

Press release

REGULATING DIGITAL TECHNOLOGY

Arcep outlines new digital regulation

Paris, 7 September 2020

Arcep is responding to the European Commission's public consultation on the *Digital Services Act*. It is urging the European Union to adopt *ex ante* regulation on influential platforms, and once again ensure that the internet is a place of freedom of choice and freedom to innovate.

The omnipresence of Big Tech, which have become the de facto gatekeepers in economic and social relationships, impediments to innovation and shackles on users' freedom of choice: all posing real challenges for the economy and society, and forcing a rethink of future regulation.

Following through on the publication of its report: "[Smartphone, tablets, voice assistants...are devices the weak link in achieving an open internet?](#)", and its contribution to the discussions held both at the "États généraux du Numérique" convention and within BEREC, today Arcep is publishing three new documents that outline new regulation for our digital future:

- Its contribution to the European Commission's public consultation on the *Digital Services Act* package (see inset below);
- A brief that sets out proposed regulations for influential platforms, which is a follow-up to a previous brief on defining those platforms.

Regulating the most influential platforms, to unshackle the internet for the benefit of all

The internet was originally built on open digital infrastructures. Arcep's proposals aim to protect and strengthen this vital feature of the Web, which guarantees its generative nature: the ability for everyone, and particularly citizens, businesses, researchers and civil society actors, to create, share and access content online. The growing influence of certain internet platforms – aka Big Tech – represents both a challenge and threat that have been thoroughly detailed in numerous reports. At stake: users' freedom of choice, fair competition, innovation, and even citizens' freedom of expression. The central role enjoyed by these players and their impact on the internet, and beyond into society, requires not blanket regulation of the entire internet, but rather regulation that targets a few highly influential, clearly identified players, to liberate the Web in a way that benefits everyone.

Arcep is calling on the European Commission to introduce a new *ex ante* regulatory framework

From a concrete perspective, it has become necessary to take coordinated action at the European level, adopting regulation aimed at these influential players: this is the central tenet of Arcep's response to the European Commission's public consultation on the preliminary impact study of the *Digital Services Act* package.

Arcep emphasises the *ex ante* aspect of this regulation: the purpose is not to penalise excesses, but rather to create an overall and preventative operational framework for the internet. Only an *ex ante* approach will enable everyone (consumers and businesses, citizens and civil society actors, researchers, etc.) to regain control over digital ecosystems.

At the same time, Arcep welcomes BEREC's response to this same consultation, which helps send out a strong message to European institutions.

Press liaison

Anne-Lise Lucas

anne-lise.LUCAS@arcep.fr

Tel.: 01 40 47 71 37

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A toolkit of “remedies” to apply to influential digital platforms, inspired by those that have been successfully implemented in the telecoms sector

Arcep is proposing a toolkit of “remedies” that draws inspiration from the approach that has been successfully implemented in the telecoms sector for several decades. If some of these remedies can be applied to every large digital platform (notably those that seek to ensure these players are more transparent with their users, be they consumers or businesses), most should be employed on a case-by-case basis, in a targeted and proportionate fashion. A prime example concerns the interoperability of certain digital services – i.e. strengthening the capacity for certain websites, applications and operating systems to be more interoperable, and so increase their users’ freedom of choice. Beyond that, this regulation must also factor users into the equation, to re-empower individuals and reduce information asymmetry on the Web. [Data-driven regulation](#) – which Arcep has incorporated into telecoms market regulation, and which involves harnessing the power of information to steer the market in the right direction – would be a valuable additional tool here.

It is vital that these measures be confined to only a small number of players: to this end, Arcep proposes a method for identifying influential online platforms. It is based on indicators for characterising their inescapability, their size, the complete ecosystem of which they may be an integral part, their capacity to collect and process significant amounts of data, and their role in the online advertising sector.

Arcep will continue to pursue this work, to help further the discussions surrounding this legislative initiative, and invites stakeholders to help deepen this work by submitting their comments and feedback on the brief that is being published today.

The *Digital Services Act* package is a initiative from the European Commission with two main pillars: first, online platforms’ responsibility with respect to the content they publish and, second, the issues raised by the fact that certain large online platforms act as gatekeepers, controlling increasingly large and influential platform ecosystems. Arcep’s response focuses on this second aspect of the consultation.

Associated documents :

- [Arcep’s response to the European Commission’s public consultation on the *Digital Services Act* package](#)
- [Arcep brief on Influential online platforms – discussion points regarding their characterisation \(in French\) \(December 2019\)](#)
- [Arcep brief on Remedies for the issues created by influential online platforms \(in French\) \(September 2020\)](#)






Arcep at a glance

The Regulatory Authority for Electronic Communications, Postal Affairs and Print Media Distribution (Arcep), a neutral and expert arbitrator with the status of independent administrative authority (IAA), is the architect and guardian of internet, fixed and mobile telecoms and postal networks in France.

Press liaison

Anne-Lise Lucas
anne-lise.LUCAS@arcep.fr
Tel.: 01 40 47 71 37

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