to the prevailing views on their needs in order to protect morality in a democratic society [4]. EU' legislation provides no list of grounds for restricted content, but it is important to pay attention to the resolution of the Parliamentary Assembly of the Council of Europe No. 1636 "Indicators for media in a democracy" 2008 (hereinafter — Indicators for media in a democracy 2008), which sets out a number of principles regarding media freedom (including Internet resources). The most significant is paragraph 8.17, which helps to make out the approaches: "the state must not restrict access to foreign print media or electronic media, including the Internet".

The position paper of the European Network Against Racism (ENAR) and European Digital Rights (EDR) "Tackling illegal content online: principles for effective and restorative solutions" sets 4 priorities. Firstly, they don't allow arbitrary restrictions and all measures should be subject to real accountability. Secondly, careful verification is necessary, since measures should be carried out on the basis of a neutral assessment in order to avoid conflicts of interest. Thirdly, studying the outcome of the implemented measures may be useful for the further adjustment of the methodology. Fourthly, a comprehensive approach means no superficial measures in relation to incitement to violence or hatred should be exercised without precise obligations of all stakeholders. Such provisions may be treated as too general ones, but shows the European attitude.

The Eastern approach involves strict limits and censorship of any types of media, and the Internet space as a whole. For example, such countries

as the People's Republic of China, the Kingdom of Saudi Arabia, the Democratic People's Republic of Korea practice content filtering, the opacity of local Internet providers, as well as limited access to external ones. The 2016 Law of the People's Republic of China "On Cybersecurity" prohibits false information that compromises social or economic structure, state system, national unity and security, social stability, damages China's reputation in the world and (or) hinders efforts to reunite with Taiwan. By the end of January 2019, 733 websites and 9,382 applications were deleted in China in 6 months¹. A number of UAE' federal laws and local regulations describe in detail "the prohibited content" (e.g., Federal Law No. 26 of 2015 "Regulating Data Dissemination and Exchange in the Emirate of Dubai", Federal Law by Decree No. 3 of November 15, 2003 "Regarding the telecommunications sector", Ministerial Resolution No. 1 of 2008 "Regarding the issuance of Certification Service Providers Regulations", Dubai Executive Council Resolution No. 3 of 2012 "Regarding the Information in the Government of Dubai ("Dubai Information Security Resolution")", Regulatory Policy of April 19, 2017 "Internet Access Management" and others [5]). It includes the content that is offensive, prejudicial, contrary to the public interest, public morality, public order, national security and state economy, the

postulates of Islam or on other grounds specified in the law.

However, not taking into account the religious specifics of particular states, such a wording is quite widespread and may be found in the international documents. The International Convention concerning the Use of Broadcasting in the Cause of Peace (September 23, 1936) stipulates that broadcasting is used only in the cause of peace and agreement and prohibits broadcasts that incite actions incompatible with the internal order, the security of another State, as well as propaganda of war. In addition, the media should contribute to enlighten the youth, combat against prejudice, ignorance, racialism, apartheid and incitement to war, in accordance with the Declaration on Fundamental Principles concerning the Contribution of the Mass Media to Strengthening Peace and International Understanding, to the Promotion of Human Rights and Countering Racialism, apartheid and Incitement to war, adopted by the UNESCO General Conference on the 28th of November in 1978.

Analysis

It is a common situation that state legislators use analogies vis-a-vis digital media in terms of restrictions and requirements (e.g., applying to the relevant state bodies). For instance, in India, Nepal, the United Arab Emirates, as well as in the Netherlands, Germany, Denmark, Finland and other OSCE participating states, both traditional types and online media are subject to the Press Councils' regulation. They are independent of other government authorities and business, but what hampers improving representativity of online media is that Press Councils of-

¹ Cybersecurity Administration of China, Office of the Central Cybersecurity Affairs Commission. 国家网信办紧盯网络生态问题 连续公布治理情况 要求地方网信办和网站平台切实负起属地管理责任和企业主体责任. 23.01.2019. URL: http://www.cac.gov.cn/2019-01/23/c_1124032637.htm (Accessed 05.07.2021).

ten consist of representatives of media associations. For the time being, there are few online media associations that would have common interests and set out standards. Nevertheless, in the Republic of Cyprus three organizations: the Association of Print Press Publishers, the Association of Electronic Media owners and the Association of Journalists consist the Press Council, but this example is rather unique [1].

As for the state content-controlling mechanism, judiciary is ubiquitous (e.g., in Brazil and India, according to Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression A/HRC/38/35 of April 6, 2018). According to the Declaration on mass communication media and Human Rights, adopted by the Parliamentary Assembly of the Council of Europe on the 23th of January in 1970, and the Declaration of Principles of Freedom of Expression and Access to Information in Africa, adopted by the African Commission on Human and People's Rights on the 10th of November in 2019, any infringement of independence is to be justified by courts. Still, there are executive bodies that also have content-blocking powers like Indian committee consisting of representatives of the Ministries of Defense, External Affairs, Home, Information and Broadcasting, Law, Information Technologies, Women and Child Development and having suo motu powers in case of violation of the Digital Media Code of Ethics (according to the Information Technology (Guidelines for Intermediaries and Digital Media Ethics Code) Rules of February 25, 2021; hereinafter — IT Rules). The government has also established Authorized Officer with the rank of joint secretary (the third larg-

est executive), who can issue orders to block prohibited content (after sending it to the committee). Illegal or offensive information must be removed within 24 hours of a complaint. It's worth mentioning that in case of failing to fulfil the duty of due diligence a violator is deprived of the immunity granted under the provisions of Information Technology Act of June 9, 2000 (amended in 2008). There is also a classification of content in India: U ("universal" means without restrictions or "general"), U/A (not suitable for people under 7), U/A (not suitable for people under 13), U/A (not suitable for people under 16) and A ("adult" means restricted to 18 and over)². In comparison to the IT Rules provisions of Online Media Operation Regulation issued by the Ministry of Information and Broadcasting of Federative Democratic Republic of Nepal 2017 are quite similar.

It's curious that the online media is responsible not only for its own material, but also comments and reactions to content published on the relevant platform and the punishments are a warning, temporary suspension of activity or revocation of a license (subsequently, the compliance director may be charged with a fine or imprisonment). Notwithstanding, in accordance with the French Law No. 2006-669 of June 12, 2009 "On the Promotion of the Dissemination and Protection of Creation on the Internet", the editor-in-chief is not liable for private comments to online media

² Ministry of Information and Broadcasting. Information Technology (Intermediary Guidelines and Digital Media Ethics Code), Rules, 2021. 25 Febr. URL: <https://mib.gov.in/sites/default/files/Background%20Note%20%20IT%28Intermediary%20Guidelines%20and%20%20Digital%20Media%20Ethics%20Code%29%20Rules%2C%202021%20%20.pdf> (Accessed 30.06.2021).

content, but he will be deprived of immunity if he knows about its illegal nature and doesn't take immediate actions to prevent its dissemination [6]. Such a clause corresponds to the Joint Declaration by the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression on the 21st of December in 2005: no liability for material which one is not the author, unless they refuse to obey a court order to remove such a content.

It is also worth examining the local system. A grievance officer is responsible for reviewing complaints, providing users with data on the measures taken or the grounds for not acting and keeping updated and open the information. Now digital media is obligated to be partly self-regulated³. It is the responsibility of any media to introduce a system of self-regulation and adopt codes of ethics (as one of the tools), that allow maintaining public trust to the activities of journalists (Indicators for media in a democracy 2008) [6]. Meanwhile, regulatory bodies should perform their tasks effectively, independently, transparently and be open to reviews by the competent authorities in accordance with Recommendation No. Rec(2000)23 adopted by the Committee of Ministers of the Council of Europe on the 21st of September in 2011 to member States on the independence and functions of regulatory bodies in the broadcasting sector. The same idea is mentioned also in ECHR cases No. 14134/02 "Glas

Nadezhda EOOD and Anatoliy Elenkov v. Bulgaria" (October 11, 2007) and "Meltex Ltd. and Mesrop Movsesyan v. Armenia" or simply "A1+ v. Armenia" (June 7, 2008).

Discussion

Issues Related to Determining of the Phenomenon

It is worth noting that the definition is being elaborated now, since the activities of Internet messengers (e.g., Skype, Viber, WhatsApp, Telegram, Signal, Twitter), streaming services (e.g., Netflix, Amazon Prime Video) are questionable and may relate to the online media and, subsequently, come under control by the Press Councils. For instance, Online Media Operation Regulation issued by the Ministry of Information and Broadcasting of Federative Democratic Republic of Nepal 2017 underlines that online media or digital media includes a method, process or medium that creates, publishes, transmits or distributes messages, opinions, photos, audios, videos, using sign, symbol, text, voice, graphics, song, music, video, animation and various multimedia technologies via the Internet after they have been established and registered pursuant to prevalent law, as well as after the adoption of the journalism principles⁴. Taking into the account the definition, the status is acquired after certain requirements are met, however, what is being criticized is that the first part of it may also indicate the so-called intermediaries. It's remarkable that if a person or a company does not pose itself as a representative of the mass media, but in fact dissimulates news and current events on the

³ NDTV. New Rules For Online News And Social Media: 10-Point Guide. 25.02.2021. URL: <https://www.ndtv.com/india-news/government-moves-to-regulate-digital-content-streaming-with-new-rules-2378284> (Accessed 30.06.2021).

⁴ Associates Hub. Online Media Regulation in Nepal. URL: <https://ahnlegal.com/online-media-regulation-in-nepal/> (Accessed 01.07.2021).

Internet and is located on the territory of India, the same rules should apply to them who are obliged to apply for registration on the website of the Ministry of Information and Broadcasting (similar provisions in Indonesia; earlier, only online newspapers had to register). Once a license is obtained, it must be renewed at the end of each fiscal year (re-registering within 3 months). There is a similar registration proceeding in the UAE, China, Cuba, Belarus and the DPRK [6]. Nevertheless, in European countries the obligation to notify about functioning of the relevant media doesn't prevent media from operating (e.g., Hungarian Law CLXXXV of December 31, 2010 "On Media Services and Mass Communication").

The Indian legislator makes out e-replicas of newspapers, publishers of news and current affairs content and publishers of online curated content. According to the recently adopted Information Technology Regulations (Guidelines for Intermediaries and the Digital Media Ethic Code) of the Republic of India (February 25, 2021), "publisher of news and current affairs content" is an online newspaper, news portal, news aggregator, news agency or other entity that delivers content on a systematic, professional or commercial basis. "Publisher of online curated content" is a publisher who performs an important role in determining the content provided and makes it available to users on an e-platform (resource) on which the online curated content is hosted and entities with similar functions who deliver on systematic, professional or commercial basis. So, streaming services may fall into this category, which provide access to such content as films, audiovisual programs, documentaries, television programs,

series, podcasts and other similar at the request of the user (not necessarily only by a subscription). They correspond to so-called "audiovisual media services provided on demand" in accordance with Directive No. 2010/13/EU of March 10, 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive).

It is worth noting that in India term "digital media" has a broader meaning, including Internet-media, withal publishers of online curated content or streaming services, as well as intermediaries or Internet messengers. Nevertheless, social networks can be used by journalists both for personal (communication) purposes and in the course of work. For instance, according to the case of the Press Council of the Netherlands RvdJ 2011/38 "Kamperman et al. v. Vorkink": Vorkink used a personal account on Twitter precisely as a journalist, accusing Detective Kamperman without a reason of misleading the media and, thus, publishing links to investigations and reports of "RTV Oost" (where Vorkink works). Due to the indication in the profile of the type of Vorkink's activity, the post was subject to the Press Council; the accusation of improper actions was regarded as offensive and the behavior of the journalist was unethical [1].

However, excessive generalization may lead to obscurity. For instance, in accordance with the 2009 amendments to the Law of the Republic of Kazakhstan No. 451-I "On Mass Media" (July 23, 1999), almost all Internet resources gained mass-media status as a form of periodic or continuous public dissemination of mass information. It

results in blurring standards, arbitrariness of “other journalists” and narrowing the possibilities for enjoying rights for “traditional journalists” [6].

Others prefer rather not to combine the concepts, but the rules of the ethic journalistic codes may be applied to others. For instance, in the UK, in addition to qualified journalists, photographers, writers of readers' letters, freelancers, as well as citizen journalists fall under the rules of the Code of Practice [1]. However, in EU there is often a distinction between platforms containing editorial materials, for which service providers are responsible, Internet messengers operating for individual communication, and social networks or Internet platforms that are designed to create and share publicly available content (e.g., Federal Law of the Federal Republic of Germany No. 3352 of October 1, 2017 “Act to Improve Enforcement of the Law in Social Networks (Network Enforcement Act)”). There is also a term “a periodic electronic medium” that electronically broadcasts (radio program), exists (website) and is distributed at least 4 times a calendar year in a comparable format (e.g., Federal Act of the Republic of Austria No. 150/2020 of August 01, 2020 “On Audio-visual Media Services (Audi-visual Media Services Act — AMD-G)” and the Federal Act of June 12, 1981 “On the Press and other Media (Mediengesetz”).

In comparison, the definition given by the French legislator seems to be more concise: any Internet communication service to the public, in which the content is professionally edited by an individual or a legal entity (Law No. 2009–669 of June 12, 2009 “On the Promotion of the Dissemination and Protection of Creation on the Internet”). The most distinctive feature

of an electronic, Internet-, online publication is often the way it is published: on a daily basis or with a certain period (Law of the Republic of Croatia OG 153/09; 84/11; 94/13; 136; 13 of March 18, 2021 “On electronic Media”, the Law of Hungary CLXXXV of December 31, 2010 “On Media services and Mass Communication”, the Law of the Republic of Latvia of January 1, 1991 “On the Press and other Mass Media”, the Law of the Republic of Slovenia of May 11, 2001 “On Mass Media”, the Resolution of the National Press Council of the UAE of 2018 “On Electronic Media”).

One may conclude that including blogs and social media accounts in the above-mentioned phenomenon “online media” is possible only with some clauses and, thus, becomes subject to the conditions defined by law. In the “liberal” countries it's unnecessary to obtain a license to maintain an account in social networks, whether for personal or professional purposes; notwithstanding, in the “eastern” countries, whose regulation is more harsh (e.g., UAE), many activities require applying for a license: journalists, mass media, social media influencers [7] who are engaged in trading, demonstrating, selling and printing audio-visual materials through websites and social networks, electronic publications and printing on demand, e-advertising, news release and other activities, which will fall under the scope of legislation (firstly, under Federal Law No. 15 of 1980 “On the Press and Publications”) in accordance with the decision of the National Press Council⁵. It is worth noting that the fee

⁵ UAE' Government. Media in the UAE. Media regulation. The UAE' Governmental portal. Updated on 28 Jan. 2021. URL: <https://u.ae/en/media/media-in-the-uae/media-regulation> (Accessed 01.08.2021).

for applying for a license depends on an activity; while using a website or an online account for distributing news costs 15,000 dirhams (~4,084 US dollars) and it doesn't change when applying for prolongation, other types of activities cost 2–3 times less and twice less to renew (Fig. 1⁶). Such a frame-

work helps reducing the scope of those who is entitled to performed the above-mentioned activity.

It'd be more preferable, if there were a supranational regulating model, taking into account the recommendations of four rapporteurs on freedom of the media, expression and beliefs and access to information within the framework of the Organization for Security and Co-operation in Europe (OSCE), the United Nations (UN), the African Union (AU), the Organization

⁶ National Media Council of the UAE. Electronic Media Regulation. The UAE' Governmental portal. 30 May 2018. URL: <http://nmc.gov.ae/en-us/NMC/Documents/Electronic%20Media%20Regulation.pdf> (Accessed 01.08.2021).

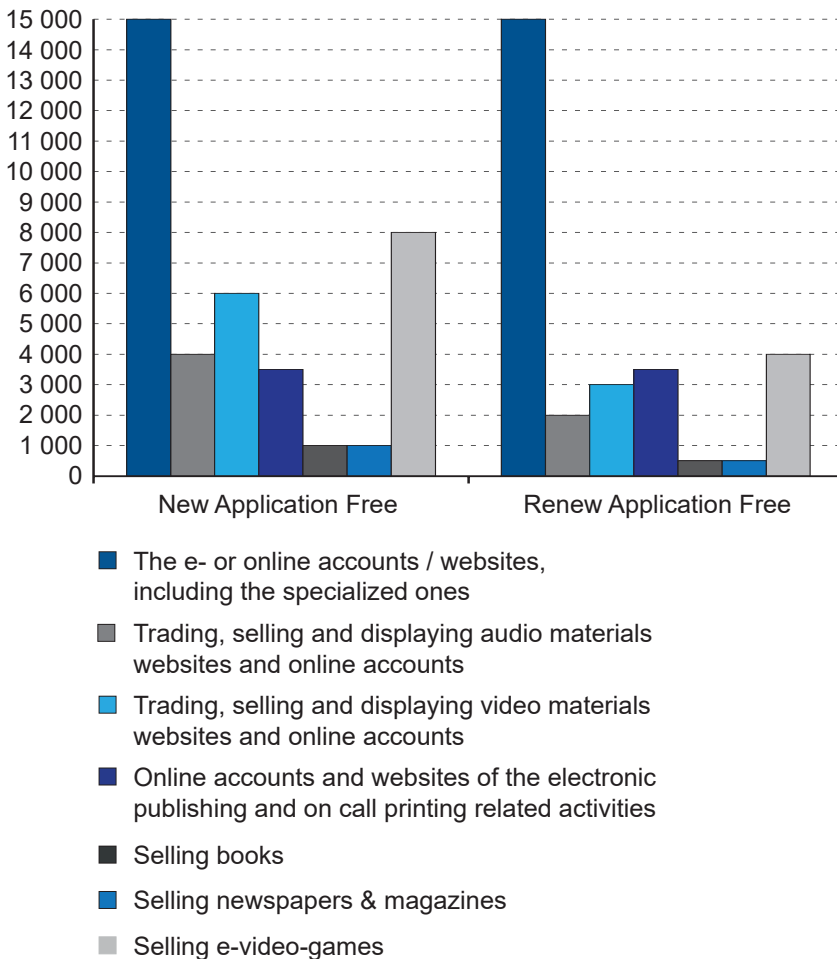


Fig. 1. License free in UAE (dirhams)

of American States (OAS). But bear in mind that one must comply with the present law of the country of content origin. So-called “outgoing traffic rule” as a “network neutrality” principle is specified in the Joint Declaration of the UN Special Rapporteur on the Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression and the ACHPR Special Rapporteur on Freedom of Expression and Access to Information (June 1, 2011).

AI in Terms of Defending Rights

Artificial intelligence (AI) has been making a great difference in regard of online media. It is highly likely to affect journalism in the nearest future. On the one hand, algorithms can directly create a short news summary during initial programming with or without limited human intervention [8]. It is convenient in such dynamic areas as stock quotes and sports competitions. On the other hand, AI may provide a primary filtering off information and rearrange it in a more readable way [9]. Meanwhile questions arise: who shall be considered the author of this news and who shall be responsible for the content in case of violation of the law [10], but personalization is time- and effort-consuming.

Imagine AI has generated news that dishonors an individual or damages business reputation of a company. Whom is an injured party supposed to sue for a libel? The author(s) of the program? The publishing house that uses such an algorithm? It's obvious that such brand new challenges are disputable. Another example. AI incorrectly represented the market situation and, thus, caused a number of incor-

rect conclusions derived from specialists' debates, influencing the economic and political behavior of citizens and changing economic environment. Despite some non-obvious connections, for which, of course, even a journalist is unlikely to be in charge, public opinion and the media in general are crucial, when it comes to forming economic and political models, according to sociologists and economists [11].

Thus, it seems logical to introduce a specific content-control regime, but who shall do such work? Artificial intelligence? Algorithms pose a threat to the pluralism, competitiveness and diversity of individual independent media and their credibility. On the one hand, search engines based on certain criteria may assign the status quo to large corporations (i.e., priority will be given by the number of views) and may not allow new platforms to develop, while filtering advertising content.

In addition, as noted in the Declaration on Freedom of Communication on the Internet, adopted by the Committee of Ministers of the Council of Europe on the 28th of May in 2003, States should not impose an obligation on service providers to monitor Internet content. Nevertheless, in May 2016, the European Union adopted Code of Conduct on illegal online hate speech and introduced the concept of “trusted content moderators” or “trusted flaggers” represented by such organizations as Microsoft, Twitter and Google (represented by YouTube) who report on specified content via a special system or notification channel. In 2018–2019 Google+, Dailymotion, Snap, Jeuxvideo.com joined this project and, for the time being, the system covers approximately 91 % of the European market of Internet platforms on which

offensive content can be detected⁷. According to the European Commission⁸, companies have been dealing with this task quite successfully for the past 5 years (Fig. 2).

On the other hand, it is becoming more difficult to combat so-called “fake news”, disinformation and choose an arbitrator. The identification of false websites should be closely fulfilled with due regard to freedom of speech and expression and should not be removed on the basis of the law, unless it involves a threat to public safety, public order, violation of human rights or calls for hatred, discrimination or violence on any ground [12].

⁷ Statcounter. Social Media Stats in Europe – June 2021. URL: <https://gs.statcounter.com/social-media-stats/all/europe> (Accessed 03.08.2021).

⁸ Information note. Progress on combating hate speech online through the EU Code of conduct 2016–2019. 27.09.2019. URL: https://ec.europa.eu/info/sites/default/files/aid_development_cooperation_fundamental_rights/assessment_of_the_code_of_conduct_on_hate_speech_online_-_state_of_play_0.pdf (Accessed 22.07.2021).

Nevertheless, AI could fight both deepfakes and prohibited content, as well as fake users, bots and news, thereby helping journalists sort out data and sources and implementing the idea of self-regulation. In Ireland, such a mechanism is being used to limit illegal materials about sexual abuse of children and, subsequently, to suppress child pornography (Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression A/HRC/38/35 of April 6, 2018). In the UK a tool has been developed to detect terrorist content while downloading and automatically delete it⁹ (the Note of the UN Secretary-General A/73/348 of August 29, 2018 “Promotion and protection of the right to freedom of opinion and expression”). The so-called “authoritative content

⁹ Home Office, The Rt Hon Amber Rudd. New technology revealed to help fight terrorist content online. 2018. 13 Febr. URL: <https://www.gov.uk/government/news/new-technology-revealed-to-help-fight-terrorist-content-online>.

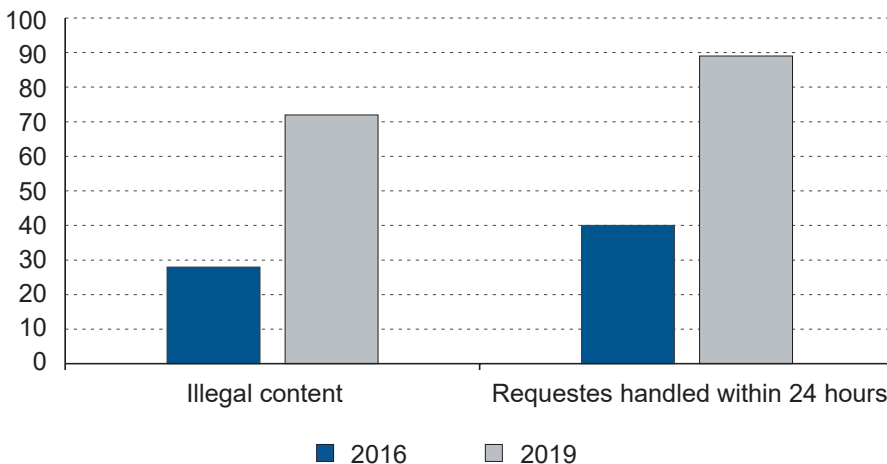


Fig. 2. Progress on combating hate speech online through the EU Code of conduct (2016, 2019)

moderators” also use similar technologies (Fig. 3¹⁰).

Still, the so-called “human-in-the-loop” concept remains, requiring a human interaction while removing any questionable material. The Note of the UN Secretary-General A/73/348 of August 29, 2018 “Promotion and protection of the right to freedom of opinion and expression” also emphasizes that it’s vital to notify users about the use of such technologies and provide an opportunity to challenge the measures. There is a range of such initiatives as “CrossCheck”, developed in the European Union within the work of the “First

Draft News” project (founded in 2015 under the auspices of Google News Lab), the company “Hearken” and the platform “Slack”, “Channel 4 Fact Check” and “BBC Reality Check” in the UK, a collaboration of the channel “RAI 2” and the newspaper “Pagella Politica” in Italy [13].

Conclusion

The information crisis and arising distrust have led to the rapid development of such a phenomenon as an “information disorder”. Now under the influence of the digital age regulating media activities involves co-regulation (combination of self-regulation with elements of state control). The EU-States and the European Commission encourage self-regulation of the sector (mentioned in White Paper on reform of European Governance of July 25, 2001, Action Plan for Improving Legislation of 2002 and Communication on the Future of the European regulatory audiovisual policy of December 15, 2003) [6]. Asian countries (e.g., India, Nepal) follow the same tendency, which has a positive impact on raising trust to media. Users should receive information to

¹⁰ Information note. Progress on combating hate speech online through the EU Code of conduct 2016–2019. 2019. 27 Sept. URL: https://ec.europa.eu/info/sites/default/files/aid_development_cooperation_fundamental_rights/assessment_of_the_code_of_conduct_on_hate_speech_on_line_-_state_of_play__0.pdf; Shead, S. Facebook claims A.I. now detects 94.7 % of the hate speech that gets removed from its platform. CNBC. 19.11.2020. URL: <https://www.cnbc.com/2020/11/19/facebook-says-ai-detects-94point7percent-of-hate-speech-removed-from-platform.html>; Newcomb A. Twitter Says A.I. Is Now Removing Over Half of Its Abusive Tweets Before They’re Flagged. Fortune. 2019. 24 Okt. URL: <https://fortune.com/2019/10/24/twitter-abuse-tweets/>.

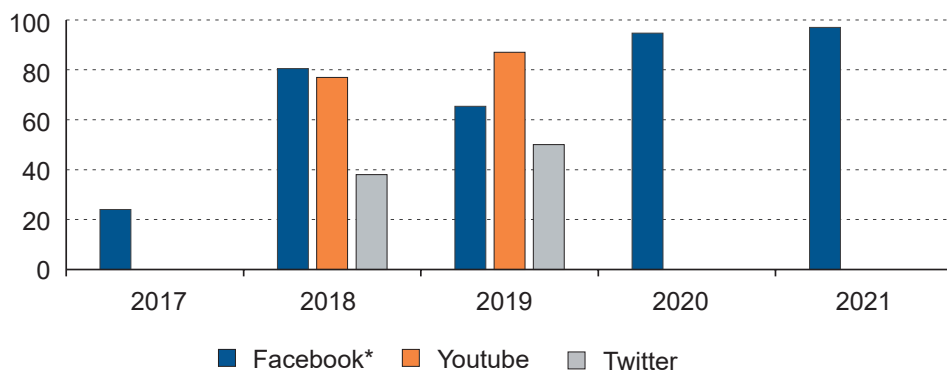


Fig. 3. The succes of AI in filtering the illegal materials (by company, %)

* Belongs to the extremist organization Meta, banned on the territory of the Russian Federation.

assess the reliability and accessibility of media, which is achieved through self-regulation tools and meets public expectations [14]. Despite the difficulties in defining the phenomenon, there is a blurring difference between old and new, offline and online, print and electronic media, which are subject to National Press Councils' competence and whose activities are regulated either by uniformed media laws or by separate acts that often copy provisions of each other with some particular clauses [15]. One cannot

find alike global practice of governing accounts in social networks that cover news. However, judicial practice (e.g., the Netherlands) and the legislation of some states (e.g., the UAE), classify them as an electronic media if certain requirements are met. Lots of states have elaborated the concept of illegal content whose control may be assisted by AI, although its actions can be regarded only as an extra component. Still, it cannot replace a journalist and this issue requires further research [16].


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