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Centre on Regulation in Europe

ILLEGAL CONTENT MODERATION TOWARDS A NEW EU APPROACH

Alexandre de Stree

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Improving network and digital industries regulation

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CONTENTS

▶ **Principles**

▶ **Aligning responsibility
with risks**

▶ **Baseline**

▶ **Enforcement**



PRINCIPLES

- Protection of **fundamental rights**
- Building the **internal market**
- **Level-playing** field offline-online and technological neutrality
- Right **incentives to minimise errors** of over and under removal
- **Proportionality**
- **Coherence** among legal instruments
- Effective **enforcement**

BASELINE

- More **procedural accountability**
- Increased role for **users and trusted flaggers**
Transparency on removal
Harmonised **Notice and Action**
- **Preventive** measures
Good Samaritan clause
Safeguards when AI is used: human and Courts in the loop
- 2018 Commission Recommendation and AVMS Review

ALIGNING RESPONSIBILITY WITH RISKS

- Differentiation by **type of illegal content**
 - Content with the **highest negative impact**
 - Terrorist, child sexual abuse, racist and xenophobic hate speech
- Differentiation by **size of platform**
 - **Public Space Content Sharing Platforms (PSCSPs)**
 - More extensive procedural obligations

IT'S ENFORCEMENT, STUPID!

- Enforcement with **State authorities**
 - **Public enforcement** by independent authorities
 - **Differentiated** enforcement: EU authority (or closer cooperation between national authorities) for PSCSPs
 - **Private enforcement** before Courts
- Enforcement with **private bodies**
 - **Self and co-regulation**
 - Additional safeguards in marking and monitoring Codes of conducts
 - **Out-of-Court dispute resolution**
 - Simple, independent and well funded

CONCLUSIONS

▶ More **procedural accountability**

Incentives based approach for all stakeholders

Protecting users while safeguarding fundamental rights

▶ More **differentiation**


By content


By platforms





cerre


Centre on Regulation in Europe

 Avenue Louise, 475 (box 10)
1050 Brussels, Belgium

 +32 2 230 83 60

 info@cerre.eu

 cerre.eu

 [@CERRE_ThinkTank](https://twitter.com/CERRE_ThinkTank)

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