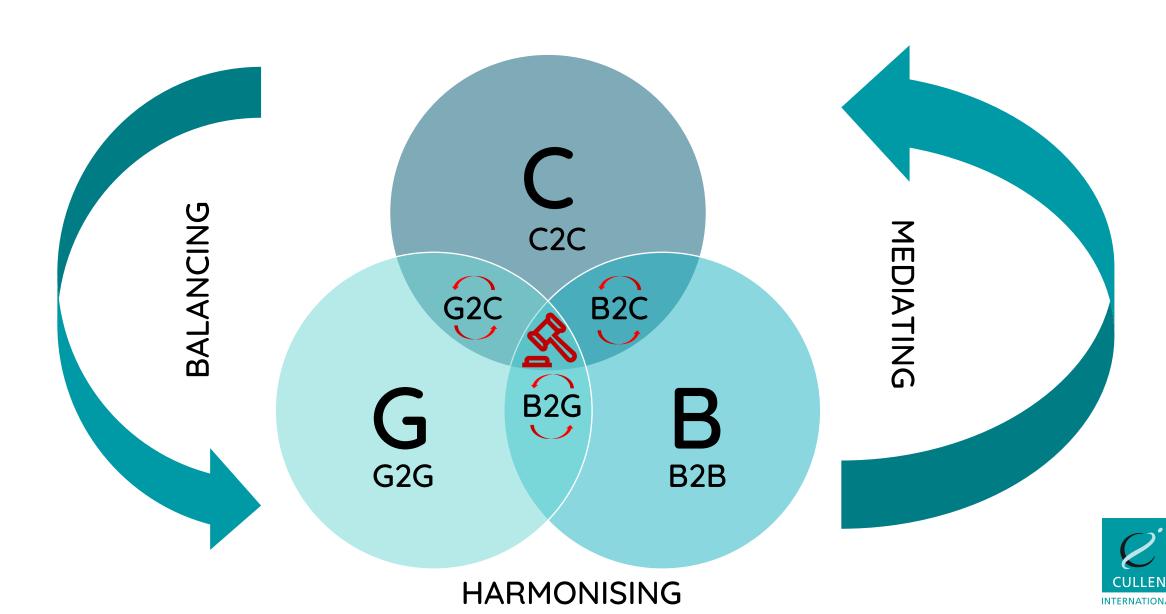


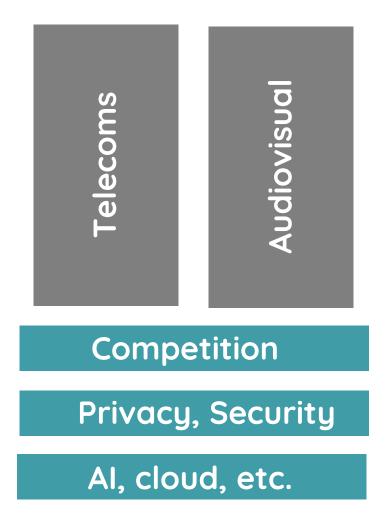
Harmonizing the OTT horizon: trends and experiences in the global regulatory landscape

Elena Scaramuzzi, Cullen International
NBTC International OTT Symposium on Digital Ecosystem
Bangkok, 10 October 2023

Challenge of regulating fast-evolving, multi-sided, interests and relations

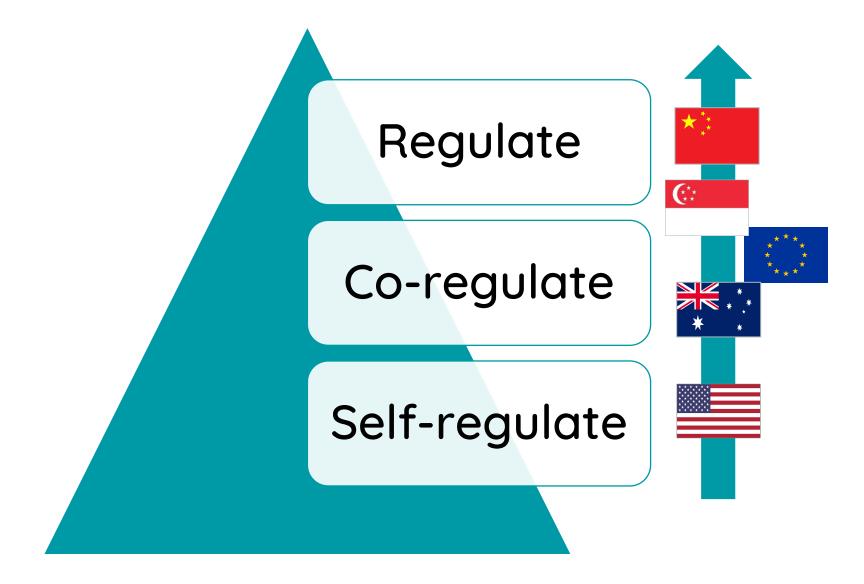


The platform economy is generating regulatory transformation. That is happening both vertically, in industries, and horizontally, to protect general interests even in the use of new technologies





Approaches vary across jurisdictions but, depending on OTT-related topic, we usually see three main orientations





Case study: the EU

Key "vertical" regulation		Key "horizontal" regulation				
Telecoms	Audiovisual					
EECC (2018) Definitions	AVMSD (2018) Revised rules VOD	GDPR (2018)				
Symmetric access /co-invest.	New rules on VSPs	DSA (2022)				
Light-touch regime for OTTs	Tamaniat assets at (2004)	Illegal content				
	Terrorist content (2021) Remove content	Inappropriate practices				
	Detection/flagging	DMA (2023)				
	systems	Regulation of "gatekeepers" (impact on the internal market)				
MAIN PROPOSALS						
Gigabit Infrastructure Act (2023)	Political advertising (2021)	Al Act (2021)				
Deploying costs +		Data Act (2022)				
"Fair contribution" (consult.)	Child sexual abuse (2022)	Fair access to / use of data				
		Cyber-resilience Act (2023)				
	Media Freedom Act (2022)					



DSA in a nutshell



Deal with illegal items and safeguards for users against unjustified actions



Strengthened notice and counter-notice procedure



Additional obligations to fight the dissemination of illegal products



Additional measures to deal with societal harms

Transparency of content moderation



Protect users against misleading practices and inappropriate profiling of their data for advertising and recommendation purposes



Additional obligations on advertising and recommender systems

Transparent and fair application of T&C



Annual reports



- Flagging system
- Reporting serious crimes to law enforcement



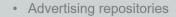
· Advertising transparency and no profiling of

sensitive data to send targeted advertising

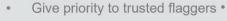
· No dark patterns



 Measures to ensure the safety of minors and no targeted advertising to be sent to minors



 One option (for each recommender system) which is not based on profiling



Internal complaint handling system

Suspension of misusers

Statement of reasons

 Engage in good faith with out-ofcourt redress bodies

HOSTING PROVIDERS



ONLINE PLATFORMS

- Trace identity of traders
- Design the interface to enable them to comply with law
- Randomly check products
- · Inform consumers who bought illegal products



MARKETPLACES

- Risk assessment and mitigation measures
- Crisis response mechanism



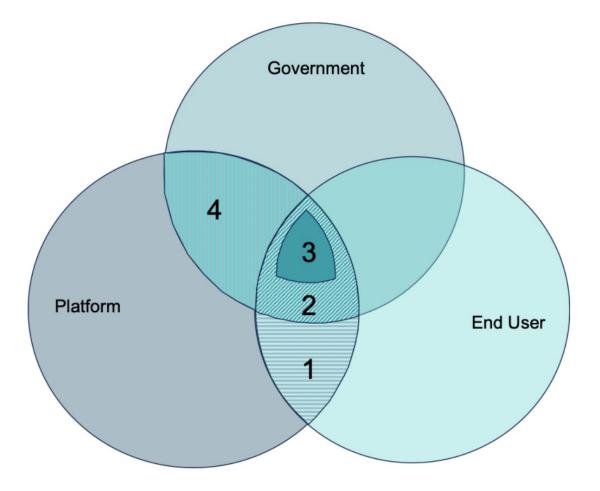
- Auditing
- · Compliance officer
- Access to data



VERY LARGE PLATFORMS & VERY LARGE SEARCH ENGINES

© Cullen International

Online content moderation



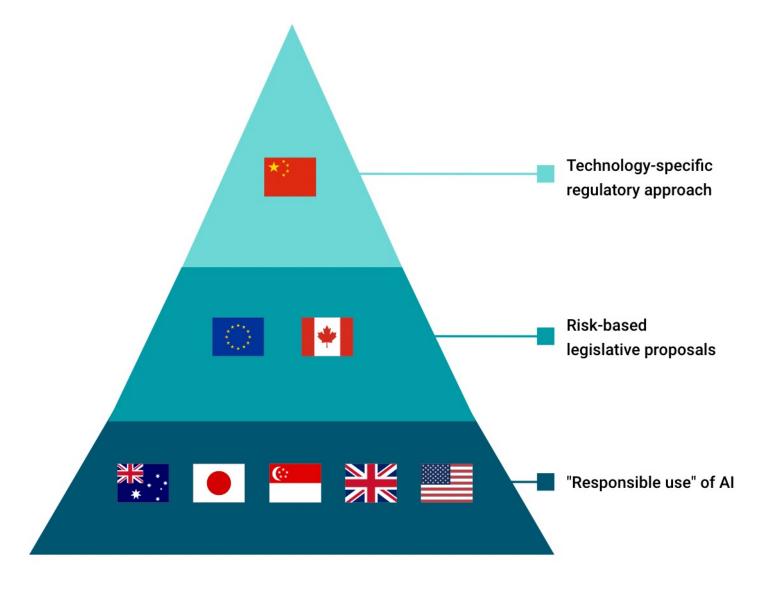
Level of CM	Description	Examples
1. Industry self-moderation	Unsupervised, voluntary moderation where failure to moderate has no legal consequences. Users may be liable.	(Sec. 230)
2. Intermediate moderation	In general, these regimes require intermediaries to quickly remove illegal content when notified. Fines apply for failing to do so. Both users and intermediaries may be liable for violations.	(DSA)
3. Higher moderation	Broader categories of content are forbidden to appear online. Intermediaries must actively monitor their platforms to keep such content from appearing. Violations may incur fines or prison sentences. Both users and intermediaries may be liable.	(CSL 2016 + other Laws)

Approaches in the regulation of political advertising

	Argentina (Self-reg.)	Brazil (Draft Law)	EU (Draft Reg)	US (FEC Consultation)
Transparency		✓		
Targeted comm.				
Content moderation				
Fake news				
Deep fakes				



Different approaches also in the regulation of Al







Thank you

Elena.Scaramuzzi@cullen-international.com