BOOK REVIEW


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Carsten Ullrich’s monograph Unlawful Content Online: Towards a New Regulatory Framework for Online Platforms, based on his PhD thesis, belongs to those few works that will serve as a guidepost long after the closure of the European Union’s reforms of the digital single market (DSM). The DSM was triggered by the enormous legal challenges of the platform economy, and the list of those challenges will only grow in the course of time. In order to successfully regulate these tectonic legal changes, a uniform, holistic approach is required. Thus we need a horizontal, all-encompassing (or at least more-encompassing) approach in the academic discussion of the topic. Ullrich’s book not only meets this demand, but also it arrived at just the right time. It was published following the acceptance of the Copyright in the Digital Single Market Directive but before the finalisation of the Digital Services Act. Thus, it is built on the systematic, legal and socio-technological analysis of the robust acquis, case law and academic resources of the past and it simultaneously shows the way forward.

First, the monograph mirrors the introduction of the platform regulation’s history, from the early Web 1.0 to the age of intermediary powerhouses, including definitions, technological aspects, key actors and platform liability (and safe harbours). These topics dominate the first major part of the book (Chapters 1–3). While this historic and descriptive approach would not bring the expert reader that much novelty, it is definitely necessary once we get to Chapters 4–6, where Ullrich boldly directs our attention to, first, the normative enforcement gaps of the platform age and, second, to the enforcement practices. The book covers a myriad of topics under Chapter 4, including personality and public order overlaps (defamation, hate speech and terrorist content), the economic aspects of intellectual property (copyright and trademark) and product and food safety regulations. From these, however, Ullrich cherry-picks the least discussed dimension of platform regulation, namely product and food safety, to be discussed further via case studies.

The book is structured along two main research questions. First, a rather poetic question is raised: is the then-current Electronic Commerce Directive still adequate to


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address combatting online harmful content? Second, by directing our attention to one of the
author’s key contribution to academia, can any new, alternative model for intermediary reg-
ulation be introduced to fight against illegal content?2

Ullrich rightly points out that his monograph has two key contributions to the academic
discourse on platform regulation. From these, the first is the focus on product and food safety
regulation. Academia so far has paid little attention to these topics. As Ullrich states in his book’s
preface, “academic coverage of the challenges of enforcing product and food safety law online is
patchy at best”.3 (We will get back to the second main contribution later on.) This reviewer, who
has already had certain experience related to the intellectual property, data protection and hate
speech dimensions of the Internet, cannot do anything but hail Ullrich’s decision.

These topics are mainly approached from a practical/enforcement direction. Here, instead
of further elaborating on the substantive law, the ways, methods and efficiency of these rules
are tested. As Ullrich states, the analysis of such practice is twofold: the enforcement authori-
 ties’ individual practices as well as the public authorities’ collaboration with private actors are
analysed. At this point, Ullrich switches his methodology from descriptive to primarily empir-
ical. His sample consists of both in-person or telephone-based interviews and the independent
completion of surveys. While “only” thirteen authorities are covered (from which one provided
answers on both product safety and food safety issues, thus raising the number of total
responses to fourteen), and from these responses only four covered food safety,5 such an
amount of qualitative analysis is reasonable for reaching meaningful conclusions.

Ullrich’s empirical approach and the ultimate outcome of the survey-based analysis con-
firm the validity of his claim regarding the second main contribution of the book to the exist-
ing discourse: namely, as Ullrich put it, “it will explore a regulatory model for content
regulation and liability rules of online platforms, based on risk regulation and duty of care”.6
Ullrich’s regulatory reform proposal complies with his own earlier view that “[a] regulatory
solution will need to be specialised, technically flexible and scalable. It will need to answer
the transnational challenges posed by the internet and globalisation. At the same time, it
needs to be democratically accountable and transparent.”7

In sum, the systematic analysis of the European Union’s – and, to a certain degree, the
USA’s – legal system, the complex research methodology, the extensive literature, including
case law (which surpasses sixty-two pages in the monograph), as well as the interview ques-
tionnaire8 make Ullrich’s monograph imperative in the field of research and policymaking on
platform regulation.

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2 See C Ullrich, Unlawful Content Online: Towards a New Regulatory Framework for Online Platforms. Luxembourg
3 ibid at p 42.
4 Compare to the key output of the collaborative research team of Work Package 6 of the reCreating Europe
H2020 project: JP Quintais, P Mezei, I Harkai, J Vieira Magalhães, C Katzenbach, SF Schwemer and T Riis, Copyright
Content Moderation in the EU: An Interdisciplinary Mapping Analysis (1 August 2022), available at <https://ssrn.com/
abstract=4210278>.
5 Ullrich argued that the “[r]esponse levels from Food Safety Authorities (FSAs) were markedly lower than in
the area of product regulation. The low response in the area of food safety betrays a lack of perceived relevance of
the topic. As will be shown, for many authorities, e-commerce marketplaces, though essential actors, remained
beyond reach from regulatory or resource reasons.” See Ullrich, supra, note 2, at p 421.
6 ibid at p 37.
7 ibid at p 45.