

Round Table

MEDIA LAW AND DATA PROTECTION: REGULATION OF USER GENERATED CONTENT

23 November 2018, 18:00 – 21:00
Higher School of Economics, 11 Miasnitskaya street, Room 518

REGISTRATION

KEYNOTE SPEAKERS:

- › [Nevena KRIVOKAPIC](#), Coordinator for Freedom of Expression and Online Media at SHARE Foundation
- › [Jo PIERSON](#), Professor at Vrije Universiteit Brussel
- › [Roman KRUPENIN](#), Head of IT, Distribution and M&A Legal Practice at Yandex

PANELISTS: Academics and practicing lawyers representing major online media platforms in Russia, including

- › Mikhail Patrakhin, Google
- › Tatiana Voytas, Avito
- › Ruslan Nurullaev, Bryan Cave Leighton Paisner
- › Yana Chirko, Dentons

ORGANISERS: Russian Chevening Alumni Association and HSE Law Faculty

PROGRAMME:

17:45 – 18:00 Registration

18:00 – 18:10 Welcome Speech

18:10 – 18:40 **Nevena KRIVOKAPIC, 'Media Freedom and Data Protection'**

The presentation will provide an introduction about data protection and freedom of expression as rights guaranteed. Different approaches to data protection in the EU Charter of Fundamental Rights and in the European Convention of Human Rights will be discussed.

While there is a long-standing friction between media freedom and data protection, recent developments have made the whole picture further complicated. A first reason of concern resides in the emergence of data protection as a stand-alone right and its unclear boundaries with the right to privacy and freedom of expression. In the EU legal system, in both the Charter (Art. 8) and the Treaty on the Functioning of the European Union (Art. 16) data protection has its own dedicated provision and has been granted a fundamental right status. The same does not apply in the ECHR legal system, where data protection is considered an aspect of the right to privacy (Art. 8).

Further the tension between freedom of expression, media freedoms and data protection will be addressed, as well as potential problems that can raise in user generated content in term of publishing personal data within that content and how to approach that in future.

18:40 – 19:00 Panel Discussion

19:00 – 19:30 Jo PIERSON 'Addressing privacy and public values in online platforms: future challenges'

The presentation discusses future challenges for the research on data protection and public values in mediated communication. Especially as the latter is increasingly digitised, commodified and submerged in everyday life, the challenges increase of how to safeguard accountability in systems, public values in digital governance and involvement of citizens in society.

Starting from mutual articulation between artefacts, practices and socio-economic arrangements, we critically analyse the material and symbolic facets of data-driven media and communication. As communication in society increasingly takes place via digital intermediaries in the form of online (media) platforms, it becomes essential to focus on how the latter take form, operate and have impact in relation to public values like privacy and data protection. These intermediaries can be general-purpose platforms for social communication and information sharing (e.g. VKontakte, LinkedIn etc.) or specific platforms for interaction in various sectors like health, education, transportation and hospitality (e.g. Uber, Airbnb, etc.).

In order to have a thorough understanding we take an interdisciplinary perspective that integrates the advertising motives of these platforms, the (inter)national legal and policy environment, the affordances of the data-driven technologies and the everyday user practices of citizens. We identify and discuss how these different elements together shape the particular mechanisms (datafication, commodification and selection) that drive current data-driven online platforms. Based on this analysis we develop possible pathways to address issues of concern regarding privacy and data protection. In that regard notions of cooperative responsibility, empowerment by design and data literacy can be helpful.

19:30 – 19:50 Panel Discussion

19:50 – 20:20 Roman KRUPENIN, 'Effect of Automated Content Filtering on Freedom of Expression'

Content platforms are increasingly required to moderate user content at massive scale with high velocity. Platforms deal with a variety of issues from hate speech to fake news to illegal information of all sorts. Regulators and legislators impose more stringent legal requirements on platforms.

Certain countries, such as Germany, adopt laws requiring platforms to take down content violating complicated criminal legislation within 24 hours upon threat of fifty million Euros fine (Network Enforcement Act, or NetzDG). NetzDG and other similar laws impose on private parties complex content regulation decisions affecting free expression and require application of cumbersome speech regulation laws under the threat of severe fines.

The platforms increasingly use automated means to perform content moderation. This results in over-policing of legitimate speech because platforms err on the side of caution to avoid any exposure to liability. On top of that, there is very little understanding of the operation of these automated content filters. Whereas large platforms and regulators hail automated filters and AI as an ultimate solution to all problems, this is a mischaracterization of automated filters' capabilities.

The presentation will argue that an evidence-based and nuanced approach to regulation is necessary, whereas content takedown practices should have safeguards for protection of legitimate speech embedded into them.

20:20 – 20:40 Panel Discussion

20:40 – 21:00 Q&A Session