

Better governance: concept for a joined-up and more effective digital governance approach

The current wave of new legislative initiatives - combined with the already existing legislation on digital matters - is likely to create conflicting supervision and enforcement mechanisms. Laws such as the DGA, Data Act, DSA or the AIA are very likely to cause a duplication of efforts and to slow down and overburden the regulatory process. Although these different legislative measures require indeed different degrees of centralized and decentralized approaches, there is an urgent need for an overarching mechanism that facilitates better coordination among authorities and prevents incoherence among the multiple legislative instruments in the digital sector.

Some do suggest that DG Connect or even a newly established EU digital agency could bring different actors together and harmonise the digital governance approaches. However, the principle of subsidiarity limits the Commission's degree of control and authority on many thematic areas. Additionally, its multi-function as a legislative, executive, and regulatory body may run counter to the independence that would be needed for such a task. While an independent EU digital agency may avoid these issues, it would remain unclear how it can interact with the Commission, Member States and all other entities involved. Furthermore, high administrative burdens and intense bureaucracy regularly tie down EU agencies and render them rather ineffective.

Motivated by the same concerns, some Member States such as the Netherlands have already established new fora of exchange. The Dutch 'Cooperative Platform for Digital Supervision' (SDT) brings together the Authority for Consumers and Markets (ACM), the Dutch Data Protection Authority (AP), the Dutch Authority for the Financial Markets (AFM), and the Dutch Media Authority (CvdM). Outside the EU, the UK has established the 'Digital Regulation Cooperation Forum' (DRCF) as a platform to promote cooperation as well as joint regulatory approaches wherever regulatory regimes do interlink and overlap (e.g. algorithmic processing, digital advertising technologies, end-to-end encryption, data protection and competition).

It is my firm belief that the EU should also establish a coordination body on the European level, which is comparable to the SDT or DRCF. We should use the momentum of the AI Act for the greater goal of better governance on digital matters. I consider in particular the areas of industrial policy, innovation, competition, freedom of expression, privacy, and security in need of more coordination. Consequently, the new EU coordination body would require as a minimum the participation of:

- ⇒ European Data Protection Board (EDPB)
- ⇒ European Union Agency for Cybersecurity (ENISA)
- ⇒ European Competition Network (ECN)
- ⇒ Body of European Regulators for Electronic Communications (BEREC)
- ⇒ European Banking Authority (EBA), European Securities and Markets Authority (ESMA), European Insurance and Occupational Pensions Authority (EIOPA)
- ⇒ European Regulators Group for Audiovisual Media Services (ERGA)
- ⇒ European Artificial Intelligence Board
- ⇒ Digital Service Coordinators as determined by the DSA
- ⇒ European Commission with a focus on industrial policy and digital innovation policies

The EU coordination body should have permanent staff and its own secretariat, which prepares and chairs the meetings. It should promote a joined-up regulatory approach, foster cooperation, share best practices, and publish joint guidance. Unlike the DRCF, the EU coordination body should be empowered to adopt concrete recommendations (majority decision) that are binding in nature without overriding the specialist expertise of the participating entities.