Contents

1 Mapping the New(s) Landscape and the Research Path 1
1.1 Setting the Scene: News Distribution in the Internet Era 2
1.1.1 The Internet as a Means for the Transmission of Information (Written News) 2
1.1.2 Online News Distribution Channels 3
1.1.3 News Recommendation 6
1.2 Objectives, Scope and Methods 8
1.2.1 Objectives 8
1.2.2 Scope 9
1.2.3 Methods: Categorisation of Sub-questions 11
1.3 Structure 13
1.3.1 News Recommendation and Human Rights (Part I) 13
1.3.2 Regulatory and Policy Options Regarding News Recommendation (Part II) 14
1.3.3 Conclusion 15
References 15

Part I News Recommendation and Human Rights

2 News Recommendation and the Freedoms of Thought and Opinion 19
2.1 Introduction 20
2.2 Scope of Protection of the Freedoms of Thought and Opinion 21
2.2.1 Overlapping Scope of Protection 21
2.2.2 (Positive) Freedom to Form, Develop, Refine, Hold and Change Thoughts and Opinions 25
2.2.3 (Negative) Freedom Not to Hold or Reveal Thoughts and Opinions 26

2.2.4 Freedom of Thought and Opinion on All Matters 28
2.3 Absolute Nature of the Freedoms of Thought and Opinion 29
2.4 Horizontal Application 30
2.5 Typology of Interferences and the Case of News Recommendation 33
2.5.1 Undue Influence 34
2.5.2 Compulsion to Hold, Not Hold or Change Thoughts and Opinions (Type 1(..... 37
2.5.3 Intervention in the Thought Process to Induce the Holding, Not Holding or Change of Thoughts and Opinions (Type 2) 39
2.5.4 Restriction on the Availability or Accessibility of Information Unjustifiably Impeding the Formation of Thoughts and Opinions (Type 3) 43
2.5.5 Compulsion to Reveal Thoughts and Opinions (Type 4) 52
2.5.6 Compulsion to Prove the Truth of Thoughts and Opinions (Type 5) 54
2.6 Conclusion 55
References 56

3 News Recommendation and the Right to Receive Diverse Information and Ideas 59
3.1 Introduction 60
3.2 Access to News in the Online Environment 60
3.3 The Online Diversity Chain: Introducing 'Online Access Diversity' 62
3.3.1 From Source, Through Content, to Exposure 62
3.3.2 From Source, Through Content, Exposure and Access, to Exposure 63
3.4 A Right to Receive a Diversity of Viewpoints Concerning Matters of Public Interest via Digital (News) Channels 66
3.5 Takeaways in Respect of News Recommendation 69
3.6 Conclusion 71
References 72

4 Diversity-Enhancing News Recommendation and Human Rights 75
4.1 Introduction 76
4.2 Online Access Diversity as a Public Policy Goal 78
4.3 Online Access Diversity Through Recommendation 80
4.4 Autonomy Rights and Freedom of Choice Under Article 10 ECHR 83
4.4.1 Freedom to Receive Information Without Interference by Public Authority 84
4.4.2 Freedom to Hold Opinions 85
4.5 Autonomy and Choice in Recommendation 86

4.5.1 Libertarian-Paternalistic Approach (Nudging) 87
4.5.2 Libertarian Approach (Control and Designated Sections) 90
4.6 Online Access Diversity Through Structure 92
4.7 Conclusion 93
References 94

5 Permissibility of News Recommendation in Light of Human Rights (Visualisation) 97
5.1 Introduction 97
5.2 Conclusion 101

Part II Regulatory and Policy Options Regarding News Recommendation

6 Regulating News Recommendation to Protect Our Minds: An EU Law Analysis 105
6.1 Introduction 106
6.2 Personalised and Engaging News Overviews 107
6.3 Forming Opinions in the Age of News Recommendation 109
6.4 EU Rules with an Effect on News Recommendation 112
6.4.1 Data Protection Law 113
6.4.2 Consumer Protection Law 117
6.4.3 Artificial Intelligence Act 119
6.4.4 Digital Services Act 122
6.5 Towards a More Comprehensive EU Regulatory Framework on News Recommendation? 127
6.6 Conclusion 132
References 133

7 Personalisation and Article 22 GDPR 135
7.1 Introduction 136
7.2 News Personalisation at Online News Media Channels 136
7.3 A Prohibition Based on Article 22 GDPR and the Freedom to Form Thoughts and Opinions Concerning Matters of General Interest 139
7.3.1 Generating News Recommendations by Solely Automated Means 140
7.3.2 Limitations on the Basis of the Freedom to Form Thoughts and Opinions Concerning Matters of General Interest 141
7.3.3 Explicit Consent as an Exception 148
7.4 Conclusion 152
References 153

8 Online Access Diversity (Through Recommendation): Exploring Regulatory and Policy Options 155
8.1 Introduction 156
8.2 Prohibiting Homepage Default Settings Enabling Implicit Interest-Matching Personalisation (Online News Media) 156
8.2.1 European Union 157
8.2.2 Belgium 157
8.3 Requiring the Use of Diversity-Enhancing Recommender Systems (Public Broadcaster Online News Media) 158
8.3.1 European Union 158
8.3.2 Belgium 161
8.4 Stimulating the Use of Diversity-Enhancing Recommender Systems (Private Online News Media) 163
8.4.1 European Union 163
8.4.2 Belgium 166
8.5 Setting Up a Diversity-Enhancing Public Service News Aggregator 168
8.5.1 Copyright 168
8.5.2 (Funding the) Setting Up (of) a Diversity-Enhancing News Aggregator 171
8.6 Conclusion 172
References 173

9 Retrospective and Outlook: Answers and Recommendations 175
9.1 Retrospective of the Presented Research 175
9.1.1 News Recommendation and Human Rights: Risk, No Risk Or Opportunity? 177
9.1.2 Governing News Recommendation 182
9.1.3 Answering the Main Research Question 191
9.2 Policy Recommendations 192
9.3 Avenues for Future Research 193

Bibliography 195

Index 201