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Federal Council aims to regulate large communication platforms

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Introduction

In a press release dated 5 April 2023 (available in [French](#), [German](#), [Italian](#) and [English](#)), the Federal Council announced its intention to regulate large communication platforms in order to strengthen user rights in Switzerland.

Hence, the Federal Council instructed the Federal Department of the Environment, Transport, Energy and Communications (DETEC) to prepare a draft bill for consultation in collaboration with the Federal Office of Justice (FOJ). The draft bill will be drawn up and submitted to consultation by the end of March 2024.

Purpose of regulation

The Federal Council found that the population is increasingly using communication platforms such as Google, Facebook, YouTube and Twitter to inform themselves and form their opinions. These platforms are, therefore, increasingly influencing public debate.

Nonetheless, large communication platforms are hardly regulated in Switzerland. For instance, the systems that determine which user-specific content is displayed often lack transparency. Further, users are often in a weak position towards large communication platforms, such as when it comes to blocking user accounts or deleting content.

Consequently, the Federal Council intends to strengthen user rights against major communication platforms and to increase transparency obligations for these platforms. At the same time, the Federal Council wants to preserve the positive impact of such platforms on freedom of expression. To achieve this, the Federal Council sees a need for new legislation.

Scope of application

The new legislation will apply to operators of large communication platforms (intermediaries). Whenever this is appropriate, the new regulation shall transpose the provisions contained in the European Union's Digital Services Act.

As a general principle, it should be noted that the authorities will not be able to interfere with digital content beyond what is already permitted in the non-digital world.

Guidelines for draft bill

The DETEC must observe the following guidelines with respect to the draft bill:

- Large communication platforms will be required to designate a contact point and a legal representative in Switzerland.
- Users should have the right to directly ask large communication platforms to review unilateral measures such as the blocking of user accounts or the deletion of user content. In addition, an independent Swiss arbitration board will have to be created to resolve any conflict between the platform and its users. This conflict resolution scheme will be financed by the platforms themselves.
- Regarding the issue of transparency, large communication platforms will have to label advertising as such. In case of targeted advertising, they will be required to inform users by publishing the most important parameters according to which advertisements are displayed. This will allow users to understand why they are receiving certain types of advertisement.
- Last but not least, large communication platforms will have to provide for a straightforward procedure that allows users to easily report hate speeches, depictions of violence or threats. The platforms will have to review these reports and inform the users of the outcome.

Comment

Even though the legislative process is still at an early stage and will take several years, it is highly recommended that operators of communication platforms closely follow it. This includes, in particular, actively participating in the public consultation process once the draft bill is published and open for consultation.

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