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## Internet for trust – Regulation digital platforms for information as a public good – UNESCO February, 21, 2023.

### Applying Internet Universality ROAM principles in regulating digital platforms: West Africa and Global perspectives

## Very large platforms and Universal service: the need for comprehensive regulation

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Madame Chair, ladies and gentlemen, all of you in your estimated qualities.

If have well understood I have more less five minutes to convince you about the fact that certain platforms are today delivering a universal service which has to be regulated by our States according to the ethical values of autonomy and social justice enacted in our UNESCO recommendation on AI Ethics.

Let us start with certain features. Large information and communication platforms, Chinese or US ones, have acquired an oligopolistic or even quasi-monopolistic position in their very specific sectors of activity. The number of final users of these companies is beyond imagination. In 2020, it has been calculated that *on a total world population of 7 B.800, Facebook (now Meta) has more than 2,498 B. You Tube ( Google-Platform video), 2 B ; What's App (another Meta subsidiary) Instantaneous messages): 2 B. ; Wechat (the Tercent Chinese What'sApp): 1.200 B. ; Instagram (another Meta subsidiary) (Video and images sharing): 1 B. ; Tik Tok (Chinese Video and by dance sharing) 0,800 B. ; Reddit, Snapchat, Twitter (moreless 0,400 B.), and so one.*<sup>1</sup>

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<sup>1</sup> According to WIKIPEDIA (V°GAFAM), "Amazon was the dominant market leader in [e-commerce](#) with 50% of all online sales going through the platform; [cloud computing](#), with nearly 32% market share, and [live-streaming](#) with [Twitch](#) owning 75.6% market share. Amazon is additionally the market leader in the area of [artificial Intelligence](#)-based personal digital assistants and [smart speakers \(Amazon Echo\)](#) with 69% market share followed by Google ([Google Nest](#)) at 25% market share. Apple sells high-margin [smartphones](#) and other consumer electronics devices, sharing a duopoly with Google in the field of [mobile operating systems](#): 27% of the market share belonging to Apple ([iOS](#)) and 72% to Google ([Android](#)). Google, Facebook and Amazon have been referred to as the "Big Three" of [digital advertising](#). In addition to [social networking](#), Facebook also dominates the functions of online [image sharing \(Instagram\)](#) and online [messaging \(WhatsApp\)](#). Google is the leader in [online search \(Google Search\)](#), online [video sharing \(YouTube\)](#) and [online mapping](#)-based navigation ([Google Maps](#)). Microsoft continues to dominate in [desktop operating system](#) market share ([Microsoft Windows](#)) ..."

Secondly, thanks to a policy of acquiring companies in other sectors<sup>2</sup>, such as medicine, pharmacy, telecommunications, distribution, automobile industry, or Internet of Things production and the possibility of cross-referencing data in an incomparable way, rapidly they enjoy now a more than interesting competitive position with respect to other companies in these other sectors like notably banking, pharmaceutical, newspaper sectors).

That progressive extension of these platforms' activities in all sectors with consequences as regards competition with the traditional actors. It offers their capacity to cross users' data from different sources revealing different aspects of their personality and to develop a successful e-marketing without comparison in favor of their own products or services developed by themselves or by affiliates companies. We pinpoint also the risks of discrimination linked with the use of huge users' database and with the bias voluntary or not introduced within the AI applications. Moreover, we underline the **disinformation** or dissemination of hate speech messages due to the business model used by the platforms founded on advertisements. Indeed, messages with illegal or aggressive content are circulating six times quicker than pure information or controlled news with the risks of **polarization of the society and danger for our democracy**. We denunciate the harmful effect of online content both on individuals such as online abuse and bullying, sexual predation, or recruitment to terrorist activities, but also on society at large, as they can be used to undermine democratic values and debates. Finally, **press freedom is challenged**. Digital platforms press activities are not regulated and are competing with more heavily-regulated traditional media companies obeying to deontic duties and getting less and less advertisements' revenues and thus raising the fear to have less and less pluralistic and of quality sources of information, which is necessary for a vibrant and living democracy.

We have also to take into consideration their quasi-monopolistic function as platforms for companies' products and services. I quote the 2020 EU STOA report: *"As of 2019, one million EU businesses were selling goods and services via online platforms and more than 50% of small and medium enterprises selling through online marketplaces sold cross-border. ... In 2019, 82% of European SMEs relied on search engines to promote their products and services, and 53 % of EU enterprises used social media. Between 2013 and 2019, the use of social media increased most for marketing purposes (from 22 % to 45 % of enterprises) and for recruiting employees (from 9% to 28 % of enterprises)."* The consequence is obvious: "GAFAM Cies know better your company than yourself as director". Their oligopolistic situation as regards the publicity market: more than 38 % of the revenues generated by the advertisements are, according with this report, at the hands of the GAFAM companies. These companies are, as asserted by the US judiciary Committee' report (September 2020), the "GATEKEEPERS" over key channels of distribution as controlling the access to the markets, moreover by surveying all other companies and developing an unequal access to consumer data.

Definitively competition rules might be a solution but their application is only possible in a case by case approach and difficult due to the asymmetry of information. However, competition rules might justify specific regulation like the EU DMA but this approach takes only into consideration the economic aspects of the problems and not the attempts to our individual liberties (data protection,

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<sup>2</sup> Therefore, Alphabet Inc. (Google) owns more than 1000 subsidiary, notably Google (which means notably Google maps, Google news, Google search engine, Google car, ...), You tube, Calico, CapitalG, DeepMind, Google Fiber, Fibit, Intrinsic , Isomorphic Labs , Verily , Waymo, Wing

freedom of expression) and the societal questions like the access for all people, the non-discrimination, the functioning of our democracy, the environmental sustainability, all concerns raised by the development of the platforms. The risks created by the platform at least by the very large platforms, the gatekeepers, are what recently the EU DSA has called : “systemic risks”. **The concept is coming from the Banking sector in the context of the US subprime crisis in 2008. It might be defined as follows.** Systemic risk is the possibility that an event at the company level could trigger severe collapse an entire industry, economy but more important the fundamentals of our societies. Companies ‘too big to fail’ are considered as creating that systemic risk. It is the case with the large digital platforms. I quote the US judiciary Committee Report: “Their activities have diminished consumer choice, eroded innovation and entrepreneurship in the U.S. economy, weakened the vibrancy of the free and diverse press, and undermined Americans’ privacy.’ and democracy.

Facing these systemic risks, our states have to intervene with a more comprehensive approach than just competition. We are pleading to another approach founded on the concept of universal service. Universal service is the principle that even in a liberalized market, each citizen must have an access, fair and respectful of the Human rights, to certain services which are essential within a digital society and which avoid « systemic risk ». This latter concept has been used in US since 1934 as regards the telephone service. It has been recalled in 2003 by the declaration UN Global Summit on Information Society declaration in 2003 about the access to internet, considering internet as a public good. The universal service is an evolving concept which must fully take into account the evolution of our still increasing digital society and the needs for everybody to participate in it on equal footing, as proclaimed by the EU regulation 2015/ 2120 establishing measures related to the access to an open Internet<sup>3</sup>. Today it must be enlarged to all services which must be considered as essential in our digital society, as access to information and communication platforms. The recent EU DMA regulation<sup>4</sup> precisely uses the notion of Core Platform Services (C.P.S.) for designing these ‘essential services when they are offered by the ‘very large platforms. Are considered as essential services, search engines, social networks, video sharing, interpersonal communication services, cloud computing services, operating systems, and advertising services.

We are of opinion that the concept of universal service justifies a regulation of these platforms to be insured that they are offering a service of quality not only accessible for everybody and respectful of her legitimate interest and liberties but also addressing the general interest’ concerns of our digital societies. *“Online platforms, particularly very large online platforms should support free democratic debate online. Given the role of their service in shaping public opinion and discourse, they should mitigate the risks stemming from the functioning and use of their services, including in relation to misinformation and disinformation campaigns, and protect freedom of expression”*<sup>5</sup>. Independent bodies must be created to permit people to have fair recourse against any negative decisions, and the AI algorithms used for recommendation must be audited. Specific obligations as regards data protection have to be put into place, notably as regards their use of webtracking and the obligation

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<sup>3</sup> Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users’ rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union (Text with EEA relevance), *OJ L 310*, 26.11.2015, p. 1–18

<sup>4</sup> Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act) (Text with EEA relevance), *OJ L 265*, 12.10.2022, p. 1–66

<sup>5</sup> Joint Declaration of EU Parliament, Council and Commission, European Declaration on Digital Rights and Principles for the Digital Decade, January 23 2023, *J.O*, 23.01.2023, C 23/1;, Par. 15.

to have a privacy impact assessment. The parameters used by ranking and profiling systems both as regards companies and individuals must be transparent and ensure a non-discriminatory, fair, and equal access to their services. Functional interoperability between the different operators must be mandatory.

To conclude, I do agree with Tim WU when he writes: *“concentration of revenues and economic power (in the hands of large platforms) can be as dangerous as the concentration of political power, leading to social unrest and, if States do not react appropriately and in a timely manner, to the weakening of liberal democracies or, at worst, the outbreak of wars.”*<sup>6</sup>

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<sup>6</sup> Tim WU, *Curse of Bigness*, Columbia Law School, 2018