

Online Platforms' Moderation of Illegal Content Online

Laws, Practices and Options for Reform

The [original full study](#)¹ reviews and assesses the EU regulatory framework on content moderation and current practices by key online platforms. It assesses the regulation in six countries/regions and makes recommendations to improve the EU legal framework on content moderation in the context of the forthcoming Digital Services Act.

Background

Online platforms have created **content moderation systems**, particularly to **tackle illegal content** online. Such systems can include depublishing, delisting and downranking usually based on an alleged violation of their Community Standards/Guidelines. However, the tools that online platforms use to moderate harmful or illegal content can also silence content relevant to the public. As well as this, the **co-existence of different moderation practices** at national level could affect the **functioning of the Internal Market**.

Key findings

The EU regulatory framework on content moderation is increasingly complex and has been differentiated by category of the online platform and the type of content.

The e-Commerce Directive of 2000 provides the baseline regime applicable to all categories of platforms and all types of content. It is complemented by the revised **Audio-Visual Media Services Directive of 2018**, which imposes more obligations on Video-Sharing Platforms to protect the public from illegal content and minors from harmful content. These rules are **strengthened by stricter rules** for four types of content for which illegality has been harmonised at EU level: the Counter-Terrorism Directive, the Child Sexual Abuse and Exploitation Directive, the Counter-Racism Framework and the Copyright in Digital Single Market Directive.



These laws are complemented by **self-regulatory initiatives** agreed by the main online platforms. Furthermore, several Member States have adopted **national rules** with respect to content moderation. However, the legal compatibility of these initiatives with the EU framework is sometimes unclear and the **multiplication of national laws risks undermining the Digital Single Market**.

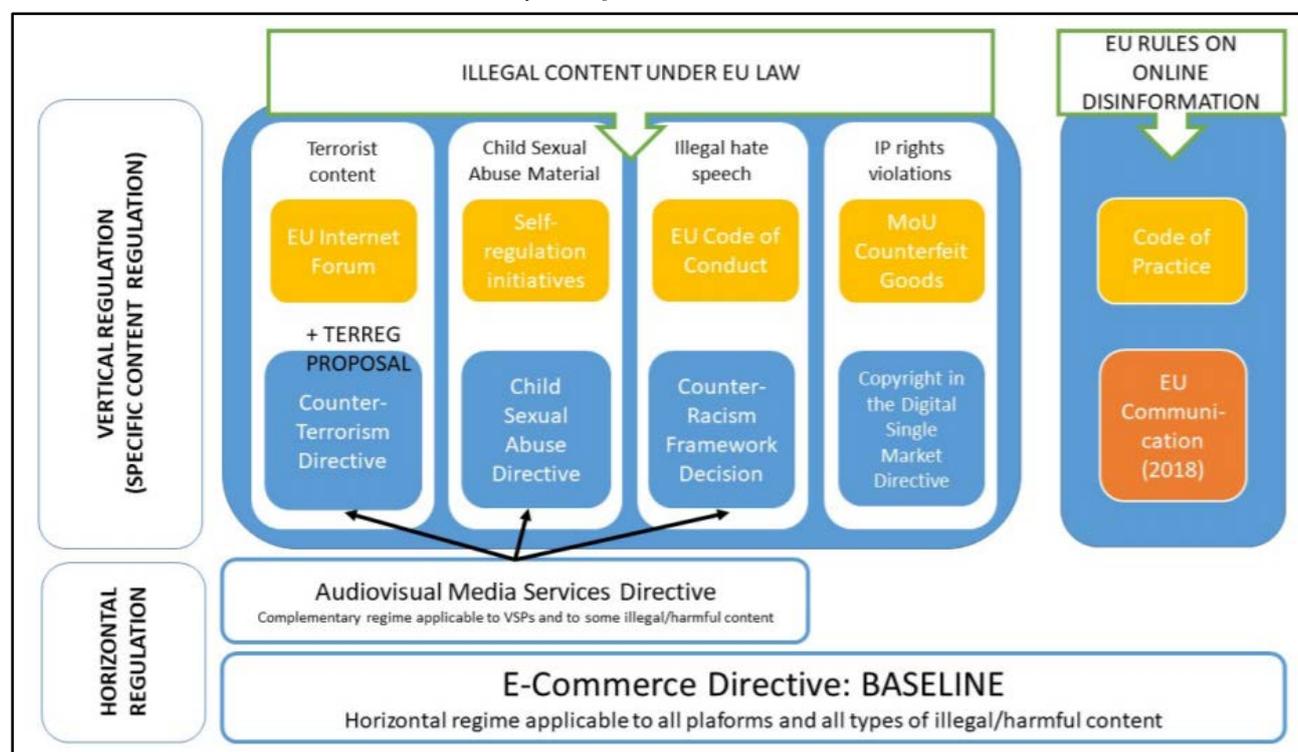
In practice, platforms rely on Terms of Service or similar codes of conduct as a basis for content moderation and user regulation. The main tools used to this end are notice-and-takedown/flagging by users, keywords/filters and Artificial Intelligence tools based on machine learning models. All

Check out the [original full study](#) by scanning this QR code!



online platforms have also implemented **transparency policies** on how they operate and respect **fundamental rights**, and have complaint mechanisms to allow users to report illegal content online. However, these measures are often referred to as insufficient in moderating illegal content online and striking a balance with the protection of fundamental human rights. The **main challenges** relate to the large quantity of content on platforms as well as the **fragmentation of laws and practices** regarding content moderation across Member States.

Stakeholders suggested to put in place **harmonised and transparent notice-and-action processes**. Some suggested strengthening networks of **fact-checkers and hotlines** across the EU, while others recommended to **enforce existing EU rules** and to make them more **consistently interpreted** across Member States.



Policy recommendations for the Digital Services Act

The revised EU regulatory framework for online content moderation could be based on the following objectives and principles:

- sufficient and effective safeguards to protect fundamental rights;
- a strengthening of the Digital Single Market;
- a level playing field between offline and online activities;
- technological neutrality;
- incentives for all stakeholders to minimise the risk of errors of over and under removal of content;
- proportionality of the potential negative impact of the content and the size of the platforms; and
- coherence with existing content-specific EU legislation.

Using a **harmonised set of rules** on procedural accountability, the baseline regulatory regime could strengthen the responsibility of online platforms to ensure a safer internet. This could be complemented with stricter rules imposing more obligations when the risk of online harm is higher and according to the size of the platform. **Effective enforcement** is vital and should be ensured by regulatory authorities and judicial courts.

¹ [https://www.europarl.europa.eu/RegData/etudes/STUD/2020/652718/IPOL_STU\(2020\)652718_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2020/652718/IPOL_STU(2020)652718_EN.pdf).

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