

OVERVIEW OF THE WORLD EXPERIENCE IN THE SPHERE OF GLOBAL DIGITAL PLATFORMS ACTIVITY REGULATION IN NATIONAL JURISDICTIONS

Executive Summary

The Overview contains the analysis of the current situation in the field of global digital platforms regulation. Political trends and legislative practices have been presented, final conclusions about typical problems and future goals are made.

The information is primarily targeted at professional audience – senior executives of relevant organizations. Moreover, the presented information may be useful for a wide range of specialists from different international organizations, state institutions, national regulatory and supervisory authorities, professional communities and associations, research and development organizations, IT companies, and other market stakeholders.

The Overview initially provides some approaches to the definition of a “digital platform” (OECD, European Commission, Eurasian Economic Union, UNCTAD).

The authors focus on strengthening of the perspective of digital platforms in the world. In 2018, four largest digital platforms – Amazon, Apple, Facebook, and Google – forced oil and gas as well as telecommunication companies out of the list of the world's largest corporations by market capitalization. The basic statistics on Facebook, Google, YouTube, Twitter, Amazon, Apple, Microsoft, WhatsApp, Instagram, WeChat has been presented, the general analysis of global consequences of digital platforms growing influence has been made. Among the variety of digital platforms, the Overview mainly focuses on regulation of social networks and digital trading platforms.

The Overview considers the international dialog on Internet and digital platforms governance, the significant initiatives of international organizations, professional and integration associations as well as key achievements and problem areas regarding establishment of legal framework for responsible conduct of global digital platforms in the international and regional online markets are presented. In particular, initiatives and specific instruments suggested by UN (UNCTAD, ITU, WIPO), EU, OECD (BEPS 2.0 concept), ICANN (Internet Corporation for Assigned Names and Numbers), WTO, ASEAN, the Asia–Europe Meeting (ASEM) are given sufficient coverage.

One of the sections of the Overview describes actual aspects of the use of artificial intelligence (AI) technologies in digital platforms activities. AI systems in the Internet industry currently enable to perform targeted advertising, recommend the most seller’s marginal products when posting them online, provide access to information on users' status, habits, lifestyle, financial position, view of different life aspects. The section also describes the key issues which participants of the digital economy in the field of AI development and application will face within the next few years.

The major part of the study is devoted to analysis of policy, management mechanisms, and legislation specifics in the following jurisdictions: Russia, Germany, France, Turkey, Great Britain, USA, Brazil, Japan, China, South Korea, India. The following aspects have been considered in relation to these countries:

- overview of key market state and business representatives (legislative and supervisory authorities, other relevant authorities and organizations, largest companies and platforms);
- national legislation and regulatory instruments applied to the Internet governance and activities of digital platforms, including:
 - competition and tax legislation,
 - e-commerce consumer protection legislation,

- instruments in the field of personal data protection,
- measures which oblige digital platforms to establish branch offices in national jurisdictions,
- business strategies of digital platforms in the selected countries;
- issues and interaction practices of online market participants, including economic and political impact.

The Overview revealed the areas which most notably require changes for comprehensive and balanced solution of management and regulation issues, besides that, some significant examples of negative consequences of digital platforms domination in specific online market segments have been demonstrated.

FINAL CONCLUSIONS have been made as well.

1. Within the framework of the technological revolution and the overall globalization process, digital platforms are becoming an important instrument of economy, politics, and social transformation, they have a significant impact on development of our civilization. Based on this information, shaping approaches and regulation standards to be applied to digital platforms will play the most important role at global and national levels and to a great extent determine the lifestyle of people and contours of the new world order in the context of the digital society.

2. Regulation of digital trading platforms, social networks, other large-scale platform solutions covers a wide range of issues in the field of ICT, information environment, infrastructure, and software development, data governance. Taking into account an active application of artificial intelligence (AI) components in Internet technologies, a major concern is the technical implementation of mechanisms which ensure protection of human rights and freedom as well as provision of guarantees of fairness, unbiased and equal access to information.

Nowadays, more than a half of the world population are users of digital platforms, media and social networks. Regulation of digital giants activities is becoming a more and more complex and sensitive issue in the context of diverse management policies and agendas offered by different governments. At the same time, diversity of digital platforms poses some additional challenges in the process of development of models and approaches to regulate them and identify their impact on economy. The lack of consistent typologies and classifications of platforms poses additional difficulties for regulators, for instance, when competition authorities are to determine the market power, or tax authorities are to determine territorial connection.

In accordance with the Digital Economy Report 2019 by UNCTAD, the main value creation driving forces in the digital era are digital data and platformization. As a result, understanding of interaction of these two trends and their impact on value creation and profit distribution is important to identify the impact of digital platforms on the economy. For instance, in the short term it is offered to focus together with the business community on improving of regulation standards at the intersection of online and offline business models (for instance, e-commerce). Indicators reflecting the impact of digital platforms on social interests and the state impact on these processes are also being developed.

3. The most important factors in case of development by governments of regulation models for digital platforms are:

- development and protection of national economic markets,
- ensuring digital sovereignty and technological independence,
- social stability and support of national political reforms by citizens,
- ensuring rights and freedoms of citizens, including personal privacy issues.

4. It should be noticed that at this stage while “rules of the game” are being shaped, the role of largest international digital platforms as well as giant corporations from the USA and China is decisive. The relevant standards and codes of conduct are mainly determined by international digital corporations, which start outcompeting oil and gas megacorporations by their economic impact. Amazon, Google, Apple, and Microsoft are currently Top-4 most expensive companies in the world with the overall revenue of above [900 bln USD](#) by the results of 2019 (by comparison, the Russian budget in 2019 amounted to about 309 bln USD).

5. National practices in 11 reviewed countries and analysis of modern trends demonstrate that there is a number of problematic areas associated with the large-scale use of digital platforms in national jurisdictions. Such problems, in particular, can be considered as the following:

- Solution of tax policy problems in the field of digital platforms activities, harmonization of tax and overall legislative landscape in order to protect national markets (tax vulnerability of countries still exists); in many cases digital platforms offer to their users an intangible product or service, which can not be taxed properly; ICT development level enables international corporations to conduct their business from anywhere in the world; as a result, platforms are based in countries with the lowest tax rates which enables international corporations to make additional profits.
- Powers on digital platform management and regulation are delegated to different public authorities and institutes; inter-agency interaction is not efficient enough, regulatory measures and other actions are only taken within the competence of a particular body.
- A lack of the uniform national sovereignty protection procedure, including problems with personal data protection. Absence of balance and consistency of protectionism methods in relation to the legal jurisdiction and national market;
- Ensuring balance between international and local digital platforms in national markets, creating conditions for “cultivation” of national digital giants able to compete with international companies.
- A lack of a reliable regulated dispute settlement mechanism in case of interaction between a national government and an international or a foreign digital platform.
- Difficulties for authorities to monitor all forms of impact and possible manipulation with the national audience.
- Training of highly qualified specialists and development of human competences, including international law issues and tax policy concerning digitalization.

6. International dialog and attempts to search for approaches to classify and harmonize the global regulatory policy are taken place at UN's Internet Governance Forum and the World Summit on the Information Society. Substantive issues of development and security of cross-cutting digital technologies which have direct impact on digital platforms as well, are being discussed at almost all leading international organizations and forums. In some cases, holding such a dialog in parallel at a variety of venues is not systematic enough and disparate. Moreover, scopes of responsibility of different organizations intersect and it is not always possible to ensure coordination and symmetry of positions and solutions.

In this context, development of balanced international framework for digital platforms activities and overall conduct of actors in the digital information environment is becoming more and more relevant. Facing the increasing economic and geopolitical competition among countries, the process of reaching such a comprehensive agreement will probably come across some significant difficulties due to technological and sociocultural distinctions among countries. Regulation models which are being formed in countries already have their peculiarities and

specificities, which may cause problems for further harmonization of international coverage instruments.

Despite this, a step-by-step search of global consensus based on determination of the areas with the highest risk for the society and the most probable damage for national economies could be started. Such “points of common interest” for further development of practical arrangements could be found in priority and the most important areas:

- in taxation harmonization and creation of fair competition (the economic range of goals).
- protection of national sovereignty and interests of citizens (social and humanitarian range of goals). Dealing with these group of problems it is reasonable to leverage already accumulated information and statistics which reflects the most critical national problems mainly associated with destructive and unlawful content on the Internet. Another crucial issue is the personal data management.

While practical dispute solution mechanisms as well as collaboration standards between state and digital corporation are being improved at international level, it will be possible to coordinate various countries positions concerning wide range of issues dealing with digital platforms regulation.