



CENTER FOR DEMOCRACY
& TECHNOLOGY

A large, solid blue silhouette of the European continent, including the British Isles, the Mediterranean coast, and the Scandinavian peninsula, serves as a background for the central text.

Speech 2.0

Free Expression in the New
“Digital Europe”

March 2015

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I. Introduction



Nearly two million people linked arms along “Via Catalana” in September 2013, their experience captured in an online digital mosaic comprising a billion crowd-sourced pixels.

Image courtesy of assemblea.cat

In 2013, separatists in the autonomous Spanish community of Catalonia launched a campaign to mobilise a 400-kilometer chain of people, linking arms along the Mediterranean coast in a shared expression of support for Catalan independence.¹ Nearly two million people turned out to the protest, inspired by a desire for cultural and political self-determination – and a newfound platform for asserting their agenda. As one journalist commented, the rapid growth of the Catalan independence movement, and the emergence of “Demonstration 2.0” methods of highly organised but distributed grassroots mobilisation, would be “unthinkable” without the Internet.²

Catalans engaged digital activism as part of their political and cultural self-expression. Users convinced major platforms including Twitter and YouTube to support the Catalan language, and successfully lobbied for creation of the .cat domain, the first top-level Internet domain dedicated to a particular cultural and linguistic group.³

The Catalan experience demonstrates how the Internet can support large numbers of engaged speakers using an unlimited array of websites, applications, and online services with low barriers to entry, and without having to rely on traditional media platforms to express themselves. This dynamic online environment allows for more dialogue, more information and cultural exchange, more relevant political engagement, and more individual empowerment – all of which strengthen freedom of expression and democratic governance.

People across Europe have embraced the open Internet and use it to great effect in pursuing new information, expressing their opinions, and engaging in the dynamic digital world of information and ideas. European governments, and a growing number of European technology firms and online services, are using the Internet to promote free expression, political dialogue, cultural exchange, media pluralism,

and a vision of European identity and community.

Promoting freedom of expression for all individuals is a core mission for the Center for Democracy & Technology (CDT), and we believe the Internet plays a pivotal role in enabling individuals’ access to information and opportunities for expression. This paper aims to highlight the many ways that Europeans are using the Internet for the enjoyment of their fundamental right to free expression.

Our overall recommendation for policymakers as they work to address economic, security, and privacy concerns at national and regional levels, is that they should above all seek to preserve and protect the global Internet, an unprecedented platform for innovation, exchange, and free expression. They can do this by:

1. Resisting government censorship of user-generated content, either directly or via intermediaries, and preserving platforms for speech and debate;
2. Encouraging the information society by safeguarding Internet access, and prohibiting all blocking, throttling, and network disruptions;
3. Promoting dissemination of knowledge by fostering new media pluralism and securing the information environment against the chilling effect of surveillance;
4. Advancing the “digital Renaissance” by investing in tools for digitisation and sharing of cultural legacies.

II. Freedom of Expression in a “Digital Europe”

Freedom of expression is one of the essential pillars of a democratic society, and it has been instrumental in the development of the European Union. The Internet in turn has become central to Europeans’ exercise of their free expression rights, including the freedom to receive and impart information and ideas, the freedom to hold opinions, and freedom of the press.

Europeans are embracing the Internet to exchange news and reactions; to access political leaders and launch their own social media campaigns; to preserve cultures and share creative outputs; and to strengthen a sense of community across the EU.

More and more, Europeans are using the Internet regularly to engage in expressive activities.⁴ In 2014, Europe surpassed its target Internet penetration rate of 75 percent a year ahead of schedule for the EU Digital Agenda.⁵ According to Eurostat, the statistical bureau for the European Commission, regular Internet use in Europe has doubled in less than a decade, making Europeans the second-most connected population in the world.⁶ Seventy-seven percent of European households are equipped with a personal computer, desktop, or laptop.⁷

“At a global level, the EU27 is the second largest region behind Asia by number of internet users, with more than 380 million users.”

– Eurostat, European Commission, 2013

Not only are more Europeans using the Internet, but they also use it more often, with almost two-thirds of Europeans aged 16 to 74 connecting daily, compared to less than a third in 2006.⁸ With the rise of high-speed mobile broadband service and devices providing easier Internet access, 43 percent of Europeans now connect wirelessly and while away from the home or office.⁹

The following trends in Europeans’ use of the Internet reveal a dynamic digital society, with individuals’ experience of the Internet improving along with new innovations in mobility, emergence of the “sharing economy”, and the proliferation of interactive platforms and tools:

- **More and more, Europeans are “always on” – connecting to one another through cloud-based services and mobile devices, and integrating the Internet into their everyday lives.**

Proliferation of cloud services and social media in Europe, combined with rapid spread of mobile handsets and smartphones over the last two years, has allowed users to access and share large files

First Principles: Free Expression in European Law

The right to freedom of expression includes the freedom to hold opinions and to receive and impart information and ideas, as well as the freedom of the press, without interference of public authorities and regardless of frontiers.¹

The right to freedom of expression is recognized in the constitutional traditions of the Member States, each of which has ratified the European Convention on Human Rights (ECHR) and the International Covenant on Civil and Political Rights (ICCPR), and has committed to the Universal Declaration of Human Rights. It is also embedded within the law of the Union: With the entry into force of the Treaty of Lisbon in 2009, the right to freedom of expression enshrined in the European Charter of Fundamental Rights of the European Union is addressed to all institutions, bodies, offices, and agencies of the Union and to the Member States when they are implementing Union law.

from different devices and locations more easily, increasing the convenience of private communication and personal information-seeking.¹⁰ As a result, the Internet is becoming more and more integrated into Europeans’ experience of daily life.¹¹

- **Europeans are embracing “Web 2.0” – using tools for self-publishing, collaborating, and information-sharing, and becoming authors of their own online experiences.**

“Web 2.0” represented a fundamental paradigm shift from the early days of the Internet, when individuals accessed and received information from static websites, to the highly interactive web we know today, where users can easily participate and collaborate in the creation of online content and applications through dynamic, interactive platforms for self-publishing, self-expression, and information sharing.

- **Europeans are using the Internet to engage politically and to participate in the production of news and commentary about civic life.**

Europeans are participating in online life as informed citizens, active commentators, and engaged critics. More than half of European Internet users post comments on social media and over 60 percent read the news online.¹² Social networking and other interactive services have climbed in past years, with almost 300 million active accounts in Europe accounting for 40 percent of Europe’s total population in

2014.¹³ Social media and “social news” sites allow audiences to participate in the production, dissemination, and analysis of news events. Politicians and candidates for office are using these platforms to engage directly with their constituents in a more open and transparent manner.

- **Increasingly, Europeans access informational goods and services, including entertainment and educational digital products.**

While online, Europeans use the Internet to access ideas and cultural products in ways that stimulate the digital market and information economy. According to Eurostat, almost 40 percent of online buyers purchased educational or entertainment material in 2011, with 38 percent purchasing books, magazines, and e-learning material, 29 percent purchasing films, and 25 percent purchasing non-gaming computer software.¹⁴

- **Europeans are increasingly reliant on intermediary platforms and other Internet and web services to exercise their freedom of expression.**

Free online expression depends on Internet intermediaries, the businesses that provide Internet access, hosting, and social networking services to support users’ communications. Increasingly, Europeans depend on remote storage of even their private data, as cloud computing allows them access to their personal notes, drafts, journals, and photographs across a range of mobile devices.

- **Europeans are innovating with new technologies and web-based applications, building culturally and linguistically relevant communications tools and platforms.**

An increasing number of Europe-based intermediaries are beginning to provide culturally and linguistically relevant platforms to European users, incorporating new translation and sharing technologies to better reflect European users’ needs and interests. Limits on legal liability for content hosts, which stem from the E-Commerce directive, have encouraged Europe-based intermediaries to grow these services.¹⁵

Policymakers can promote these and other opportunities for Europeans to enjoy their right to

Popular EU platforms for speech

A new generation of European-made services and platforms are diversifying the web, offering Europeans more opportunities to network locally or within a distinct community, and to seek out, exchange, or disseminate information and ideas that are more relevant to their own lives and experiences.

Widely used services include:

Social media: Viadeo (France), Copains d’avant (France), Hyves (Netherlands), Tuenti (Spain), Naszalaska (Poland), eBuzzing (UK), Badoo (UK); Mumsnet (UK), Studivz (Germany), Vkontakte (popular in Belarus, Ukraine, Russia), Odnoklassniki (Russia).

Blogging and self-publishing services: Mumsnet (London), forumfr (France), PoliticalWorld (Ireland), Dailymotion (France).

Activism platforms and “social news” sites: OpenDemocracy (UK), FOK! (Netherlands), Suomi24 (Finland), Flashback (Sweden), Virato (Germany), Wykop (Poland), animachine (Germany), Meetup (popular in Italy).

Content-sharing: Spotify (Sweden), Shazam (UK), Europeana (Belgium).

Communications and language technologies: Skype (Estonia), Babbel (Germany), Mingle (UK).

Web and app search: Criteo (France), GetJar Networks (Lithuania), Aptoide (Portugal), Seznam (Czech Republic), Bing (widely used in the UK and France).

EU policy debate: CafeBabel, Debating Europe, Citizens Dialogue.

freedom of expression by working with intermediaries to preserve an open Internet – one that minimizes the influence of telecommunications and Internet access gatekeepers, promotes the hosting capabilities of online speech platforms, protects users’ data, private communications and expressive activities, and maximises user empowerment.

III. Civic Engagement

Increasingly, Europeans use the Internet and the many communications tools and platforms it supports as a key component of political participation – to engage in public debate over local, national, and EU-wide policy issues, and interact with their political representatives or candidates for office.

Assembly and Debate

Campaigners across Europe have long used the Internet as a platform for mobilising action, from the Hungarian demonstrations against new media laws and tuition cuts,¹⁶ to massive protests spanning Germany and Eastern Europe opposing the controversial Counterfeiting Trade Agreement, ACTA.¹⁷ Most recently, the #JeSuisCharlie Twitter campaign demonstrated the power of individuals using social media to translate online organising into offline mobilisation, as millions of people gathered to march in Paris in solidarity with those who died exercising their right to free expression and belief.¹⁸

Beyond mobilising demonstrations, Europeans use the Internet and social media to sign petitions, contribute donations, identify themselves with causes and organisations, and launch their own issue campaigns.¹⁹

Research suggests that “micro-activism” on social media platforms is becoming an important way for young Europeans to explore their beliefs and develop political identity in the digital age.²⁰ Discussion groups allow communities to form around specific causes or policy debates. Tools like the networking application Meetup help communities of interest formed online, such as Italy’s 15-M movement, to meet for offline political events.²¹ Savvy United Kingdom campaigners use the massive Mumsnet discussion forum to drive actions on issues ranging from healthcare equality to libel reform, and to bring opposing sides together to debate controversies as diverse as public breastfeeding and Scottish independence.²²

Discussion platforms are bringing together Europeans across borders, cultures, and positions. Notably, in social networking sites, political blogs, and digital newspaper comments sections, the Internet has

become “an integral part of the political space” in which EU legitimacy is debated.²³ The European University Institute’s “Debating Europe” initiative has attracted more than 900 policymakers to debate European integration and major issues confronting contemporary European society with each other and citizens.²⁴

In the wake of deadly attacks in Paris and Copenhagen, some European leaders and ministers have called for direct censorship of hateful or “extremist” speech by Internet access providers and operators of online platforms.²⁵ Any restrictions on the freedom of expression must comply with international human rights standards regarding acceptable limitations to the right, and thus must be provided by law, necessary to achieve a legitimate aim, and a proportionate, least restrictive means for achieving that aim.²⁶ Burdening the intermediaries that host online speech and debate would further undermine Europeans’ freedom of expression online, limiting the number of available forums for combatting the very intolerance and hate that these measures seek to suppress.²⁷

By encouraging norms of pluralism, moderation, and respect, individuals engaging in uncensored debate can combat negative stereotypes, expose harms caused by hate speech, and share counterpoints and alternative views – facilitating greater dialogue and deeper understanding across communities. Policymakers must recognise that content censorship rules and other limits on interactive speech forums limit citizens’ opportunities to understand one another, challenge intolerance, and engage in debate and counterspeech.

Policymakers should reject calls for government censorship of user-generated content, either directly or through Internet intermediaries.

Because the Internet has made it possible for hate speech to proliferate much more easily, it becomes all the more important for each individual to take on the responsibility to denounce hate speech publicly.”

~Frank La Rue, former UN Special Rapporteur, 2012

Political Engagement and Policy-Making

Increasingly, voters are using social media to engage with political leaders and candidates. Younger voters in particular are avid users of social media and use it for political networking and discussions of current events and policy debates²⁸ – much as coffee houses were used by Enlightenment-era youth.²⁹ Indeed, across countries and voting demographics, the Internet is an important and growing force in European electoral politics.³⁰ In the 2013 Eurobarometer study on Participatory Democracy, 28 percent of respondents reported using social media in the previous two years to directly influence decision-making. In eight European countries, respondents said the Internet and social media was the “main avenue” for expressing their view on a public issue.³¹

Political actors in turn are using the Internet to engage directly with these online constituencies, but in a way that is transparent – which can help them to build a following, develop rapport, and even generate responsive policy ideas.³² According to the communications firm Burson-Marsteller, “More MEPs [Members of European Parliament] are on Twitter than ever before ... and almost half are tweeting every day”.³³

Like censorship mandates, laws that impose liability on social networks and other speech platforms



Vice-President for the Digital Single Market Andrus Ansip, Commissioner for Digital Economy & Society Günther Oettinger, and Toomas Hendrik Ilves, the cyber-savvy and Twitter-proficient president of Estonia, are increasingly involved in political debates with citizens on social media. Prominent “Tweeting” EU Parliamentarians include MEP Marietje Schaake (Netherlands), MEP Jan Philipp Albrecht (Germany), and MEP Pablo Iglesias (Spain). At the national level, new entrants have leveraged micro-blogging platforms and networks to communicate, recruit, and organize campaigns, allowing them to become viable challengers to establishment parties and candidates in the space of one or two election cycles. The rise of Beppe Grillo from a popular Italian comedian and blogger to the leader of the 15-M, “Movimento 5 Stelle”, party is a prominent example of this new kind of campaigner.

for the words of their users effectively cast these intermediaries in the role of censor and create strong incentives against hosting others’ speech. Such gatekeeping obligations, when technically feasible, create massive burdens in time and cost, while chilling users’ speech.³⁴ Service providers may shy away from allowing any user-generated content, discouraging innovation and depleting online speech to the detriment of all users.

Policymakers should protect intermediaries from liability for others’ speech to ensure a diversity of platforms remain open for discussion and debate.

IV. Securing the Information Society

As national governments work to bring high-speed Internet to more of their citizens, policymakers should have a renewed focus on ensuring that all Europeans benefit from the opportunities provided by an open Internet, and that none are excluded or needlessly cut out. Pluralism in new media should be supported. Mass surveillance programs must be reformed to counteract self-censorship and the potential to chill Europeans’ right to receive and impart information.

Ensuring Access to the Information Environment

Access to information technologies, shared knowledge resources, and opportunities for expression and online engagement are foundational requirements for participation in the modern digital society. Noting the critical position that the Internet occupies, Frank La Rue, the former UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, concluded that, “facilitating access to the Internet for all individuals, with as little restriction to online content as possible, should be a priority for all States”.³⁵

At the EU and national level, governments are working to close the digital divide by providing communities with training in computer literacy and digital skills, and by prioritising penetration of high-speed Internet and mobile access.³⁶ As Europe pursues its impressive broadband agenda, however, it must ensure that no citizens are disproportionately excluded or cut off. Despite the recent surge in European Internet usage, significant discrepancies persist across the EU. In Greece, Romania, Portugal, Italy, and Bulgaria, roughly one-third of citizens have never accessed the Internet.³⁷ Once leaders in broadband and public Wi-Fi, many

European nations are beginning to lag behind other countries in facilitating access and demand for high-speed public Internet.³⁸

Alarming, a number of European policy leaders have also explored mechanisms by which individuals may be suspended or “cut off” from the Internet, often for alleged violations of civil laws such as copyright protection.³⁹ Suspending Internet access is a severe imposition on individuals’ free expression rights that is difficult to justify as a “least restrictive” means. Likewise, large-scale network shutdowns – whether of a national network or a local or regional service – are by definition disproportionate, particularly as disruptions impede access to emergency services and other necessary communications.⁴⁰

Finally, government efforts to increase Internet access are incomplete if network operators can dictate the content and services that users may seek and receive via the Internet. Blocking or throttling of Internet traffic threatens Europeans’ right to receive and impart information of their own choosing.⁴¹ Such network operations also deter companies from launching new platforms and web services for fear that they will have to negotiate with each access provider to guarantee delivery of their traffic to a sufficient number of potential customers to make a new platform or service viable.⁴² European network operators and access providers must be required to provide their subscribers with the ability to choose for themselves the content and services they access.

Complete access to the full benefits of the Internet requires removal of barriers to high-speed Internet, and affirmative policies banning discriminatory network operations, network disruptions, or cut-offs.

Promoting New Media Pluralism

Digital media is often framed as in irrevocable tension with traditional print and broadcast media, as it offers substitutes to subscription and advertising funding models and can challenge longstanding practices governing intellectual property, content sharing, ownership, and market competition. Some observers are also concerned that increased focus on amateur reporting in media – especially in regards to traditional newsgathering and dissemination – poses a threat to the journalism profession.⁴³ But it is important to resist oversimplifications such as these and to understand digital as an integral, growing part of the changing landscape for all media.

The innovation of easy interactivity that characterises

“Web 2.0” has the potential to revolutionise journalism. Emerging “social news” websites such as Virato.de,⁴⁴ as well as the commentary spaces of more traditional online publications like Guardian.co.uk and Le Monde.fr,⁴⁵ host lively user-generated discussions on the issues of the day – allowing readers to interact directly with journalists, and even to participate in reporting by providing additional views, context, and fact-checking, thus serving as unofficial “watchdogs” of the press.

The migration to digital platforms has also enhanced the resources available to journalists – professional and amateur alike – for data tracking, news-gathering, secondary research, low-cost or self-publishing, and crowdsourced fundraising.⁴⁶ Blogs and wikis about journalism allow reporters to share the traditions, tools, and techniques of their trade with one another and with “citizen journalists”.⁴⁷ These communication and networking tools also provide journalists with increased access to experts, whistleblowers, and other primary sources, increasing public accountability.⁴⁸

These qualities of openness and accessibility have the potential to vastly expand the opportunities for voices traditionally excluded from mainstream media to make themselves heard. As the former Special Rapporteur explained in his freedom of opinion report, diversity of views and beliefs is

*“a crucial element in ensuring equal participation in public debate by all communities in multicultural societies and in enabling their narratives and perspectives to become part of national debates”.*⁴⁹

An unprecedented outlet for marginalised voices and perspectives, the Internet can play a vital role in fostering greater understanding in society.⁵⁰

Policymakers can support pluralism in new media by encouraging innovation in reporting and funding models, protecting emerging forms of citizen journalism, and reforming copyright to respond to the practice of journalism in the digital age.

Preventing the Chilling Effects of Surveillance

In the era of digital journalism and online news services, electronic surveillance poses a particularly acute threat to free expression in democracies. Mass surveillance of electronic communications and persistent threats from malicious private actors induces self-censorship by journalists, their sources,



A painting as part of Europeana 1914-1918, a collection of untold stories & official histories from World War I.

Image courtesy of europeana1914-1918.eu

and their audiences.⁵¹ Responding to these threats requires the use of strong encryption technologies by Internet service providers (ISPs), and strong legal protections to encourage their mass adoption across the EU.

Through Edward Snowden's disclosures to the Guardian, the Intercept, and other news agencies, it is now known that – along with the United States – European governments have deployed systems of mass electronic surveillance to monitor journalists' contact with sources, intercept their communications, and in some cases obstruct their freedom of movement, launch criminal investigations or threaten legal action against journalists based on unlawful electronic surveillance.⁵² Governments also act directly to compel intermediaries to disclose user data by requiring that digital networks and communications infrastructure be designed to enable intrusion by the state. As the former UN Special Rapporteur noted in a 2013 report on the relationship between surveillance and free expression, "Increasingly, States are adopting legislation requiring that communications service providers allow States direct access to communications data or modify infrastructure to facilitate new forms of State intrusion".⁵³

A number of researchers have documented the contemporary chilling effects of mass surveillance on writers and journalists. Human rights organisations have reported on the chill faced by journalists who have professional ethical obligations to maintain the security and confidentiality of their communications with sources.⁵⁴ An international survey in 2014 found that one in three writers in liberal democratic countries "had avoided writing or speaking on a particular topic, or had seriously considered it, due to concerns about surveillance".⁵⁵

The chilling effects of potential scrutiny impacts not only those who speak – journalists and their sources – but also those who seek and receive information. When a person reads the news online, drafts unpublished posts in her social media account, makes a purchase from an online book store, searches for stories, or clicks a link to check an article's source, she

is engaged in expressive activity that is nevertheless private in nature. The right to seek out information and to develop one's own opinion can thus be chilled by the threat of surveillance and scrutiny.

Finally, in the digital age, most of these expressive activities of readers and journalists are potentially exposed to a greater variety of third parties than in the past, because all Internet-based communication necessarily involves and depends upon intermediaries. For these reasons, the chilling effects of electronic surveillance are further compounded when governments can simply use intermediaries' technical control to spy on their users.

Mass electronic surveillance by governments and state action to compel intermediaries to facilitate surveillance represent a significant threat to the fundamental rights to privacy and freedom of expression. *States must reject mass surveillance of electronic communications and promote the use of strong encryption to protect journalists, their sources, and their audiences in the digital age.*

V. Embracing a "Digital Europe"

Recent years have seen massive institutional mobilisation in Europe around an innovation economy and a digitised cultural heritage. These important trends are expected to have significant ramifications for creators and innovators across Europe.

Europe's "Digital Renaissance"

An EU-driven project to digitise Europe's masterpieces and out-of-print works, and to preserve "born digital" content, seeks to enrich Europe's information economy and inspire a new generation of creators and cultural innovators.⁵⁶ This active preservation of European knowledge, histories, and aesthetics is known collectively as Europe's "digital Renaissance".⁵⁷

In 2006, the European Commission identified digital

preservation – “digitisation” – as part of its vision of “Europe 2020 and beyond”.⁵⁸ In a report called “The New Renaissance”, the Commission’s Comité des Sages reflection group remarked on the urgency of the need to digitise Europe’s most important cultural assets:

For centuries, libraries, archives and museums from across Europe have... preserved and provided access to the testimonies of knowledge, beauty and imagination, such as sculptures, paintings, music and literature. The new information technologies have created unbelievable opportunities to make this common heritage more accessible for all.

~European Commission, “The New Renaissance”

The European Commission has also identified digitising the assets of libraries, museums, national galleries, and private collections as a priority, noting that citizens’ ability to access their cultural inheritance is essential for future growth in Europe’s cultural and creative capacities.⁵⁹

In 2008, the Commission launched Europeana, Europe’s portal to an EU-wide digital library, museum, and archive.⁶⁰ Collaborating with cultural institutions and national libraries, Europeana supports projects to digitise public domain works and make them available in a single, multilingual database accessible online throughout the EU. The Commission has committed to efforts to digitise Europe’s entire body of public domain works by 2025.

Europeana also works with national governments to digitally preserve and make available for re-use “orphan works” – out-of-print or out-of-commerce books and journals for which unresolved copyrights and trans-border licensing issues create barriers to re-use or republication. The Commission’s proposal for an Orphan Works Directive would permit stakeholders to enter agreements for large-scale digitisation of orphan or out-of-print works and for re-assigning or recapturing of intellectual property rights where appropriate.⁶¹

Finally, digitisation technologies have expanded capacity for real-time “web archiving” – use of web crawling, data extraction, and text mining to gather and preserve dynamic online content for current and future generations. Working with Europeana and the European Commission, national libraries crawl

the web and preserve content, digital images, video, sound, digital art, games, and websites that often have no offline counterpart.⁶² Internet archiving of “born digital” content allows researchers to safeguard material in the public record from deletion or hyperlink decay, increasing the fidelity of Internet citations, and preserving for the future samples of the dynamic and fast-evolving contemporary European culture that exists only on the Internet.⁶³

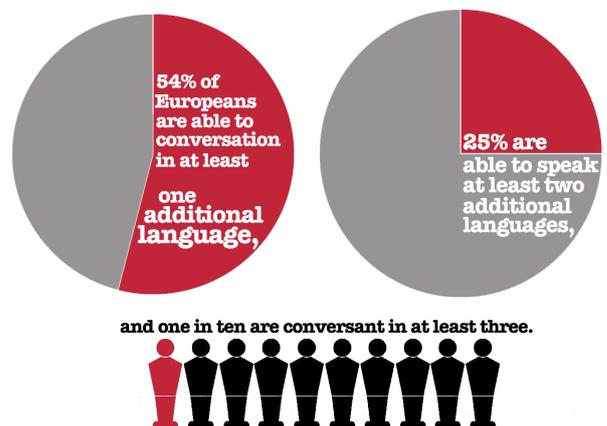
These massive archiving efforts seek to enrich the public domain and stimulate Europe’s creative industries, giving citizens of Europe – and of the world – access to immense troves of art, literature, scientific research, and media. The European Commission praised digitisation efforts as an important building block for Europe’s creative industries; as a stimulator for products and services in the tourism, advertising, design, and education sectors; and as a driver of innovation in new digitisation and archiving technologies.⁶⁴

Despite these enormous gains, however, some European intellectual property regimes can place limits on the full impact and enjoyment of Europe’s “digital Renaissance”. To realise the entire social, cultural, and economic value of the EU’s unprecedented digitisation efforts, law must provide protection for creators who build upon the works of others and create stronger incentives for digital innovations that support their creative output.

Policymakers should protect creative re-uses of cultural content and invest in cultural transmission and innovations in the “sharing economy”.

Digital Language Barriers

Some of Europe’s most important cultural assets are its 23 official languages and more than 60 additional spoken languages. A Eurobarometer study on linguistics reported that 19 percent of Europeans are bilingual, 25 percent are trilingual, and 10 percent speak four or more languages.⁶⁵



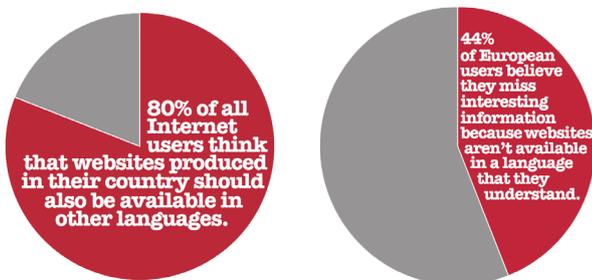
Language, of course, is intimately tied to the right to freedom of expression: Individuals can most fully enjoy their fundamental rights to receive and impart information when it is made available to them in their native tongue. As a study by the Internet Society, UNESCO, and the OECD found,

*“the content that is most important to people is typically in their own language and is relevant to the communities in which they live and work”.*⁶⁶

Access to local-language content supports Europeans’ enjoyment of other rights, including political expression, access to education, and participation in social and cultural life.

The Internet can provide important opportunities for self-expression, knowledge-sharing, and cultural preservation in local languages. Low barriers to entry allow native speakers to develop and share information and opinions through blogs, personal websites, video, and social media.⁶⁷ Social media may expand opportunities for native speakers to use and teach their minority languages.⁶⁸

Europeans have unique interests in online linguistic diversity: 44 percent of European users believe language barriers exclude them from relevant information and opportunities on the Internet, and up to 80 percent agree that websites should be available in more than one language.⁶⁹



– Met-Net, 2011

Respect for linguistic and cultural diversity is a foundational principle for the EU,⁷⁰ and a number of states as well as the United Nations have adopted official strategies for promoting a multilingual cyberspace.⁷¹ Many government and private-sector efforts have also focused on the development of technological solutions that can help to bridge language divides across Europe.⁷²

Language Tools for a European Community

Europe’s multilingualism is a key cultural asset, but imposes barriers to individual exchange and the promotion of a sense of community in Europe. To overcome these multilingual barriers, the EU invests significantly in interpretation, translation, subtitling, “dubbing,” and other language services.

All official EU documents are translated into all 23 official languages, and all of these languages may be used and interpreted in real time by speakers in the European Parliament.⁷³ The Multilingual Europe Technology Alliance (META) observed that “Without the assistance of technology, mastering 23 official languages and 60 unofficial languages is an insurmountable obstacle for Europe’s citizens, economy, scientific progress, and political debate.”⁷⁴

The current generation of language technologies (LTs) are central to cross-border European cultural and knowledge exchange, through subtitling, movie dubbing, and translation of books and periodicals, and direct communication between governments and citizens. LTs are also used in a growing number of service sectors, ranging from online shopping and speaker-verification for banking and financial services, to automobile navigation and tourism.⁷⁵

State of the art LTs consist of technology-assisted learning and translation technologies including “intelligent content” products that combine robotics, machine-learning software, and “crowdsourcing” language-collection techniques. These LTs, programmed to “learn” language by interfacing with human users, are being incorporated into transcription devices, predictive texting algorithms, personal assistant programs, and Interactive Voice Response services for customer-facing businesses.⁷⁶ The next generation of adaptive “intelligent” LTs could open up new possibilities for simultaneous or real-time communication – among people and between humans and machines – in multiple languages.⁷⁷

Technology experts predict a transformation towards a “conversant” Internet, which integrates speech-recognition and machine-learning LTs with the body of words and sentences culled from the Internet – from blogs, chat rooms, social media sites, and other dynamic, natural-language forums where users interact with one another and with computers.⁷⁸ These “conversant” texts could then be combined, using computational linguistics, with texts in other languages, creating possibilities of multilingual real-time telephone calls.⁷⁹

Preserving minority languages and improving the accessibility and relevance of the Internet are important outcomes of advances in LTs. Language-learning software such as Babble⁸⁰ and Mingle⁸¹ are being deployed as tools for integrating newly arriving immigrants and their families. Language-processing tools such as Wikitongues and Welsh Twitterati have already helped minority-language speakers connect

and build cross-border networks of language learners and native speakers.⁸² EU initiatives are working to expand on these services.

These next-generation LTs will also reduce the EU's costs of preserving multilingualism by lowering the expenses of interpretation, translation, subtitle, and dubbing. In addition to their direct market impact, advanced LTs will allow for a more integrated Europe across government, academic, business, and creative sectors, and improve opportunities for speakers of less-commonly taught languages to share their perspectives with the world.

Europe should invest in technologies that promote free expression and communication across the Union, particularly language technologies.

VI. Policy Recommendations for Maintaining a Free and Open Internet in Europe

Many of the most pressing policy challenges that governments face have a nexus with online content. Governments must take particular care that their efforts to address issues such as privacy, cybersecurity, and national security do not place disproportionate burdens on individuals' rights to access information and express themselves online. As the Human Rights Council has affirmed, "The same rights that people have offline must also be protected online".⁸³ These are an especially important consideration as Europe develops policy responses in the wake of the terrorist attacks in Paris and Copenhagen. Any limitation on speech must be demonstrated to be both necessary and proportionate – that is, the least restrictive means required to achieve the purported aim.⁸⁴

As discussed, intermediaries have a special role to play in the information society. The particular challenge of the Internet is that, because all Internet-based communication necessarily involves and depends upon intermediaries, Internet users' communications may be influenced by a number of third parties as a matter of course. Intermediary control over individuals' ability to access the Internet, enjoy its full range of content and services, and engage in online life without fear of scrutiny, must be defined and limited to ensure free expression is preserved.

Taking these features of the Internet into account, the following recommendations aim to provide policymakers with a guide for preserving the Internet as a platform for free expression in Europe.

Reject government censorship of online content, either directly or through intermediaries, and protect platforms for speech and debate.

Reject efforts to censor online content. Content blocking, filtering, and takedown mandates remain some of the most serious threats to freedom of expression online. Policymakers must recognise and affirm that "the same rights that people have offline must also be protected online, in particular freedom of expression".⁸⁵ Hence, policymakers must ensure that an appropriate balance is struck between states' desire to suppress hateful, distasteful, privacy-intruding, or defamatory speech, and the right of Internet users to voice criticism, access diverse views and opinions, and engage in debate. Any limitations on freedom of expression may only be imposed if they are appropriate, proportionate, and necessary within a democratic society.⁸⁶

Governments should not require intermediaries to act as content gatekeepers. CDT and other digital rights advocates around the world have long emphasised the crucial role that limitations on intermediary liability play in protecting free expression online.⁸⁷ Gatekeeping obligations, such as requirements that intermediaries filter or block access to content, force intermediaries to monitor or limit how users access or post material.⁸⁸ Notice-and-takedown requirements similarly put a legal burden on intermediaries to respond to notices of potentially unlawful content; any such obligation must be clearly and narrowly defined, with clear guidance as to what constitutes valid notice, narrowly tailored and proportionate remedies, and safeguards to mitigate the risk of abuse.⁸⁹ As a recent comprehensive report on Internet intermediaries and freedom of expression for UNESCO recommended, "Legal and regulatory frameworks should [] be precise and grounded in a clear understanding of the technology they are meant to address, removing legal uncertainty that would otherwise provide opportunity for abuse or for intermediaries to operate in ways that restrict freedom of expression for fear of liability".⁹⁰

Government orders to restrict online content must be transparent. Policymakers should ensure that governments disclose information about content removal demands they make, including the aggregate number of demands and the specific legal authority for each, as well as the number of user accounts and the type of content affected.⁹¹ Governments should also enable private entities that host user-generated content to report on the content removal demands

they receive. Governments must not use informal pressure to impel intermediaries to remove content and should not use content platforms' own flagging systems to achieve the removal of content that is protected by law.

Provide affirmative protections for intermediaries to enable free speech and open debate. Like gatekeeping obligations, the burden of legal liability for their users' speech reduces intermediaries' willingness to host user-generated content, leads intermediaries to block even lawful content, and inhibits innovation.⁹² Protecting intermediaries from liability for the expressive actions of third parties expands the space for online expression, encourages innovation in the development of new communications services, and creates more opportunities for local content, thereby supporting development of the information society. As the former UN Special Rapporteur on Freedom of Expression noted, "Censorship measures should never be delegated to a private entity, and [] no one should be held liable for content on the Internet of which they are not the author".⁹³ European policy leaders should be particularly concerned with protecting platforms for diverse news and views, especially those advancing public dialogue on difficult issues or serving marginalised communities.

Encourage the further development of the information society by safeguarding Internet access, and prohibiting blocking, throttling, and network disruptions.

Facilitating access to the Internet for all individuals, with minimal restrictions on the availability of online content, should be a priority. Member States' ongoing efforts to close the digital divide are a positive step. Policymakers should prioritise achieving increased penetration of fixed and mobile broadband Internet access.

Protect Internet access by prohibiting termination of Internet services for reasons of public safety, as punishment, or as a remedy. Restrictions or disruptions to network services constitute prior censorship – removing access to communications channels or platforms for expression prior to any unlawful communication. By their nature, prior censorship is disproportionate and overbroad, and among the worst forms of government censorship.⁹⁴

Adopt strong Internet neutrality rules that protect access to the Internet and integrity in the information infrastructure. Complete access to the full benefits of the Internet requires additional affirmative policies banning network disruptions or cut-offs and safeguarding Internet neutrality.⁹⁵ Strong

Internet neutrality rules will ensure that users, not Internet service providers, decide what information they receive and share and which applications and services they use. Strong Internet neutrality rules will also better enable small businesses to compete with larger, established content and service providers. Policymakers should enact strong, clear EU Internet neutrality rules in any proposed telecommunications single-market regulation.⁹⁶

Protect the freedom of information by fostering pluralism in new media and preventing the chilling effect of surveillance.

Reform copyright laws to facilitate the dissemination of knowledge in the digital age and provide flexibility for services that share information. Recent efforts by European governments to recognise and enforce "ancillary rights" for traditional mass media, news services, and websites, which require licensing or compensation by competitive news aggregators and other indexing and re-posting services, undermine information sharing in the digital age and impair the free flow of information.⁹⁷ News aggregators and interactive "social news" platforms play a valuable role in the information society, however, by connecting citizen journalists and publishers of all sizes with audiences who care deeply about what they have to say. They can also serve as an important conduit for independent bloggers and citizen journalists to make snippets of their works freely available to potential audiences, driving traffic to their sites.⁹⁸

Promote media pluralism by encouraging innovations in new media and information sharing. The web is built on the capacity to link information sources together; limitations on the right to link undermine the public's ability to access news stories and to share information about culture, politics, or current events on the Internet. Laws intended to protect privacy or copyrights can impose significant burdens on intermediaries – including search engines, link aggregation sites, and social media platforms – or individual authors that provide links to other authors' information and commentary. Policymakers can further promote media pluralism by reducing barriers to entry for new media services, particularly those serving excluded communities, and lifting burdens on traditional news publishers as they adapt to the information-sharing digital environment.

Prevent the chilling effect of indiscriminate surveillance by prohibiting mass surveillance. Pervasive monitoring of individuals' communications violates the freedoms of expression and association

and the right to privacy.⁹⁹ In the wake of direct attacks on free expression in Europe, governments must ensure that security efforts not only protect but also strengthen and advance the free expression rights of all. Mass surveillance programs must be halted and any proposals for new or increased communications surveillance powers must be carefully scrutinised for their effects on privacy and free expression rights.¹⁰¹ Electronic surveillance laws and policies must be targeted, proportionate, and subject to mechanisms of oversight.¹⁰²

Promote widespread use of encryption by all information-sharing platforms and other intermediaries. Protecting all individuals, including journalists, their sources, and their audiences from the chill of unwanted surveillance is essential for protecting an educated and informed citizenry capable of self-governance in a democratic society. European policymakers should guarantee users' rights to strong encryption of their online communications and expressive activities to protect information seeking and knowledge sharing within the EU, and to promote the rights to privacy, freedom of expression, and access to information worldwide.¹⁰³

Promote transparency in the use of targeted surveillance programs. Governments should make publicly available the laws and legal interpretations authorising electronic surveillance or content removal, as well as report the aggregate numbers of requests, and the number of users impacted.¹⁰⁴ Transparency is a necessary first step in supporting an informed public debate on whether domestic laws adequately protect individuals' rights to privacy and freedom of expression.¹⁰⁵ Governments should also permit Internet and telecommunications services to issue analogous reports.¹⁰⁶

Advance the digital Renaissance by investing in tools for digitisation and sharing of cultural legacies.

Invest in technologies that promote free expression and communication across the Union, particularly language technologies. Europe's leadership in mass digitisation efforts and in encouraging the rediscovery and use of orphan works is impressive.¹⁰⁷ Initiatives such as Europeana hold great promise for artistic and cultural progress, and the potential to drive innovation and investment in new digital tools and platforms that allow the creative industries to thrive. These developments increase not only the potential pool of uses and users for orphan works, but also the number of creative works that might fall into "orphan" status in the future.¹⁰⁸ Governments should continue to invest in tools for digitisation and cultural

sharing. Investments in technologies for preserving cultural resources can also have an economic impact in their own right, particularly those that facilitate communication, such as language technologies.

Take a balanced approach to copyright to allow space for free expression, criticism, and the creation of new works that build on others. The currency of innovation is new ideas.¹⁰⁹ In order to achieve the full social, cultural, and economic value of the EU's unprecedented digitisation effort, national intellectual property regimes should be reformed to provide greater protections for creators who build upon the works of others, and stronger incentives for innovations that support creative output.¹¹⁰ CDT has highlighted the need for a European intellectual property system that enables both innovation in web-based services and allows for new ways for users and consumers to engage with copyrighted content – while allowing content creators to be fairly compensated.¹¹¹

VII. Conclusion

The Internet puts the ability to receive and impart information directly in the hands of its users, with potentially global reach. Practically every policy decision regarding the Internet thus has a potential to impact individuals' right to freedom of expression. Whether EU governments are considering data protection policies, copyright reform, surveillance mandates, trade agreements, or approaches to Internet neutrality, it is essential that they convene human rights advocates, academics, and technical experts to develop sound policy approaches.

Europe should continue to play its vital role of keeping the Internet as an open, innovative, and vibrant platform for the exercise of users' free expression and other fundamental rights, within Europe and around the world. Investing in the infrastructure, tools, and educational priorities of a modern digital economy will improve Europeans' experience of the Internet and raise Europe's digital profile worldwide. Continued leadership and support for inclusive, participatory policy processes will be necessary as Internet freedoms face growing resistance from world governments, including in Europe.

About the Center for Democracy & Technology www.cdt.org

The Center for Democracy & Technology is a non-profit public interest organization that works to advance human rights online. It is committed to finding forward-looking and technically-sound solutions to the most pressing challenges facing users of electronic communications technologies. With expertise in law, technology, and policy, CDT seeks to enhance free expression and privacy in communications technologies. CDT is dedicated to building consensus among all parties interested in the future of the Internet and other new communications media.

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- ¹ *Pro-independence supporters prepare a 400 km-long human chain on Catalonia's National Day*, Catalan News Agency (23 August 2013), <http://www.catalannewsagency.com/politics/item/pro-independence-supporters-prepare-a-400-km-long-human-chain-on-catalonia-s-national-day>.
- ² Rebecca Lock, *The Internet has strengthened the Catalan independence movement*, Catalan News Agency (18 Sept 2014), <http://www.catalannewsagency.com/society-science/item/the-internet-has-strengthened-the-catalan-independence-movement>.
- ³ See Peter Gerrand, *Cultural diversity in cyberspace: The Catalan campaign to win the new .cat top level domain*, First Monday (2 Jan 2006), <http://firstmonday.org/ojs/index.php/fm/article/view/1305/1225>; Albert Cuesta, *ATENCIÓ: Twitter ja ha obert la traducció al català*, Act.ly (5 July 2012), <http://act.ly/ns>; see also Laura I. Gómez, *Twitter now in Catalan and Ukrainian*, Twitter blog (5 July 2012), <https://blog.twitter.com/2012/twitter-now-in-catalan-and-ukrainian>.
- ⁴ See, e.g., Mark Scott, *Europe's Internet use surges*, NY Times Bits Blog (16 Dec 2014), http://bits.blogs.nytimes.com/2014/12/16/europes-internet-use-surges/?_r=0.
- ⁵ Heidi Seybert & Petronela Reinecke, *Internet and cloud services — statistics on the use by individuals*, Eurostat (2014), http://ec.europa.eu/eurostat/statistics-explained/index.php/Internet_and_cloud_services_-_statistics_on_the_use_by_individuals.
- ⁶ European Commission, *Life online: Digital agenda scoreboard 2012*, Eurostat (2013) at 6, https://ec.europa.eu/digital-agenda/sites/digital-agenda/files/scoreboard_life_online.pdf.
- ⁷ *Id.*
- ⁸ Seybert & Reinecke, *supra* n.5.
- ⁹ *Id.*; European Commission, *Life online: Digital agenda scoreboard 2012*, *supra* n.6 at 9 & Fig. 10.
- ¹⁰ Seybert & Reinecke, *supra* n.5.
- ¹¹ *Id.*
- ¹² European Commission, *supra* n.6 at 11-12.
- ¹³ See, e.g., Simon Kemp, *Social, digital & mobile in Europe in 2014*, We Are Social blog (5 Feb 2014), <http://wearesocial.net/blog/2014/02/social-digital-mobile-europe-2014/>.
- ¹⁴ European Commission, *Life online: Digital agenda scoreboard 2012*, *supra* n.6 at 24 & Fig. 27.
- ¹⁵ The Commission's E-Commerce directive and related reports are available online at http://ec.europa.eu/internal_market/e-commerce/directive/index_en.htm.
- ¹⁶ Jeremy Druker & Jeff Lovitt, *Central Europe's digital freedom struggle*, Project Syndicate (18 March 2015), <http://www.project-syndicate.org/commentary/central-europe-internet-freedom-by-jeremy-druker-and-jeff-lovitt-2015-03>; Károly Füzessi, *Higher education under threat in Hungary*, Open Democracy (11 Feb 2013), <https://www.opendemocracy.net/can-europe-make-it/károly-füzessi/higher-education-under-threat-in-hungary>. In 2014, the Hungarian government attempted to introduce an "Internet tax" of 0.50 euros per gigabyte, but withdrew the proposal after more than 100,000 protesters gathered in Budapest. A previous Hungarian criminal law raised the possibility of filtering online content.
- ¹⁷ See Miranda Neubauer, *How activists coordinated European opposition to ACTA*, TechPresident (20 June 2012), <http://techpresident.com/news/22311/germany-activists-help-coordinate-europe-wide-anti-acta-protests>.
- ¹⁸ *Après l'attaque contre « Charlie Hebdo », des manifestations spontanées dans toute la France*, Le Monde (7 Jan 2015), http://www.lemonde.fr/les-decodeurs/article/2015/01/07/manifestations-spontanees-et-temoignages-de-solidarite-apres-l-attaque-contre-charlie-hebdo_4550870_4355770.html#QP04gcMhQhZSWAXe.99
- ¹⁹ See, e.g., Animachine.de, a German donation services that generates fundraising dollars based on user engagement with Twitter mot-clé discussion topics, and OpenDemocracy.net, a British website for debate about international politics and culture.
- ²⁰ Jamie Bartlett, Jonathan Birdwell & Louis Reynolds, *Like, Share, Vote*, Demos (2014) at 34, http://www.demos.co.uk/files/Like_Share_Vote_-_web.pdf?1415749150.
- ²¹ *Id.* at 61.
- ²² See *Mumsnet campaigns: The story so far* (updated 7 June 2013), <http://www.mumsnet.com/campaigns/mumsnet-campaigns-the-story-so-far>; *Scottish referendum: the Mumsnet debate* (updated 10 Sept 2014), <http://www.mumsnet.com/politics/scottish-referendum-webchat>.
- ²³ See, e.g., Asimina Michailidou & Hans-Jørg Trenz, *Mediat(i)zing EU politics: Online news coverage of the 2009 European Parliamentary elections*, Centre for European Studies, 35 Communications (2010) at 15, <http://www.sv.uio.no/arena/english/research/publications/publications-2010/periodicals/michailidou-trenz-comm.html>.
- ²⁴ According to the European University Institute website, *Debating Europe* solicits debate ideas and policy questions from citizens – including students, teachers, and classes – and poses those questions to academic or policy experts representing various or opposing positions. Those debates are then open to the floor and online community for “a multi-dimensional, controversial, and lively debate”. Since the inaugural 2011 debate, more than 900 policymakers – including 184 MEPs, 58 national ministers and state secretaries, 41 national MPs, 13 EU Commissioners, 6 Prime Ministers and the Presidents of the European Council, the European Commission, and the European Parliament – have participated in *Debating Europe* events. See European University Institute, *Debating Europe*, <http://www.debatingeurope.eu/hello/>; *Debating Europe Student Series*, <http://www.debatingeurope.eu/focus/schools/>.
- ²⁵ See, e.g., François Hollande et al., *Décret n° 2015-125 du 5 février 2015 relatif au blocage des sites provoquant à des actes de terrorisme ou en faisant l'apologie et des sites diffusant des images et représentations de mineurs à caractère*

pornographique Legifrance.gouv.fr (5 Feb, updated 16 March, 2015), http://www.legifrance.gouv.fr/affichTexte.do;jsessionid=9E56E6E1B9B88871DDF9842A6132BAAA.tpdila16v_1?cidTexte=JORFTEXT000030195477&dateTexte=20150316#LEGIARTI000030197106.

²⁶ Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, A/67/357 ["*La Rue Freedom of Opinion Report*"] (7 Sept 2012) at 11-12, <http://www.palermo.edu/cele/pdf/SRs-Report.pdf>.

²⁷ Some of the most effective anti-hate campaigns have been spontaneous activities by individual users confronting intolerance and engage in counterspeech. See Demos' discussion of the #bornhere counterspeech movement in the Netherlands, Bartlett et al, *supra* n.20, at 46; see also Anne Penketh, *Policeman Ahmed Merabet mourned after death in Charlie Hebdo attack*, Guardian (8 Jan 2015), <http://www.theguardian.com/world/2015/jan/08/ahmed-merabet-mourned-charlie-hebdo-paris-attack> (discussing the #JeSuisAhmed movement in France). For an example of government-supported counterspeech initiatives, see the Council of Europe's No Hate Movement, <http://www.nohatespeechmovement.org/>, a speech platform for EU citizens who wish to challenge online hatred and minority groups who are frequent targets of its discrimination.

²⁸ In a Eurobarometer survey, younger respondents reported a higher likelihood of expressing their views on a public issue on the Internet and in social media forums. European Commission, *Europeans' engagement in participatory democracy*, Flash Eurobarometer 373 (March 2013) at 30, http://ec.europa.eu/public_opinion/flash/fl_373_en.pdf; see also Jamie Bartlett, Sid Bennett, Rutger Birnie & Simon Wibberley, *Virtually Members: The Facebook and Twitter followers of UK political parties*, Demos (April 2013) at 3, 15, http://www.demos.co.uk/files/Virtually_Members.pdf?1366125743.

²⁹ For elaboration on social media as agora, see Tom Standage, *Writing on the wall: Social media, the first 2000 years of social media* (Bloomsbury 2013), <https://tomstandage.wordpress.com/books/writing-on-the-wall/>; see also *The Internet in a cup*, Economist (18 Dec 2013), <http://www.economist.com/node/2281736>.

³⁰ European Commission, *Europeans' engagement in participatory democracy*, *supra* n.28 at 28.

³¹ *Id.*

³² Asimina Michailidou & Hans-Jørg Trenz, *supra* n.23 at 14. For an example of "crowdsourcing" policy formation, see Miranda Neubauer, *Pirate MEP crowdsources Internet policy questions for designated EU commissioners*, TechPresident (26 Sept 2014), <http://techpresident.com/news/wegov/25286/pirate-mep-crowdsources-internet-policy-questions-designated-eu-commissioners>; see also Finnish Up2Youth initiative, Congress of the European People's Party, *Let EU leaders hear your voice!* (6-7 March 2014), <http://www.up2youth.eu/en#!/en>.

³³ *The new European Parliament on Twitter: Look who's talking*, Burson-Marsteller (30 June 2014), <http://europedecides.eu/2014/06/the-new-european-parliament-on-twitter-look-whos-talking/>.

³⁴ Center for Democracy & Technology, *Shielding The Messengers: Protecting Platforms for Expression and Innovation*, v.2 (Dec 2012), <https://cdt.org/files/pdfs/CDT-Intermediary-Liability-2012.pdf> (highlighting different models of intermediary liability regimes and providing recommendations for speech intermediaries).

³⁵ Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, HRC/20/17 ["*La Rue Internet Report*"] (16 May 2011), http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27_en.pdf.

³⁶ One of the most important efforts in this regard is Get Online Week, an EU-wide initiative to train new computer users at ICT training centers across Europe in the month of March and to raise awareness about work in the technology sector. For more information, visit <http://www.getonlineweek.eu/>.

³⁷ Seybert & Reinecke, *supra* n.5 at 149. By contrast, at least nine out of every ten households in the Northern European countries Denmark, Sweden, and the Netherlands had Internet access in 2013, and only 3 to 6 percent of citizens had never been online. *Id.* (It should be noted that there was a rapid expansion in household access to the Internet in households in Romania and Greece, where increases of 25 percentage points or more were recorded between 2008 and 2013. See Eurostat, *Key figures on Europe* (2014), <http://ec.europa.eu/eurostat/documents/3930297/6309576/KS-EI-14-001-EN-N.pdf/4797faef-6250-4c65-b897-01c210c3242a>.)

³⁸ See, e.g., Roslyn Layton, *The European Union's broadband challenge* (Feb 2014), http://www.aei.org/wp-content/uploads/2014/02/-the-european-unions-broadband-challenge_175900142730.pdf.

³⁹ See, e.g., Center for Democracy & Technology, *Human Rights and Reframing Three Strikes: Access to the Internet = Access to information* (10 Nov 2009), <https://cdt.org/blog/human-rights-and-reframing-three-strikes-access-to-the-internet-access-to-information/>.

⁴⁰ Center for Democracy & Technology, *Stark Lesson of Syria: U.N. Must Condemn, Not Condone, Internet Blackouts* (23 Dec 2012), <https://cdt.org/blog/stark-lesson-of-syria-u-n-must-condemn-not-condone-internet-blackouts/>.

⁴¹ Center for Democracy & Technology, *The Importance of Internet Neutrality to Protecting Human Rights Online* (19 Sept 2013), <https://www.cdt.org/files/pdfs/CDT%20views%20on%20EU%20net%20neutrality.pdf>.

⁴² *Id.*

⁴³ See generally, Ying Chan, *Journalism and digital times: Wider reach and sloppy reporting*, Global Investigative Journalism Network (16 Sept 2014), <http://gijn.org/2014/09/16/journalism-and-digital-times-wider-reach-and-sloppy-reporting/>; Marius Dragomir & Mark Thompson (eds), *Digital journalism: Making news, breaking news*, Open Society Foundations (July 2014), <http://www.opensocietyfoundations.org/sites/default/files/mapping-digital-media-overviews-20140828.pdf>.

⁴⁴ Germany's Virato.de, Poland's Wykop.pl, and other "social news" websites incorporate elements of new aggregation, search engine, and social networking. These sites encourage users to exchange news stories and commentary and vote web content up or down for prominence on the website's main display pages.

⁴⁵ Le Monde and the Guardian newspapers were among a group of pioneering newspapers to launch live weblogging platforms that encourage two-way interaction and even "live" chats between journalists and their online audiences. See Sarah Marshall, *Open source liveblogging tool set to launch*, Journalism.co.uk (30 May 2012), <https://www.journalism.co.uk/news/open-source-liveblogging-tool-set-to-launch-at-news-world-summit/s2/a549433/>.

⁴⁶ Journalists in Hungary and the Netherlands have experimented with "crowdfunding" from readers who support their work. Dragomir & Thompson, *supra* n.43 at 195. *The data journalism handbook*, an open-source guide for citizen and professional journalists, was developed with the assistance of the Mozilla technology company in London in 2012. See <http://www.datajournalismhandbook.org/>. For a general discussion of new digital reporting apps, tools, and data services, see Global Investigative Journalism Network, <http://gijn.org>; Dragomir & Thompson, *supra* n.43 at 213; Deutsche Welle, *All wired-up with nowhere to go? Brussels media pack reflects on its tech-addiction*, dw.de (16 Oct 2014), <http://www.dw.de/all-wired-up-with-nowhere-to-go-brussels-media-pack-reflects-on-its-tech-addiction/a-17999083>.

⁴⁷ Forums where journalists share ethics and tips include Transitions Online, <http://www.tol.org/client/>; the Global Investigative Journalism Network, <http://gijn.org>; European Journalism Center, <http://ejc.net>, Association Citizen Journalists, <http://www.acj-eu.org>, and CafeBabel, <http://www.europe-forum.info/index.php?topic=1248.0>, and Association de la Presse Internationale, <http://www.api-ipa.org/home/>.

⁴⁸ Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, HRC/20/17 ["*La Rue Media Freedom Report*"] (4 June 2012), http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-17_en.pdf. A prominent example of this phenomenon was the reporting generated by source disclosures through the anti-secrecy group WikiLeaks.

⁴⁹ *Supra* n. 26 at 21.

⁵⁰ *Id.*

⁵¹ See, e.g., Jens-Henrik Jeppesen, *Responses to Charlie Hebdo Attack: Governments Should Protect, Not Limit, Free Expression*, Center for Democracy & Technology (16 Jan 2015), <https://cdt.org/blog/responses-to-charlie-hebdo-attack-governments-should-protect-not-limit-free-expression/>; Bill Hardekopf, *The big data breaches of 2014*, Forbes (13 Jan 2015), <http://www.forbes.com/sites/moneybuilder/2015/01/13/the-big-data-breaches-of-2014/>.

⁵² See, e.g., Julian Borger, *NSA files: why the Guardian in London destroyed hard drives of leaked files*, Guardian (20 August 2014), <http://www.theguardian.com/world/2013/aug/20/nsa-snowden-files-drives-destroyed-london>; BBC.com, *Journalists take legal action over 'police snooping'* (21 Nov 2014), <http://www.bbc.com/news/uk-30142404>.

⁵³ Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, A/HRC/23/40 ["*La Rue Surveillance Report*"] (17 April 2013) at 19, www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A.HRC.23.40_EN.pdf. The Former Special Rapporteur also noted that some companies voluntarily collaborate with state agencies to facilitate state surveillance of communications. *Id.* at 19-20. He further noted, "The private sector has also often failed to deploy privacy-enhancing technologies, or has implemented them less than secure ways that do not represent the state of the art." *Id.* at 20.

⁵⁴ See generally Human Rights Watch & American Civil Liberties Union, *With liberty to monitor all: How large-scale US surveillance is harming journalism, law, and American democracy* (2014), http://www.hrw.org/sites/default/files/reports/usnsa0714_ForUpload_0.pdf.

⁵⁵ PEN American Center, *Global Chilling: The impact of mass surveillance on global writers* (2015) at 6, http://www.pen.org/sites/default/files/globalchilling_2015.pdf.

⁵⁶ European Commission, *Digitisation & digital preservation* (updated 7 August 2014), <https://ec.europa.eu/digital-agenda/digitisation-digital-preservation>.

⁵⁷ European Commission, *The New Renaissance: Report of the 'Comité des Sages' reflection group on bringing Europe's cultural heritage online* (Jan 2011), https://ec.europa.eu/digital-agenda/sites/digital-agenda/files/final_report_cds_0.pdf.

⁵⁸ European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions* (2006), <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0513:FIN:EN:PDF>.

⁵⁹ European Commission, 2011/711/EU, *Recommendations on the digitisation and online accessibility of cultural material and digital preservation* (27 Oct 2011), <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:283:0039:0045:EN:PDF>.

⁶⁰ See Europeana Portal search, <http://www.europeana.eu/portal/search.html?query=what%3a%22TEXT%22&rows=24>.

⁶¹ See Directive 2012/28/EU and related documents at European Commission, *The EU single digital market: Orphan works* (updated 29 Oct 2014), http://ec.europa.eu/internal_market/copyright/orphan_works/index_en.htm.

⁶² The Europeana Newspapers Project is one example of this effort, and brings together the archiving work of more than sixty European "memory institutions" to preserve digital news media. See Europeana Newspapers Project Partners, Europeana.eu (last visited 16 March 2015), <http://www.europeana-newspapers.eu/consortium/project-partners>. The Internet Memory Foundation, previously the European Archive, develops web archiving tools with a consortium of museums and libraries and the assistance of the European Commission. See generally <http://internetmemory.org/en/>.

- ⁶³ For an overview of this effort, see France Lasfargues, Chloé Martin & Leïla Medjkoune, *Archiving before losing valuable data? Development of web archiving in Europe*, Walter de Gruyter Inst (2012), <http://www.degruyter.com/view/j/bfup.2012.36.issue-1/bfp-2012-0014/bfp-2012-0014.pdf>.
- ⁶⁴ European Commission, *Digitisation of cultural heritage to boost innovation*, 5.8 Digital Agenda Toolbox (last visited 15 March 2015), <http://s3platform.jrc.ec.europa.eu/documents/10157/242379/Digitisation%20of%20cultural%20heritage%20to%20boost%20innovation2.pdf>.
- ⁶⁵ European Commission, *Europeans and their languages*, Special Eurobarometer 386 (June 2012), http://ec.europa.eu/public_opinion/archives/ebs/ebs_386_en.pdf.
- ⁶⁶ UNESCO, Internet Society & Organisation for Economic Co-operation and Development, *The relationship between local content, internet development and access prices*, UNESCO.org (2012) at 4, http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/pdf/news/local_content_study.pdf. This study also found a strong correlation between the development of network infrastructure and the availability of local content. *Id.*
- ⁶⁷ As Global Voices reports, “The Norwegian North Sámi language has been programmed into downloadable dictionaries, <http://giellatekno.uit.no/>; Gaelic bloggers are sharing tips on the use of the Irish language, <http://blogs.transparent.com/irish/>; and students of Manx, the indigenous language of Isle of Man, are using smartphone and tablet apps to improve their proficiency, <http://www.bbc.com/news/world-europe-isle-of-man-20392723>.” Allyson Eamer, *How technology is helping people learn – and even save – the world’s languages*, Rising Voices (3 July 2014), <http://rising.globalvoicesonline.org/blog/2014/07/03/technology-helps-people-learn-save-languages/>. In Hungary, an audiovisual series entitled “Make your voice visible” contains short interviews with Roma people aimed at reaching a wider audience on digital platforms. In Slovakia, the Roma Press Agency strives to leverage minority content on to mainstream platforms. Dragomir & Thompson, *supra* n.43 at 220.
- ⁶⁸ See, e.g., Lysbeth Jongbloed-Faber, *Social media in bilingual environments: Online practices of Frisian teenagers*, Rising Voices (6 May 2014), <http://rising.globalvoicesonline.org/blog/2014/05/06/social-media-in-bilingual-environments-online-practices-of-frisian-teenagers/>.
- ⁶⁹ META position paper, *The Future European multilingual information society*, Meta-net.eu (visited 17 March 2015) at 5, <http://www.meta-net.eu/vision/reports/meta-net-vision-paper.pdf>.
- ⁷⁰ Charter of Fundamental Rights of the European Union, 2000/C 364/0 (Dec. 7, 2000), http://www.europarl.europa.eu/charter/pdf/text_en.pdf. See generally Anne Lise Kjær & Silvia Adamo (eds), *Linguistic Diversity and European Democracy* (Ashgate 2011).
- ⁷¹ See UNESCO, *Second consolidated report on the measures taken by member states for the implementation of the recommendation concerning the promotion and use of multilingualism and universal access to cyberspace* (2011), <http://unesdoc.unesco.org/images/0021/002108/210804e.pdf>. A recent meeting, hosted by UNESCO, brought together experts from around the world to develop a set of recommendations for supporting a multilingual cyberspace. See UNESCO/IFAP expert meeting endorses an action plan for a multilingual cyberspace, http://www.unesco.org/new/en/communication-and-information/resources/news-and-in-focus-articles/all-news/news/unescoifap_expert_meeting_endorses_an_action_plan_for_a_multilingual_cyberspace/.
- ⁷² The Cross Language Evaluation Forum (CLEF) is one core network of EU research institutions that is “strongly motivated by the need to promote the study and use of languages other than English on the Internet.” Carol Peters, *Evaluation of technology for multilingual information access: The next step*, STI-CNR, in *Shaping the future of the multilingual digital Europe: Proceedings of the European language resources and technologies forum, FLaReNet (2009)* at 57, http://www.flarenet.eu/sites/default/files/Vienna09_Proceedings.pdf. Among the literally hundreds of CLEF minority-language research projects are an online Dictionary of Contemporary Romanian Language, <http://dexonline.ro/>, the most-used Romanian language resource on the Internet, and the Thesaurus Dictionary of Romanian, https://consilr.info.uaic.ro/edtlr/wiki/index.php?title=Main_Page, a massive dataset of “crowdsourced” words and phrases, compiled over the course of 100 years. The Network to Promote Linguistic Diversity (NPLD) is a European consortium of governments and institutions preserving the EU’s linguistic diversity. See <http://www.npld.eu/about-us/>. These recommendations include “support[ing] national policy development and the adoption of strategies for promoting language survival in cyberspace” and “facilitat[ing] access to multilingual content, including [by use of] automatic translation and intelligent linguistic systems.”
- ⁷³ The Acquis database, for example, compiles the entire legal lexicons of 22 official European languages, for use in local and national governments, and the Union parliaments, administrations, and judicial bodies. See Joint Research Center, *Language Technology Resources* (updated 3 Oct 2014), <http://langtech.jrc.it/JRC-Acquis.html>. To maintain this impressive policy of multilingualism, the EU spends approximately 1 billion Euros per year in translation and interpretation costs. RLG, *Managing Babel*, *Economist* (10 Sept 2013), <http://www.economist.com/blogs/prospero/2013/09/polyglot-europe>. [possible pull-quote]
- ⁷⁴ META, *The Estonian Language in the digital age*, Meta-Net (visited 13 March 2015), <http://www.meta-net.eu/whitepapers/volumes/estonian-executive-summary-en>.
- ⁷⁵ See *Multilingual Europe: Facts, challenges and opportunities* (2014), at 19, in G. Rehm & H. Uszkoreit (eds), *META-NET Strategic Research Agenda for Multilingual Europe 2020*, White Paper Series (Springer) http://www.springer.com/cda/content/document/cda_downloaddocument/9783642363481-c2.pdf?SGWID=0-0-45-1385724-p174893897.

⁷⁶ European Commission, *Status and potential of the European language technology markets*, Forum for European Language Technologies (Jan 2013) LT2013, at 81, 84, http://ec.europa.eu/information_society/newsroom/cf/dae/document.cfm?doc_id=4267.

⁷⁷ See generally <https://wit.ai/>; European Commission, *Language technologies*, Cordis (visited 15 March 2015), <http://cordis.europa.eu/fp7/ict/language-technologies/>; <http://cordis.europa.eu/fp7/ict/language-technologies/>; *Technology may not replace human translators, but it will help them work better*, Economist (5 Feb 2015), <http://www.economist.com/news/business/21642187-technology-may-not-replace-human-translators-it-will-help-them-work-better-say-what>.

⁷⁸ See Shalom Lappin, *What is computational linguistics?* Guardian (21 Nov 2014), <http://www.theguardian.com/british-academy-partner-zone/2014/nov/21/what-is-computational-linguistics>; Richard Eckart de Castilho aus Bensheim, *Natural language processing: Integration of automatic and manual analysis* (10 Feb 2014), <http://tuprints.ulb-tu-darmstadt.de/4151/1/rec-thesis-final.pdf>.

⁷⁹ See generally European Commission, *Project factsheets - Language technologies* (visited 16 March 2015), <http://ec.europa.eu/digital-agenda/en/node/6283>.

⁸⁰ Babbel, <http://de.babbel.com/>, was founded by Lesson Nine GmbH in Germany in 2007, and now 250 employees from 26 nations.

⁸¹ A number of governments participate in free language-learning projects, including the European Commission's efforts to provide language support and products on its website. See European Commission, *Language products* (last visited 12 March 2015), http://ec.europa.eu/languages/information/language-products_en.htm. Mingle, Migrant Language and Social Integration, <http://mingle.exus.co.uk/>, was developed with the cooperation of the UK government to help new immigrants integrate culturally and refine their English language skills.

⁸² Wikitongues is a global effort to record and provide access to every language in the world. See Rising Voices, *Wikitongues: Document your language* (12 March 2014), <http://rising.globalvoicesonline.org/blog/2014/03/12/wikitongues-document-your-language/>. Welsh Twitterati is "[a]n algorithm [which] identifies who is speaking Welsh on Twitter, and builds up a database of users – totaling now around 15000." Rising Voices, *The Welsh Twitterati: Bringing everyone together* (3 March 2014), <http://rising.globalvoicesonline.org/blog/2014/03/03/the-welsh-twitterati-bringing-everyone-together/>.

⁸³ United Nations General Assembly, Human Rights Council, 20th sess., On the promotion, protection and enjoyment of human rights on the internet, Office of the High Commissioner for Human Rights, A/HRC/20/L13 (29 June 2012), <http://daccess-dds-ny.un.org/doc/UNDOC/LTD/G12/147/10/PDF/G1214710.pdf?OpenElement>.

⁸⁴ *La Rue Internet Report*, *supra* n.35 at 8.

⁸⁵ UN HRC, A/HRC/20/L13, *supra* n.83.

⁸⁶ See generally Center for Democracy & Technology, *Resources on Intermediary Liability and Gatekeeping* (12 Dec 2012), <https://cdt.org/insight/resources-on-intermediary-liability-and-gatekeeping/>.

⁸⁷ CDT, *Shielding The Messengers*, *supra* n.34.

⁸⁸ Center for Democracy & Technology, *Account Deactivation and Content Removal: Guiding Principles and Practices for Companies and Users* (12 Sept 2011), <https://cdt.org/insight/account-deactivation-and-content-removal-guiding-principles-and-practices-for-companies-and-users/>.

⁸⁹ Center for Democracy & Technology, Comments to the DG Internal Market and Services, Regarding Notice-And-Action Procedures by Internet Intermediaries, (29 Feb 2012) at 2, <https://www.cdt.org/files/pdfs/CDT-Comments-Notice-and-Action.pdf>.

⁹⁰ Rebecca MacKinnon, Elonna Hickok, Allon Bar & Hae-in Lim, *Fostering freedom online: The role of Internet intermediaries*, UNESCO.org (Jan 2015) at 186, <http://unesdoc.unesco.org/images/0023/002311/231162e.pdf>.

⁹¹ See Emma J. Llansó & Susan Morgan, *Getting Specific About Transparency, Privacy, and Free Expression Online*, Center for Democracy & Technology (5 Nov 2014), <https://cdt.org/blog/getting-specific-about-transparency-privacy-and-free-expression-online/>.

⁹² See Center for Democracy & Technology, *On the Right to Be Forgotten: Challenges and Suggested Changes to the Data Protection Regulation* (2 May 2013), <https://www.cdt.org/files/pdfs/CDT-Free-Expression-and-the-RTBF.pdf>; Andrew McDiarmid, *Shielding The Messengers: CDT Comments on Notice-and-Action*, Center for Democracy & Technology (11 Sept 2012), <https://cdt.org/blog/shielding-the-messengers-cdt-comments-on-notice-and-action/>.

⁹³ *La Rue Internet Report*, *supra* n.35 at 13.

⁹⁴ See Center for Democracy & Technology, *Stark Lesson of Syria: U.N. Must Condemn, Not Condone, Internet Blackouts* (23 Dec 2012), <https://cdt.org/blog/stark-lesson-of-syria-u-n-must-condemn-not-condone-internet-blackouts/>; Center for Democracy & Technology, *Human Rights and Reframing Three Strikes: Access to the Internet = Access to information* (10 Nov 2010), <https://cdt.org/blog/human-rights-and-reframing-three-strikes-access-to-the-internet-access-to-information/>.

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¹⁰⁸ Center for Democracy & Technology, *Orphan Works and Mass Digitization*, *id.*

¹⁰⁹ Jens-Henrik Jeppesen, *EU Copyright Reform: Europe Needs Flexible Rules that Enable Innovation*, *supra* n.107.

¹¹⁰ See Center for Democracy & Technology, *Public Consultation on the Review of the EU Copyright Rules* (5 Feb 2014), <https://cdt.org/files/pdfs/2014-copyright-consultation-CDTresponseFeb2014.pdf>.

¹¹¹ *Id.*