



**POLICY FUTURES**  
EU-Aotearoa New Zealand

**Brainbox**  
Institute



# **Digital Futures: accountability for online platforms?**

**Policy Paper**



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This policy paper was produced by Brainbox Institute, as part of the Policy Futures initiative of the EU Delegation to Aotearoa New Zealand, which aims at facilitating policy dialogue between the European Union and New Zealand on issues of common concern. The contents of this paper are the sole responsibility of the author and do not necessarily reflect the views of the European Union or the participants and speakers in the dialogue.

# INTRODUCTION AND CONTEXT

Aotearoa New Zealand and the European Union have a strong relationship, developed over many years and built on a shared foundation of mutual values. As part of its commitment to this relationship, the Delegation of the European Union to New Zealand hosts a series of Policy Futures seminars, exploring a range of topics of shared interest. On 30 August 2023, the third Policy Futures seminar was held on the topic of accountability for online platforms. The seminar was co-hosted with the Brainbox Institute, and Victoria University of Wellington – Te Herenga Waka.

The seminar benefited from the participation of the European Union's Senior Envoy for Digital, Gerard de Graaf, ordinarily based in Silicon Valley in the United States, who played a substantial role in the development and enactment of the European Union's landmark Digital Services Act, alongside its companion Digital Markets Act. A panel discussion was hosted by Professor Alistair Knott, Professor of Computer Science and member of the Global Partnership on Artificial Intelligence's working group on responsible AI, a group with an ongoing interest in social media regulation and empirical work on the impact of content recommender systems. The panel also benefited immensely from the participation of two influential contributors to the Christchurch Call to Action: Anjum Rahman, the Founder and Project Co-Lead for Inclusive Aotearoa Collective Tāhono, and who also drew on her experience as co-lead for the Christchurch Call Advisory Network and the advisory committee to the Global Internet Forum to Counter Terrorism, and Paul Ash, the New Zealand Prime Minister's Special Representative on Cyber and Digital, and Cyber Coordinator at the Department of the Prime Minister and Cabinet. The panel also included the Director of the Brainbox Institute, Tom Barraclough, who contributed perspectives based on the work of the Brainbox Institute in disinformation, artificial intelligence and content regulation, as well as its project lead role for the Action Coalition on Meaningful Transparency.

This policy brief has been prepared by the Brainbox Institute to capture key insights and themes from the discussion, as well as identifying potential avenues for reciprocal engagement and collaboration between the European Union and New Zealand, in particular based on a mutual commitment to the role of non-governmental actors and civil society in conversations about online governance and content regulation.

The discussion was a valuable opportunity to explore areas of further engagement between the European Union and New Zealand in global discussions on the impact of digital technologies. All parties expressed an interest in advancing the discussion further in future engagements, and the benefits of global cooperation in this area.

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# KEY ISSUES IN ONLINE ACCOUNTABILITY

## Novelty and importance

Internet platforms have rapidly become core infrastructure for many individuals and nations. They determine flows of information, opinion, and money not only within countries but across them. These platforms have largely risen to prominence in the last two decades, spurred by ubiquitous internet access, mobile connectivity, and cheap computing. While the platforms are relatively new (with new platforms like augmented reality emerging), the methods used to abuse platform services are newer – and while there are lessons to be taken from other industries and historical moments, the one we’re in right now is unique.

## Diversity, equity and inclusion

The negative impacts of a lack of online accountability are disproportionately borne by vulnerable social and political minorities, who often lack the political and economic power to influence platforms and governments to respond to their concerns in earnest. Nevertheless, the inclusion of these groups – and as diverse a set of backgrounds and viewpoints as possible – is necessary to ensure that accountability efforts help those currently experiencing the greatest harm while not creating new vulnerabilities or exacerbating existing ones.

## Pace, scale, and complexity

Internet platforms and their impacts are an incredibly complex topic. To understand them fully it is necessary to unite expertise across disciplines as far-reaching and often disparate as computer science, sociology, artificial intelligence, media studies, policymaking, and the lived experience of vulnerable communities. This challenge is intensified by the global scale of these impacts, geographical and culture variation, and the rapid pace at which platforms, their systems, and the content they present to users all evolve. This is further complicated by the need to take individual and regional context into account in the ways we assess and respond to the impacts of online communications.



## Transparency and data access

In order to effectively regulate or hold platforms to account, it is crucial to obtain an accurate picture of the impacts of their corporate decision-making and the products and services they produce, as well as of the effects any interventions against harmful content or behaviours are having. However, the vast majority of the tools and data necessary to develop such a picture lie with platforms and are shared only sparingly with external entities such as governments and researchers. And even if access to these tools and data is granted, it will still be a great challenge to build an understanding of the overall landscape and how platforms (and their users) interrelate.

## Experimentation and emerging models of regulation

Due to the novelty and pace of this space, regulations and other responses must by necessity be somewhat exploratory and remain open to iterative improvements over time. It is important to accept that we are in a 'first steps' moment and that initial efforts will be imperfect. Nevertheless, every attempt made to increase online accountability will bring in valuable information about what works and what doesn't. Regulation incorporates particular world views too, and sometimes the values and world views that are embedded in regulation also require critical scrutiny.



# DIFFERENT APPROACHES BEING TAKEN BY THE EU AND NZ TO IMPROVE ONLINE ACCOUNTABILITY

New Zealand and the European Union, while wielding different toolsets and rooted in different contexts, have exactly the same goal in this area: ensuring online accountability while protecting fundamental human rights and enabling innovation. While their approaches are different, they are inherently complementary and have a lot to teach and learn from each other.

## The EU's approach

The European Union is taking a regulatory-first approach to online accountability. Wielding the EU's vast geopolitical and economic power, the Digital Services Act imposes significant new responsibilities on online platforms, and especially on so-called "Very Large Online Platforms" or 'VLOPs'. These responsibilities include yearly risk assessments, increased data access for researchers and user-facing transparency, and paying for regular independent audits. The complementary Digital Markets Act seeks to disrupt the creation of platforms' "walled gardens" and encourage healthy competition.

Crucially, the EU's regulatory approach is *outcomes-based* rather than technology or metrics based. This will enable the DSA, DMA, and subsequent legislation to remain relevant even as the digital world evolves and changes. With these world-leading efforts, the European Commission has effectively become the de facto primary regulator on the issue of online accountability.

## What can be learned from the EU?

Studying how the DSA and DMA are operationalised and their impacts will be of immeasurable benefit to New Zealand in considering its own regulatory responses, and their example can demonstrate that not only is regulation possible – but that it can create both a safer internet and better protections for fundamental rights. The European Commission's engagement with internet platforms in these efforts is also an instructive example of how to work with regulatory subjects while avoiding capture by them.

The outcomes-based approach and use of fundamental human rights as a framework for understanding both problems and solutions in online accountability are both valuable approaches for other jurisdictions to take away. The DSA has also taken a multi-level approach, which will rely on the development of codes of conduct, secondary standards, and transparency of materials that support governmental and non-governmental scrutiny of platform and government conduct. The European Commission's approach to developing and negotiating regulations that can be agreed on and implemented by many different member states with diverging national contexts means the DSA navigates a number of objectives which might otherwise sit in tension.



## ■ New Zealand's approach

While considering legislation a legitimate and necessary tool, as a small and relatively geographically isolated country New Zealand has limited direct power to wield over platforms. As such, it has opted for a multistakeholder approach based on diplomacy, norms-building, and voluntary commitments. Using the global platform thrust upon it by the tragic events of 15 March 2019, New Zealand directly engaged with internet platforms, governments, community groups, and other stakeholders to launch the Christchurch Call, which rapidly developed a set of 25 commitments that both governments and platforms agreed to and which continues to work to eliminate Terrorist and Violent Extremist Content online while remaining committed to a free and open internet and protecting human rights.

While not legally enforceable, these commitments have had a significant impact on the expected norms of internet accountability and platform and government behaviour. These norms both change behaviour in the short term and promote the necessary conditions for their legal codification in the longer term, as well as supporting the establishment and development of institutions such as the GIFCT.

## ■ What can be learned from New Zealand?

New Zealand has demonstrated the value of multistakeholder dialogue and direct engagement in shifting both norms and behaviours. The Christchurch Call also offers a model for similar efforts that need to engage with a huge number of stakeholder groups and perspectives to have difficult conversations while maintaining a core team focused on delivering results. Due to its structure, this response was able to engage with a much broader and more inclusive array of perspectives than a regulatory process would have.

The speed at which this was achieved is also an important lesson – the Christchurch Call's 25 commitments were developed in just 8 weeks, demonstrating the relative agility of direct, commitment-based approaches compared to traditional regulatory responses, and the value of mobilising and including community groups and affected populations.

New Zealand's cultural context and relationship with Te ao Māori and Te Tiriti also offer unique insights and ways of approaching problems – concepts such as kaitiakitanga (stewardship, guardianship) and manaakitanga (care, hospitality, and protection) are valuable lenses through which to view online accountability even outside Aotearoa.



# COMMONALITIES AND POINTS FOR FURTHER DISCUSSION

In addition to the points made above, a number of cross-cutting themes emerged from the seminar. These included:

## ➤ Resourcing civil society

Panellists noted that platforms have significant power to lobby, directly engage, and otherwise wield influence over civil processes and outcomes. In addition, it was acknowledged that the DSA is an example of “multi-level regulation”, and the European Commission was anticipating significant support from civil society in analysing the huge volumes of information that would be generated by DSA disclosure requirements. In order to ensure this support would be viable and to narrow the gap in influence between platforms and civil society, it was proposed that civil society receive greater resourcing from governments and other funders to play a meaningful role.

## ➤ Being systems-focused

Panellists consistently observed that platforms’ impacts were primarily influenced by the broad systems and practices they implemented, and that focusing on individual technologies or data-sets was a losing battle. This was reflected in both the outcomes-based approach adopted by the DSA, and the systematic analysis conducted by the Christchurch Call and civil society coalitions such as the Action Coalition for Meaningful Transparency.



## Human rights as a tool for balancing trade-offs and normative structure

Human rights were proposed as a crucial tool for balancing the many inherent trade-offs and complexities inherent in digital platform regulation. This extended into discussions around how to design values, such as respect for and protection of fundamental rights, into digital systems. An example given was the way that pathways to deradicalisation have been built into search functions similarly to the way that suicide prevention protections are. It also covered making sure that remedies for harm were available for all communities, and that no unnecessary barriers restricted access to remedies in practice.

## The importance of government accountability

While the bulk of the discussion focused on platform accountability, panellists were at pains to emphasise that government accountability was equally, if not more important. They noted that governments had greater capacity to do direct harm to their citizens, and that some countries had signed on to the Christchurch Call but, in the assessment of some participants, had failed to meet their obligations under it. It was agreed that mechanisms for holding governments accountable were crucial, and that any powers granted by new regulation should have built-in safeguards (such as statutory independence) to prevent them from being too damaging in the event that they fell into the hands of an autocrat.

## Varied regulatory approaches are emerging

Panellists noted that the “Brussels effect” was an important factor in the impact of the DSA and DMA, and that other jurisdictions would be drawing inspiration from the EU’s example and possibly aligning their regulatory environments. However, not all jurisdictions are doing this – and three rough ‘blocs’ were noted to be emerging. These consisted of those adopting the EU-like approach to internet platform regulation, those taking a more permissive US-style stance, and those committing to much greater government control over internet platforms and content such as China and Russia.

## The looming impact of AI

Finally, panellists acknowledged that Artificial Intelligence – while already significant for online accountability due to its centrality in advertising delivery and content curation – was poised in the near future to have an even greater impact on the online environment, and as such its regulatory context – including EU negotiations on an AI Act.

This impact will have both positive and negative components – AI may help to develop effective data analysis that enables greater accountability and could improve content moderation efficiency and outcomes, but it could also massively boost the creation and distribution of damaging and misleading content (it was noted that the use of ‘deepfakes’ to harass and demean women online had been a problem for some time already), and cast doubt on the provenance of even legitimate information via the ‘liar’s dividend’ – the idea that “if anything can be faked, anything can be fake”. Panellists agreed it was important to ensure that the impact of AI was a net-positive, but that this would require sustained efforts from companies, regulators, and civil society.

# THE WAY FORWARD

Comparing the approaches taken by the European Union and the Christchurch Call, with input from technical and civil society participants, provided a useful insight into the diverging regulatory approaches that are possible with regard to a common set of values and objectives. It was clear that no single approach was perfect, and that ongoing monitoring, refinement and participation was required, and this kind of ongoing engagement must proactively plan to foster civil society and technical community involvement. Thankfully, regulatory actors in the EU and New Zealand clearly acknowledge this principle and expressed commitments to meeting civil society expectations where possible.

## REFLECTIONS AND RECOMMENDATIONS



The EU and New Zealand have much to learn from each other. Both have taken a flexible approach oriented toward the protection and promotion of human rights in ways that will be effective, and this includes utilising a range of regulatory approaches in response to context, that balance the power of governments and companies, and seek to be responsive to the needs and concerns of communities. Conducting and promoting further reciprocal engagements and discussions – such as the Policy Futures seminar series – can support this learning.



Information sharing and disclosure about platform activities, including in response to government conduct, produces insights that are relevant across jurisdictional boundaries. New Zealand and the European Union can collaborate to explore how to support researchers, community groups, and non-government actors to make use of this information effectively, and act on that information where appropriate. One area of tangible collaboration may be through transnational research infrastructures being investigated by various non-governmental coalitions and partnerships.



The role of non-governmental actors and civil society in governance of online platforms and the internet is important, but risks being undermined globally. Leaders in the European Union and in New Zealand can continue to advocate in favour of multistakeholderism in a range of technology regulatory issues, including the design and implementation of regulatory frameworks. Targeted support can also be provided to ensure that opportunities for input by non-government actors are meaningful and adequately resourced.