

## Expert group for the EU Observatory on the online platform economy

### Work stream 2: Infrastructural Power of Platforms

#### Concept note

#### 1. Policy context

So far, the policy debate about platform regulation is mainly dominated by two narratives.

- In the first, economic, narrative, the rise of digital platforms is primarily discussed from a perspective of *ex post* competition policy and *ex ante* and economic regulation. From this perspective, “platform power” is often equated with market power. Platforms are described as gatekeepers who control access to digital markets. Consequently, the solution is sought in a reform of competition policy, the adoption of additional economic regulation or both. The recent proposal for a Digital Markets Act (DMA) follows this approach and seeks to ensure “contestable and fair markets in the digital sector” (Art. 1(1) DMA).
- The second, wider societal, narrative looks beyond market power and underlines the political dimension of platform power. In this narrative, “platform power” is closely linked to the role of digital platforms as content moderators, curators and amplifiers of third party content. From this perspective, platform regulation is mainly about platform liability for third party content (e.g. conditional liability regime in the ECD; Section 230 of the Communication Decency Act) and due diligence obligations of platforms with regard to the aim of ensuring a safe, predictable and trusted online environment by tackling availability and dissemination of various types of illegal content online. This perspective is reflected by the recent proposal for a Digital Services Act (DSA), which seeks to establish harmonised rules on conditional liability exemption and due diligence obligations of online intermediaries (Art. 1(1) DSA).

While the reform initiatives mentioned above are important steps towards a modernisation of the regulatory framework for the emerging “platform society” (Van Dijck et al. 2018), it can be argued that such a framing of the policy debate is too narrow and does not fully reflect the “platformisation” of the economy and society. In its report “Uncovering blindspots in the policy debate on platform power” (Busch & Graef et al. 2021), the Expert Group for the Observatory on the Online Platform Economy emphasized that platform power is more than just market power. In particular, the report underlined that “large digital platforms are extending their influence into sectors that raise considerations of public policy and societal infrastructure, e.g. public transport, healthcare and education”. From this perspective, platform regulation is not only a question of competition, economic regulation or ensuring safe online environment, but also a question of infrastructure policy.

Starting from this premise, the workstream will further explore the infrastructural dimension of platform power.

- On the one hand, it will be analyzed to what extent digital platforms are becoming key players who control access to societal infrastructures and services of general (economic) interest<sup>1</sup> (“platformization of infrastructure”).
- On the other hand, it will be examined whether digital platforms themselves are playing an infrastructural role as providers of services of general (economic) interest (“infrastructuralization of platforms”).

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<sup>1</sup> I.e. both SGEI and SGI.

## 2. Research/Policy questions and methodology

Building on recent research that analyses platform power through an infrastructural lens (see e.g. Rahman 2018; Plantin et al. 2021; Busch 2021), the workstream will focus on the following questions:

- What role do digital platforms play in the area of digital services of general interest?
- To what extent have digital platforms developed into infrastructures of the digital society?
- To what extent do the regulatory strategies pursued so far at the national and European level take into account the infrastructural function of digital platforms and their role in the area of digital services of general interest?
- What could be the respective role of national and European regulation in tackling the infrastructural power of digital platforms and their role in the area of digital services of general interest?

In a first step, the workstream will focus on the platformization of services of general economic interest. In this perspective, it will be analyzed which mechanisms lead to the growing “platformization” of selected sectors such as healthcare, education and urban mobility<sup>2</sup>. In particular, the workstream will examine whether and how digital platforms “replace or mesh with existing infrastructures” (Plantin & Punathambekar 2019: 164) in these sectors. For example, smartphone apps and wearables are increasingly becoming an integral part of a decentralized eHealth infrastructure. While this development may offer opportunities for improving patient care, there are also potential risks. “In particular, from an infrastructural perspective, the integration of smartphone apps and wearables into the architecture of health care means that health care services of general interest could become increasingly dependent on large digital platforms who control the access to the operating systems of smartphones and wearables.” (Busch & Graef et al. 2021: 12). This raises not only questions of fair competition, but also other issues of public policy, e.g. how to ensure fair and affordable access to digital services of general economic interest. Moreover, it will be explored to what extent the platformization of infrastructural services could have a negative impact on digital sovereignty.

In a second step, the workstream will address the question to what extent certain platform services could be considered as infrastructural services that have become indispensable in the digital society (e.g. infrastructures of information, communication and commerce). One prominent example is Google Maps which provides a cartographic infrastructure that serves as a basis for a plethora of private and public services (McQuire 2019; Busch & Graef et al. 2021: 12). From this perspective, the workstream will undertake a mapping exercise that sheds lights on the “infrastructuralization” of certain platform services. In doing so, the workstream can build on recent research that analyzes digital platforms as the “new utilities” (see e.g. Rahman 2018). The approach suggested here is also related to recent research which calls for a more multidimensional concept of platform power (Lianos & Carballa Smichowski 2021).

In a third step, building on this analysis, the workstream will explore to what extent the existing regulatory framework at the European and national level takes into account the infrastructural role of digital platforms. In particular, it will be analyzed whether sector-specific regulation in areas such as healthcare, education and mobility already addresses the risks caused by the growing platformization of these sectors. Finally, the workstream will identify which policy tools might be suitable for addressing the infrastructural role of platforms (e.g. universal service obligations, fair and reasonable access requirements).

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<sup>2</sup> These sectors are recognised by some business as potential sectors for digital expansion. <https://noahpinion.substack.com/p/interview-marc-andreessen-vc-and>

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