

UNESCO Guidelines for Regulating Digital Platforms v2.0

Draft IFLA Comments

General points

- 1) Overall, we strongly welcome the initiative taken by UNESCO to produce these guidelines. We recognise the need to ensure adequate regulation of platforms, given their huge and structuring role in people's experience of the internet, and so to realise their ability to enjoy their right of access to information.
- 2) In particular, at a time where the loudest voices often focus more on imposing restrictions, it is hugely important that UNESCO is underlining that any regulation needs to take as a starting point the importance of upholding the rights of freedom of expression and access to information, and the application of rules around reasonableness and proportionality when restricting this. It was powerful, in the Internet4Trust conference, to hear recognition of the positive role that platforms have played in enabling information to flow, new voices to emerge, and previously marginalised groups to come together, despite all of the negatives that there undoubtedly are.
- 3) In line with the overall mission of libraries, we would encourage an approach to access to information that recognises the importance of press freedom and open government, but does not limit itself to these, given that the range of information necessary to support development is far wider. Suggestions concerning this point are made below.
- 4) Similarly, the Guidelines should also be clear about their scope, given that they do not necessarily cover all aspects of the work of platforms. It should be clear, for example, that rules around privacy and data protection should apply, as should an obligation on platforms to pay their taxes. The latter is particularly important, given that it is tax revenue that allows public sector entities, such as libraries, to operate and so contribute to the healthier information ecosystem that is a key underlying goal of the Guidelines as a whole. It goes without saying that general principles of transparency and good governance should also apply to governments in the use of tax revenues earned.
- 5) It should be a principle running across the guidelines that any actions taken should not serve to undermine the possibility for new platforms to emerge which may work in ways that are more in line with the goals of the Guidelines in the first place. They should also be applied proportionately – there are specific types of platform, such as open access repositories, which could be made unviable if subjected to the same regulatory constraints as a Google or Meta. Suggestions concerning some of these points are made below.

6) It would be helpful to ensure that, even if not included in the text itself, that the Guidelines are ‘tested’ against different scenarios. As became clear in the Internet4Trust conference, perceptions differ around where the greatest threat to freedom of expression and access to information lie. How do they operate in the face of platforms that encourage extremism and spread misinformation? What about in the face of a repressive and intolerant government? And in a situation where it is journalists and civil society groups that are promoting discrimination and repression (we should not be naïve – this does happen).

7) A further broad point is that the Guidelines should also be clear that efforts made to address the risk that platforms exacerbate problems should not take away from those to address the underlying problems. Efforts to tackle child sexual abuse should not stop just when they are removed from a platform, but when the perpetrators are caught and the victims supported.

8) At the same time, there clearly does need to be careful consideration of the importance of anonymity and the protection of users’ personal data. As highlighted in the Conference, anonymity can be essential for people in many countries in order to avoid the chilling effect of discriminatory legislation and attitudes (we cannot expect people to be brave all of the time), but it can also provide a cloak for illegal behaviour.

9) A further point to consider is the degree to which platforms themselves should be allowed to make decisions in order to retain relevance to a particular community, in line with their own freedoms. Specialised platforms may provide an essential space for groups at risk of marginalisation, or with particular needs and interests, to come together. It may not be reasonable to oblige them to carry any material that isn’t illegal, insofar as this reduces the value of the platform for the members involved (who can of course also seek information elsewhere). There may be value in differentiating between platforms with a universal vocation, which could be held to a higher standard (and encouraged to comply with additional codes of conduct), and more specialised ones.

10) Linked to the above, we would finally note that there are dangers in ‘must-carry’ or ‘must-promote’ provisions. Such steps can risk favouring particular sources of information over others, and can be likened to violations of net neutrality principles.

Specific points

Paragraph 1: in the final sentence, we could recommend making clear that access to information refers to access to information **of all types**. Too often, this is understood as only referring to government information, whereas in reality, it is broader, for example including open access and open science.

Paragraph 5: We very much welcome the emphasis on information as a public good and a universal entitlement. As under paragraph 1, we would again recommend a note to make clear that the three areas of focus identified in the Windhoek+30 Declaration are essential, but not on their own a comprehensive strategy for providing access to information.

Paragraph 10: We have seen a very worrying tendency in Europe in particular to neglect the specific characteristics of specific platforms such as open access and open education repositories, despite how important they are to open access and open science (as of course promoted by UNESCO in its Open Science Recommendation). We would strongly recommend an explicit exemption for open access, open science and open educational resource repositories, and other platforms run by research and education institutions, including libraries.

New Para 12a: It would be helpful to have reference in here to encouraging as much convergence as possible in platform regulation policies in order to avoid internet fragmentation (a key topic in the Global Digital Compact).

Paragraph 19: As highlighted in the general points above, it would be valuable to note that there may be platforms which have as a goal to serve the interests of certain communities, and so where there may be an interest in being more selective in their moderation, for example in order to allow people at risk of marginalisation to feel safe and free themselves. In this case, transparency about what is blocked or not should be the way forwards.

New Paragraph 20a: It should be made clear that in addition to the reference to the promotion of media and information literacy skills, the type of regulation envisaged by the Guidelines should not come at the expense of fair taxation policies, data protection, or the promotion of competition in a way that enables the emergence of newcomers.

Paragraph 25: We strongly welcome the reminder on the importance of universal internet access, and suggest that it may be valuable to refer to the WSIS Action Lines, including the emphasis that they place on public access solutions.

Paragraph 27: We also very much welcome the focus on the importance of transparency, and the ban on general monitoring obligations, which tend to treat content contributors as guilty until proven innocent. In sub-paragraph 'h', we would strongly call for the inclusion of libraries in the list of sources of expertise, in order to ensure that the world's 2.8 million libraries can feel empowered and recognised, and so be mobilised in support.

New paragraph 35A: We would strongly recommend including a specific paragraph about libraries at this point in the document, for the reasons set out above. There are at least 2.8 million libraries worldwide with a wide and deep potential to ensure a healthy information ecosystem, from providing access to the internet to building digital literacy

(and in particular, media and information literacy) skills, enabling fact-checking, and supporting users in identifying alternatives for action, or simply in using complaints mechanisms.

Paragraph 57: We recognise the emphasis in paragraph 57 on trying to limit the collateral damage caused by different approaches to what constitutes illegal content from one country to the next. It would be useful to note, nonetheless, that such a provision could tend to favour larger players (with the tools to differentiate approaches by jurisdiction) over smaller ones. We would also suggest that it should be made clear that banning VPNs is also undesirable.

Paragraph 59: We very much welcome the focus on allowing for softer options here when it comes to dealing with content that is not illegal but may be unpleasant or undesirable for some or many.

New Paragraph 59A: We would recommend the inclusion of a new point making clear that there should also not be ‘must carry’ or ‘must promote’ obligations, either on behalf of public or private actors. At worst, such provisions can risk turning platforms purely into arms of state-owned media, and at best, advantaging some players over others, or obliging platforms focused on specific communities to carry content that is inappropriate for their users.

Paragraph 62: We welcome the emphasis on supporting external audits of platforms. We would note that such efforts should take note of the experience of ‘free speech audits’ of libraries carried out by extreme elements within the United States. In line with points made above, such audits should not lead to ‘must carry’ or ‘must promote’ obligations. We would also recommend also including an explicit reference in here to the degree to which content moderation tools lead to fake copyright strikes, for example through mischaracterising quotation, review, criticism, parody, or research and education uses as infringement. It would be important, for example, to make explicit reference to the need to prevent content that promotes human rights (such as to raise awareness of sexual violence) from being blocked.

Paragraph 65: We would note that it should also be useful to make clear where recommendation mechanisms are at work, in order to allow users to understand where algorithms are at work.

Paragraph 66: We welcome the call for notification of users when content is removed or subject to content moderation.

New Paragraph 66a: As highlighted in the Internet4Trust conference, it should be made clear that it should not automatically be the case that content is deleted. There need to be mechanisms in place to ensure that content that can support research and the fight

against illegal activities is not immediately lost, otherwise an opportunity is missed to tackle societal problems at their root.

Sub-Paragraph 70g: As above, we strongly welcome the emphasis on allowing pro-freedom provisions, but as before, would be concerned about must-carry and must-promote obligations.

Sub-Paragraph 70j: We would recommend making clear that reporting should include information about how complaints are dealt with, including numbers of complaints received, treated, accepted, rejected, appealed, and figures about the results of such appeals.

Paragraph 72: We would recommend making clear that the word ‘vetted’ should not imply a process that is unnecessarily onerous, or that a priori excludes actors who are not affiliated to an institution.

Paragraph 75: We welcome the inclusion of reference to making information about complaints mechanisms part of platform outreach to users. We would strongly recommend, here, that there is also reference to digital platforms acting in ways that do not impose undue costs on users looking to leave them, for example by enabling users to access data held around them and transfer this to other service providers.

Paragraph 77: We are very happy to see the importance of media and information literacy emphasised in these Guidelines. As highlighted in the Internet4Trust conference, education is the only long-term means of creating a healthy information ecosystem, both as concerns the development of global citizens enabled to act ethically in all aspects of their lives, and the specific skills needed to produce, access, and use information. We particularly welcome the reference in this paragraph to the need to assess how products or services affect user behaviour, and in this respect, it would be valuable to refer to the behaviour of a wide group of potential users. We should not forget that, through the operation of recommendation tools and more, platforms themselves are ‘gaming’ media and information literacy to pursue the goal of maximising attention. Nonetheless, it would be important to include clarification in this paragraph to the fact that media and information literacy education is a public interest activity. It should therefore be primarily a responsibility of education and lifelong learning sectors (including of course libraries), and so the efforts of platforms should complement, and not replace this.

Paragraph 79: As highlighted in previous paragraphs, we would urge UNESCO to include libraries in the list provided here. With over 2.8 million institutions globally, this is a powerful and experienced network with a focus on building information skills. To leave them out of this list would signal a lack of belief in their role in supporting the goal of media and information literacy, and so risk under-mobilising them in these efforts.

Paragraph 80: We welcome this paragraph, and would even encourage a stronger focus on trying to encourage competition between platforms to excel in promoting media and information literacy. Nonetheless, we would also suggest that there should also be means of verifying the materials produced by platforms themselves in order to ensure that they are appropriate and of a high quality, and in particular are neutral (i.e. do not simply serve as a form of advertising for the platform itself)

Paragraph 81: As in the comment on paragraph 79, we would also urge inclusion of libraries in the list of actors here.

Paragraph 86: Concerning access for children, we would also note the value of platforms allowing for parental controls to be in place (or, for example, controls that libraries may seek to place on computers used by children), rather than placing the only responsibility on children and platforms.