The case for more 'adaptive' tech laws

by **Mathieu Pollet** • 3 HOURS AGO • 8 MINUTES READ

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SNEAK PEEK

— **Tech laws could be a tad more flexible, law professor says.**

— **A question is growing in Brussels: Where is Virkkunen?**

— **The porn revolt: A postcard from the XBIZ Amsterdam summit.**

Good morning and welcome to Morning Tech. It's Mathieu with you today. TGIF. As always, send the hottest tech policy news and gossip to Pieter, Mathieu and Eliza.

DRIVING THE DAY

FRIDAY'S PITCH: Instead of scrambling to make our tech regulations more future-proof, legislators should try to make them more adaptive. That's according to Thibault Schrepel, a professor of law at the University of Amsterdam, who spent the summer reading the EU's latest digital acts — more than 600 pages — and conducted an empirical analysis to measure the flexibility of our rulebook.

Bear with me: What's the difference, you might ask, between futureproof and adaptive? The former, often treated as the guiding principle in lawmaking, tends to rely on overly broad and rigid principles — for a longer shelf life — and pile on a "problem of regulatory capture by the person who voted for the law, who will always be tempted to say that it produced effects that are absolutely wonderful," Schrepel argued.

Why doesn't it do the job for tech? Two words: "Complexity science," the professor said. "Technology is a perfect example of a complex network because, in reality, every technology is a combination of past technologies and the encounter of these technologies, which is sometimes expected and sometimes completely unexpected," he explained.

I**n other words:** Presumed futureproof rules wrongly bet on "the linearity of technological evolution," whereas, in reality, trajectories are unpredictably "chaotic."

The verdict: Despite attempts at flexibility through delegated acts and periodic review, the EU's digital laws remain largely static — and risk aging fast, losing bite, and even

backfiring on the very goals they were meant to serve.

"Very few regulations look at the effects they produce or systematically gather information from the regulated entities," even less so in a format that can be processed automatically, Schrepel said.

Take the AI Act: "The evaluation doesn't cover the entirety of the regulation," he stressed. The very definition of AI, for one, is entirely out of the scope and cannot be revised.

Top tips: To make rules more "future responsive," legislators should adopt the habit of adding more "sensors" to track the real impact of legislation against its original goals, systematically engage with impacted industries to gather their feedback, and effectively process it so it feeds into clear revision procedures, according to Schrepel.

Caveat: Of course, there must be a balance between legal certainty and the adaptability of tech laws. But with Brussels getting into a deregulatory mood, the Commission would clearly benefit from better monitoring the effects of the laws it produces — and scale them up or down accordingly.

TECH GEOPOLITICS

GREENS LAWMAKER SLAMS VIRKKUNEN'S ABSENCE: "Where's Virkkunen?" It's a question Dutch Greens European Parliament lawmaker Kim van Sparrentak asked repeatedly on Thursday in a press briefing with Dutch reporters (and Morning Tech's Pieter, who is a master of the great Dutch language) — in which she criticized the EU's tech chief performance at length.

"As soon as Trump threatens, you don't hear anything at all," van Sparrentak said about Virkkunen's alleged silence in response to the U.S. president's threat to the EU tech rules. She contrasted Virkkunen's approach with that of former Executive Vice President Margrethe Vestager and former Internal Market chief Thierry Breton, who were "superstars" and "in the picture all the time."

Ka-zing: Virkkunen's only vision is "to deregulate and chase the U.S.," said van Sparrentak.

Not the first, not the last (?): The Greens have probably been the most vocal in slamming Virkkunen's approach of staying silent following Trump's threats (in a bid not to politicize enforcement?).

"It would be very much appreciated if the Executive Vice-President for Technological Sovereignty of the European Commission could fight for European democracy," German Greens lawmaker Alexandra Geese, a colleague of van Sparrentak, said at the end of August.

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to connectivity, scale and sovereignty, the big debates are in Brussels. This is the moment to decide if Europe leads the digital race or falls behind.**

PLATFORMS

THE PORN REVOLT: Nothing gets the porn industry more riled than talking about age verification measures, so it was no surprise this was one of the key talking points at the XBIZ Amsterdam summit.

Missing piece: Regulators don't usually show their faces at porn conferences, except for the U.K.'s Ofcom. At XBIZ earlier in September, one of their representatives was supposed to speak on a panel at the Amsterdam conference. A delayed flight prevented them.

Where's the EU? Last year, the EU Commission was scheduled to appear at the Berlin Porn Film Festival but cancelled at the last minute. Instead, it sent a letter expressing its position. That's 'not good enough" said Thomas, of the Digital Intimacy Coalition. Regulators, academics and crime prevention specialists need "representation on the ground."

Read Eliza's postcard from XBIZ Amsterdam here.

DUTCH ELECTIONS IN FOCUS: The Netherlands' consumer authority, tasked with implementing the Digital Services Act, held a workshop earlier this week on the country's upcoming elections. Its purported goal was to remind platforms of their responsibilities.

Interestingly, the role of AI-generated summaries and search results was highlighted by the authority in its readout.

The guest list: Present were Google and YouTube parent Alphabet, Discord (whose EU headquarters are in the Netherlands), LinkedIn, Meta, Microsoft, Snapchat and TikTok. Reddit, Telegram and X were invited but were unable to attend.

ARTIFICIAL INTELLIGENCE

PARLIAMENT'S OMNIBUS SCRAMBLE: The Parliament's top lawmakers on artificial intelligence have called a meeting among them for Oct. 5, to weigh in on the upcoming digital simplification package (which we told you is coming on Nov. 18), two Parliament officials told Morning Tech. The rollout of the law could be tweaked as part of the package. Caveat: the agenda of the meeting could still change.

LINKEDIN STARTS TO USE EUROPEAN DATA FOR GENERATIVE AI TRAINING: From early November onwards, data of European LinkedIn users will be used to train the platform's generative AI models unless they opt out in the settings, the platform has announced on Thursday, previewing an upcoming change of the terms of services. The platform cited legitimate interest as its grounds for data processing.

LinkedIn is not the first platform this year to update its terms of service, allowing for the training of generative AI models, with Meta, WeTransfer, and Vinted having made the move earlier.

AI ADDRESSES ALBANIAN PARLIAMENT: Diella, the world's first virtual and AI-powered minister, addressed her parliament in Albania on Thursday in a bid to quell concerns around whether she was up to her new job. Spoiler: it didn't go well.

Wait, what? Yep. Prime Minister Edi Rama last week appointed Diella, previously the chatbot for the country's citizen services platform e-Albania, as the Minister of Virtual Artificial Intelligence, charged with stamping out corruption in public procurement.

Ok, so what happened? Diella appeared decked out in traditional clothing and standing before a graphic of the Albanian and EU flags on a large digital screen. She took the

opportunity to clap back at criticism from the opposition that her appointment is

unconstitutional. "This has hurt me," she said, adding the constitution talks about duties and she aims to take hers as seriously as her colleagues, "maybe even more so."

"The real danger to the constitution has never been machines, but inhumane actions. I am here to help people", she said.

Rama said that by the end of the first year in government, Diella will be present 'physically' in parliament, although we assume he means on the big screen.

How did the parliament react? Well, the ruling party majority managed to vote to approve the new government, including Diella, but the session ended after just 25 minutes (instead of the scheduled 25 hours, as is usual for the first session of a mandate) as members of the opposition started throwing objects at Rama and the parliamentary speaker.

Safe to say, Diella's future remains a little bit controversial.

AGENDA

COMMISSION: Executive Vice President Henna Virkkunen is in Helsinki, Finland. She will meet with Finnish EU Youth delegates; visit the Save the Children organization; and deliver a keynote speech at the Helsinki Security Forum.

ASIAN TOUR, SEASON 2: Commissioner for Consumer Protection Michael McGrath will head to China in November, he said in an interview with Bloomberg on Thursday. McGrath will engage directly with Chinese authorities regarding the influx of unsafe products into the EU via e-commerce platforms.

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