

**Speech of Dr. Tobias Schmid, Chair of the European Regulators Group for Audiovisual Media Services**

Buongiorno signore e signori,

Dear Giacomo Lasorella, dear Roberto Viola,

Dear Ladies and Gentlemen,

Thank you for the invitation, it's a pleasure to speak here today. For those who don't know me, I am Tobias Schmid, Director of the Media Authority of North Rhine-Westphalia, European Commissioner of the Directors' Conference of the German Media Authorities, the DLM, and moreover I have the honour to chair the European Regulators Group for Audiovisual Media Services.

As a starting point I would like to take a step back and ask the question: Why is a new regulation needed?

First of all, regulation is not a reason in itself. But: reality has changed dramatically. As we face more digitalisation and globalisation, cross-border cases become more relevant. The power of platforms has been constantly growing in recent years. And by that, society at itself has changed.

However, there is one thing that has not changed in media – the core values of our democratic society!

So, these are still values of media in Europe: human dignity, the protection of minors, the protection of users and the protection of pluralism.

We have to ask ourselves if these core values are protected effectively despite the new circumstances. I have a short answer to that question: No, they are not!

Let's have a look on the reality of regulation:

With the AVMSD, we have a first step of convergent regulation. But: 80 percent of violation of media law happens online. An increasing number of violations happen in cross-border cases. The liability regime for online services is older than 20 years. In central cases we just have a system of company rules, voluntarily and without public legitimation. The Twitter-Trump case shows that.

We have to realise this and it is up to us to take back the lead. And it is up to Europe to do so. To stabilize the freedom of the online world, this world needs rules. As Marcus Tullius Cicero said over 2000 years ago: "we respect rules to be free".

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Europe has the central role to solve this. It is in our DNA to find a balance between freedom and rules to protect our key values.

How does such a new regulation look like?

We appreciate the new legislative actions coming from the European Commission: the European Democracy Action Plan, the Digital Services Act and the Digital Markets Act.

But we developed the first tool finding an answer to the new challenges. Since this year, there is a Memorandum of Understanding between all European Media Regulators on how to act in cases of cross-border violations. This marks our contribution to solve the challenge, to protect our citizens.

I would like to give thanks to all ERGA members – especially from France and Ireland who developed the Memorandum of Understanding.

Now, is the Digital Services Act the legislative answer?

Yes, the Digital Services Act is the world's first clear approach to regulate third country companies like the big online platforms.

Yes, it is an important step to come up with a European answer.

Yes, this step of harmonisation generated more legal certainty.

And yes, combined with the Digital Markets Act, we get transparency obligations, notice and action mechanisms and thus, we create liability.

So, is this draft perfect? There are three key questions:

Yes, the scope might be too narrow – as it just includes illegal content but not harmful content such as pornographic content, disinformation and hate speech.

Yes, it does not specify clear procedures between the actors in the online world: content, host and access providers.

Yes, there is no use of the established and working regulatory structures of ERGA and BEREC. The proposals develop a new structure of Digital Services Coordinators without using the mechanisms established by the Memorandum of Understanding.

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Are there, moreover, any concerns?

Yes, the draft Digital Services Act could have a big influence on the inner structure of the Member States.

Yes, it creates a hierarchal relationship of national regulators.

Yes, the Commission gains influence over media regulation – which is of course a matter of independence.

Yes, there could be a loss of possibilities for national authorities to act nationally to protect citizens in case of violation of media law.

Back to the question: Is this the new regulation we need?

Let us say: it will be – if... and there is always an if. If we use the discussion in the coming months to combine this ambitious step of the European Commission with the specific needs of an effective and independent media regulation – the only thing needed is the understanding that media is not the same as, for instance, buying shoes.

So now is the chance for us, the European society, to give the online world the balance of freedom and rules that is needed.

Let us support the EU by developing solutions for the remaining challenge of this important and ambitious step – the Regulators are willing to do so.

Grazie mille per l'attenzione.