

PUBLIC CONSULTATION ON “SHAPING COMPETITION POLICY IN THE ERA OF DIGITISATION”

CONTRIBUTION BY MEDIASET S.P.A.

THE INCREASING POWER OF DIGITAL MULTI-FUNCTIONAL PLATFORMS:

A SOCIAL AND ECONOMIC CHALLENGE

Unexpected changes: from digital economy to U.S. platform economy?

During the last two decades, the information and communication ecosystem has changed significantly with the development of Internet technology and network-based systems.

The introduction of the World Wide Web and, more recently, the massive penetration of mobile devices have increased the impact of the digitization process, started in the middle of the 1980s and now pervasive to the entire society. Radical transformations have taken place in every single economic activity as well as in everyday lives.

Digital technologies provide new tools and new forms of communication and operational processes, increasing the intensity in the application of knowledge to economic and non-economic activities.

Gathering and processing knowledge, as well as generating and sharing new knowledge, in an increasingly short time, are key success factors for companies, organizations, public bodies, and individuals.

Most of the structural changes introduced by digital technologies in every field have been, and still are, quick and mainly unexpected. Internet-based technology has not only triggered the initial digital transformation but has also altered the economy and society at several levels, e.g.: traditional business models, structure of markets, and the ways individuals interact with each other. Because of the rapid nature of the process, most of these upheavals have not been fully understood in the first phase of this digital transformation.

With particular regard to the media industries, it is very important to understand that a relevant part of the policies adopted at national and supranational level have been affected by the difficulty to understand the transformations introduced by the Internet.

In the content sector, and in the cultural industries in general, the lowering of the entry barriers to the market, due to the rise of Internet has mainly been perceived as a new opportunity to increase pluralism and reduce market concentration. Meanwhile, several other important changes introduced by the Internet have not been duly considered in the initial phase.

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The rise of the global Internet operators (or platforms) that have now reached a near-monopolistic position on the market was completely overlooked due to a lack of understanding of the real nature of the changes that were taking place.

In recent years, the understanding of the new media environment has developed in greater depth as a result of the outstanding dimensions of several market and social phenomena.

However, the economic and social costs of a further lack of understanding of the digital environment evolution could be extensive, unless new policies and practices are urgently defined.

Taking into consideration the evolution of the Internet market and its central role in both the Knowledge Economy and society, it is urgent to define a set of new policies. To date, policy makers have failed to consider aspects that concern not only the media, cultural industries, and the broader communication industry, but also most of the economy and society, along with the identity and social cohesion in each national context, namely:

1. The rise and role of the global multi-functional platforms;
2. The Knowledge Divide;
3. A new type of globalization process;
4. The risk of decline in cultural industries;

1. The rise and role of global multi-functional platforms

Global platforms operating on the Internet have a function very similar to that of the operating systems that have managed and still manage the hardware and software components of a computer. But while the operating systems perform a set of tasks limited to the working of computers and their applications (word processing, spreadsheets, database applications, etc.), global platforms operate on a multi-functional level. In fact, they create highly evolved ecosystems within which they organize and manage a growing number of knowledge-intensive functions, including content search, cultural consumption, interpersonal communication, e-commerce, device control, location services, self-publishing, payment management, etc. This large multi-functional dimension within the context of the global extension of the Internet has created economic giants with unique market power.

From this point of view, the growth of multi-functional global platforms demonstrates characteristics very similar to those of the operating systems market at the origins of the personal computer era: a highly concentrated market with monopoly or near-monopoly positions that exhibit the exploitation of direct and indirect network effects and make their market position unassailable.

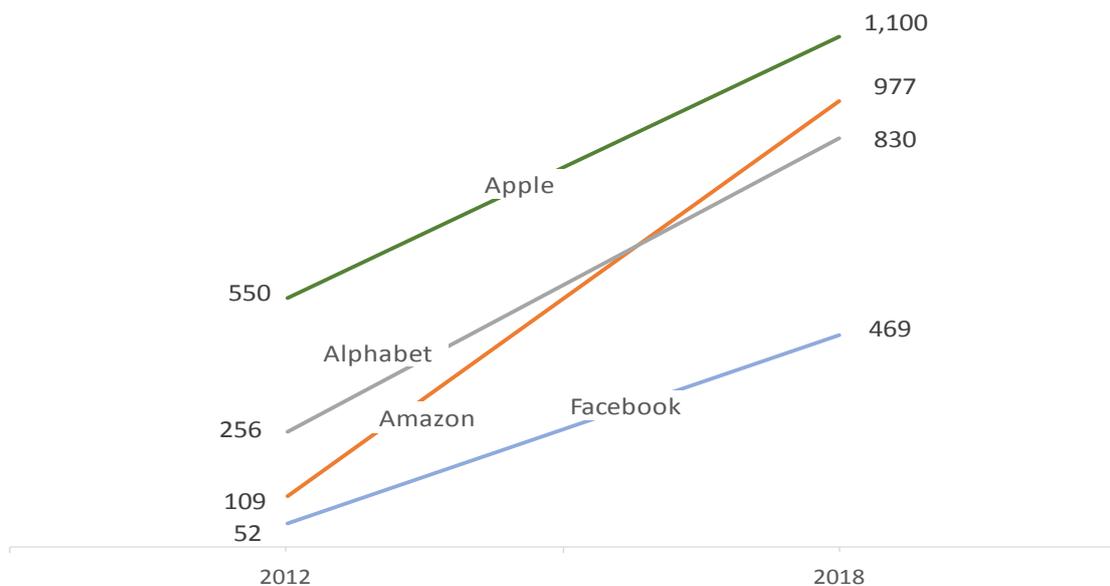
Global Internet platforms are not only multinational groups or transnational corporations; they also manage pervasive multi-functional environments based on the extra-national nature of the Internet.

The growing number of functions developed and interconnected in the operational perimeter of global Internet platforms determines their extraordinary growth. The global dimension, the multi-functional variety of services offered, and the network effect have resulted in extremely high economic growth rates. Global Internet platforms are not only multinational groups or transnational corporations; they also manage pervasive multi-functional environments based on the extra-national nature of the Internet.

Therefore, the problem of taxation criteria for the so-called tech giants is only a small part of the wider problem they pose to the nation states in which they operate.

The real problem is how to combine and manage the specific nature of the Internet environment with the presence of strong monopolies operating in an extra-national system often on different sides of the information, knowledge and businesses (operating systems, hardware, advertising, data collection, sharing / publishing platforms, video-on-demand etc.).

Alphabet (Google), Amazon, Apple, Facebook Market Capitalization, Sep-2012 – Sep-2018 (billion)



Source: company data

So far, fair competition has not been possible due to the dimension or the global size of the Internet groups but mainly because the asymmetrical regulatory approach has left the global platforms completely free to operate in a sort of no-man's land, or better put, a no-laws land.

The communication market, which is still rapidly changing in favour of global platforms, needs policies and procedures that meet the challenges at hand in order to enable national operators to compete on fair terms. So far, fair competition has not been possible due to the dimension or the global size of the Internet groups but mainly because the asymmetrical regulatory approach has left the global platforms completely free to operate in a sort of no-man's land, or better put, a no-laws land.

Interventions with policies, legislation, and antitrust regulation are late in addressing a profound market distortion: the size of the global Internet platforms and further network externalities are about to cheat the spaces for competition in the cultural and knowledge markets that still exist. Consider, for example, television broadcasting. This industry makes up about 90% of the entire audio-visual market and is a central component of the Creative Industries. But its independence from global platforms (operating systems, software, hardware, content, etc.) is increasingly being undermined by the development of the online video market strongly dominated by US Internet groups.

A well-known case of this phenomenon is that of high concentration rates on the online advertising markets in which Google and Facebook have very high market shares. With the rapid evolution of digital systems based on real-time bidding and addressable advertising, what happens in the online advertising market could also happen in the television market once it is incorporated into global digital platforms.

The advertising expenditure in the broadcasting industry and therefore in the audio-visual system tend to be concentrated in the hands of a few global operators, as it is the case in the online segment. The consequences of this process could be disastrous, not only for the economies of national audio-visual systems but also for the consumers themselves and for the cultural variety that characterizes the European identity that would most likely progressively disappear.

2. The Knowledge Divide

If it is true that knowledge is a key factor in the competitiveness and development of individuals and society, it is appropriate today to question the conditions under which knowledge is and will be managed and owned in the Digital Society.

In an initial phase of evolution of the digital revolution – the beginning of the 1990s, when the information superhighways era started – the emphasis was placed on the so-called digital divide, or the equal opportunity to access digital technologies and services.

At the end of the last century, the penetration of digital technologies and services was still limited, and since then, public policies have been strongly oriented to stimulate the development of digital fixed and mobile network

infrastructures and push towards broad digital literacy. This approach has had very positive effects. However, it should be noted that perhaps some aspects of the organization of new digital environments have been largely overlooked or underestimated. While the emphasis has been mainly on network infrastructures, there was little consideration for the new network economy and the role of operators, who also play a dominant role in gathering and managing data in the various operating processes they manage.

Today it is important to reflect carefully on the dynamics of market concentration that are determined in what we can define as the evolutionary centre of the knowledge society.

If the functions of data control (the control of knowledge) are concentrated in the hands of a few operators, the knowledge divide becomes important and has dramatic effects on the economy and society.

This is not only a problem of privacy but also a more general and important problem concerning how the data of each operational process are managed and owned (communication, business, transactions, research, decisions, locations, etc.). In economic systems, information about a business process has a very important and vital function for a market player; a publisher, a broadcaster, or a merchant who cannot access data related to the business and its customers has little chance of success.

If the functions of data control (the control of knowledge) are concentrated in the hands of a few operators, the knowledge divide becomes important and has dramatic effects on the economy and society. The extraction, management and reuse of data in real time with increasing acceleration and efficiency, due to the development of artificial intelligence systems, today are the main components of business in a digital environment. The whole system is polarizing, creating a vast knowledge-poor area in the face of a very small group of operators that become increasingly knowledge-rich every day.

This new type of knowledge divide created by the application of big data, new algorithms, artificial intelligence, all combined with the operational processes run by the digital platforms will impact myriad activities.

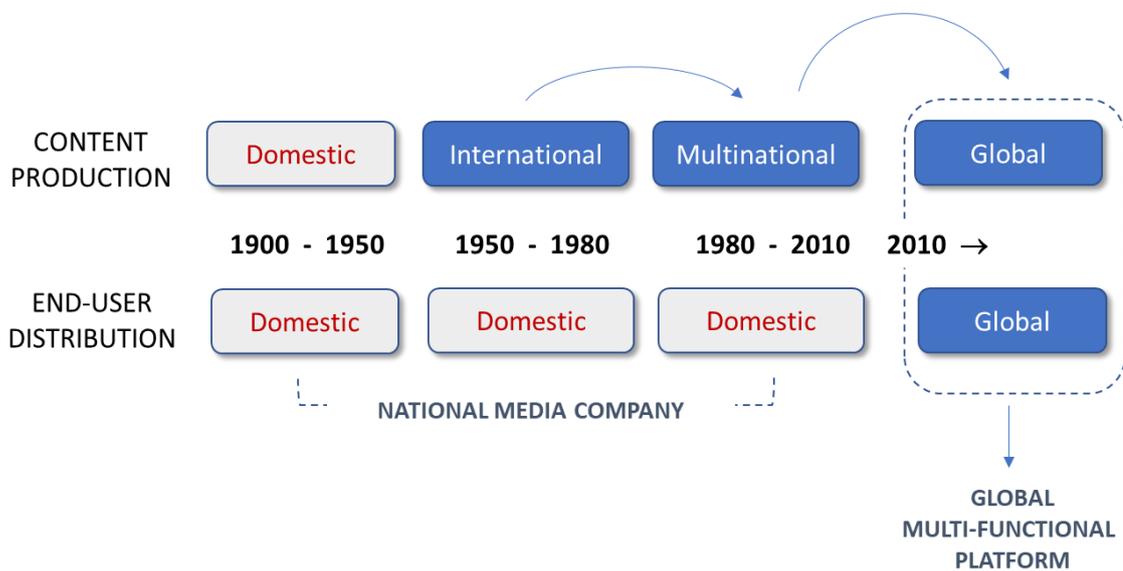
3. A new type of globalization process

The globalization of the cultural industry is a historical process that takes shape at the very origins of the first formation of the cultural markets. Cross-border circulation of cultural products has contributed to the growth of a global culture, while enabling the development of national operators. From the second post-war period until today, the entire audio-visual industry, including cinema, home video, and television, has grown with the ever-increasing circulation of products: films, TV shows, media formats, and TV channels.

Since the late 1970s, both public and commercial televisions have grown with the general liberalization of the national television markets and the globalization of the television industry.

In this context, national market players are strengthened by sustaining the value chain of original content. In more general terms, all content markets have increased through a virtuous cycle between globalization and strengthening of national industries. This has created a sort of balance between national cultural identities and openness to a global cultural context. Such a balance provides a pillar for the European content industry, which is nothing more than the product of the strength of the individual national industries.

The impact of globalization and platform economy on cultural industry



Source: e-Media

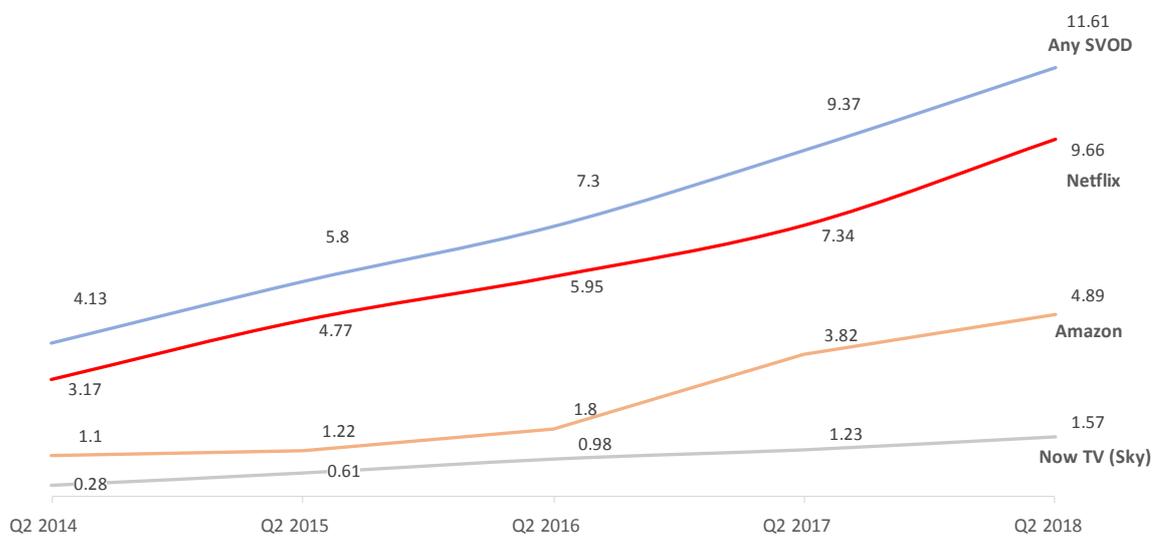
The driver of production, distribution, and consumption of cultural products moves into the Internet platform that manages and promotes a global extra-territorial cultural experience.

Internet platforms have created a radically different landscape for the process of globalization of the cultural industry. This process is not based on the circulation of the product but rather on the circulation of the same platform that is present in every national market. **Globalization is not the result of a cross-border circulation that feeds the national industry but is based on the consumption of media content in a global extra-national and extra-territorial ecosystem.** This is an epochal transformation that is only in its early stages and has significant consequences on the entire production cycle of media content and therefore on national identities. Thus, the driver of the production, distribution, and consumption system of cultural products moves into the Internet platform that manages and promotes a global extra-territorial cultural experience.

Taking into consideration the first market in which this process is shown with considerable strength, namely the online market of films and TV series, it can be noted that few global players hold extremely high market shares at national and international level.

In this regard, it is interesting to remember that, about ten years ago in the UK, the Competition Commission blocked Project Kangaroo, which was a joint venture for online video services between the BBC (through BBC Worldwide), ITV, and Channel 4. This decision was made because the “joint venture would be too much of a threat to the competition in this developing market”. A similar project in Germany met the same fate, because the role of global platforms in the media markets was not yet clear. In 2010, the German Cartel Office blocked a project of a consortium including TV broadcasting for an online video catch-up service. The project, in a first phase called Amazonas, was a joint venture for the creation of an ad-supported TV catch-up VoD portal and archive content open to other TV publishers. The project was very similar to the US service Hulu (a joint venture with The Walt Disney Company, 21st Century Fox, Comcast, and AT&T/Warner Media), which is in fact a competitor of Netflix and Amazon in the US market.

Subscription VoD households in the UK (*million*)



Source: BARB

4. The risk of decline in cultural industries

One of the biggest conceptual mistakes made in the analysis of the new Internet economy and the new media environment based on the global platform relates to the definition of responsibility and editorial roles, which are the basis of the publishing industry. This mistake that has influenced a whole regulatory approach has had important consequences on the market

competition between publisher and the so-called sharing platform but has even more dramatic consequences on society as a whole and on the dynamics for the formation of the public opinion.

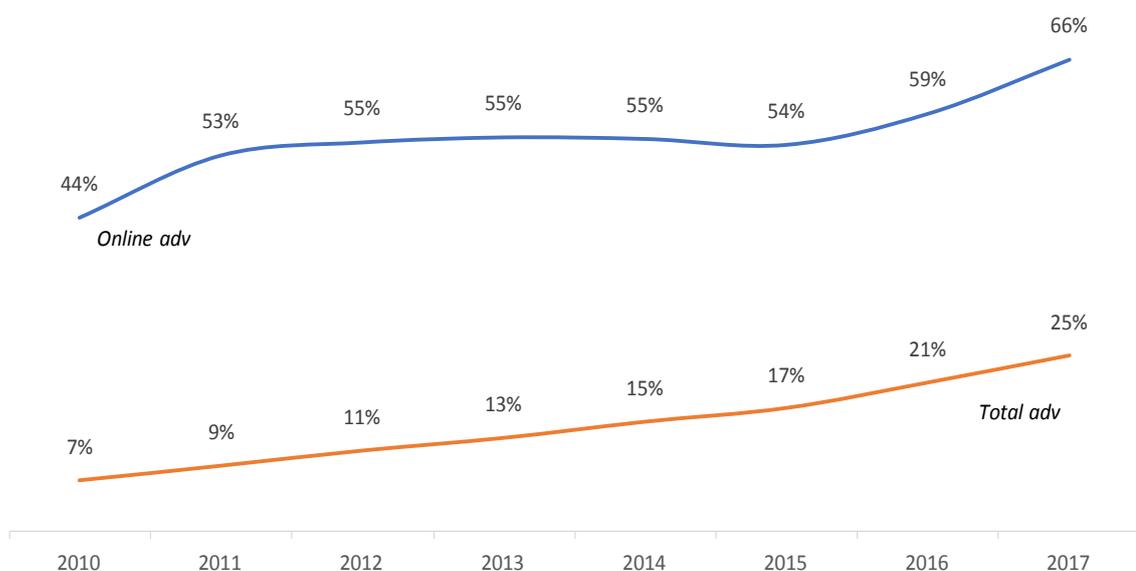
Over the last few years, a real “social disaster” has taken place due to the development of a wide publishing market built outside the concept of responsibility, which is the pillar of all interpersonal and mass communication practices.

The concept of publishing that was adopted to exclude Internet sharing platforms from the duties of editorial responsibility is now an obsolete concept, born and strictly linked to the original technical systems that have created the traditional publishing markets, such as print, radio, and TV. However, it is not possible to use a concept linked to old technical bases to define a market formed on new technical bases that allow new functions, including the intersection between mass communication and interpersonal communication, the indexing of contents, content organization on the basis of algorithms and customization systems, and non-linear consumption. It would be like defining the 19th century publishing market using a conceptual structure formed in the Middle Ages.

Internet platforms perform full editorial functions, publishing content and determining important cultural and social effects.

For all intents and purposes, the Internet platform performs full editorial functions because it comprises media groups that play the role of allowing the circulation to the mass public (publication) of the contents determining important cultural and social effects and competing on three important sides of the publishing business: audience, advertising expenditure, and user data.

Cumulated market share of Google and Facebook on global advertising expenditure (%)



Source: Google, Facebook and Zenith

The publication of content in the contemporary context created by multimedia and multi-functional technologies introduced by the Internet requires a conceptual framework equal to the technical systems that enable a contemporary publishing business.

If the media industry is pushed towards a context in which meta-editorial functions dominate the market, cultural and social decline is certain.

However, when competing with “non-publishers” – i.e. internet platforms with multimedia and multi-functional technologies who have huge market power and generate effects similar to those of publishers but are not subject to the same regulation - the cultural industry is set towards decline. There can be no cultural industry, and there can be no formation of public opinion unanchored by the concept of responsibility, both on the publisher’s side and for the individual person who publishes content.

If the media industry is pushed towards a context in which meta-editorial functions (sharing content, indexing, search, organization on the basis of algorithms, etc.) dominate the market and society and are more important than the publishing functions strictly related to the editorial responsibility, cultural and social decline is certain. This is not merely a market or competition issue: social cohesion and the survival of democratic institutions are at stake. To reverse this trend, and enable players operating in the same market to compete on an equal footing, the following policies could be envisaged:

- Ex ante remedies: urgent need for a simple set of sector-specific rules to be applied throughout the digital playing field, including to the platforms that have become by now the new publishers of the digital age;
- Fiscal equity: continue on the route identified by DG TAXUD (COM(2018) 147 final; COM(2018) 148 final) in order to apply fair taxation to the proceeds generated by organisations with a significant digital presence in the EU Member states;
- Data value chain: a closer assessment of the access to data and relevant activities aimed at extracting value from users’ online activities and preferences;
- Strengthen co-operation between NRAs, national antitrust bodies and the EU Competition Authority in order to seek and obtain transparency and accountability over the digital economic activities carried out in the EU.

Increased co-ordination among EU policy makers is of the essence to tackle an epochal phenomenon which has turned the digital single market into a prairie for the tech giants’ foray in the Member States.