Renaissance Numérique



NOTE MAY 2025

For an Effective Interregulation in the Digital Sphere

Table of contents



Introduction 4

01 The 2020s turning point 6

Favourable conditions for digital regulation prior to the normative surge 7
2022-2024: profusion of texts with complex implementation requirements 8

02 Interregulation: the case of France 15

The increasing heterogeneity of digital regulation actors 16
Steering the collaboration 17

03 EU digital policy: 2022 and beyond **22**

A new organisation due to the AI Act? 23
Leveraging pools of expertise to strengthen Europe's digital competitiveness 26
What's next? 27

04 Proposals for a better digital regulation in France **28**

Acknowledgements 40
About Renaissance Numérique 44

Introduction

Two key dynamics warrant a critical examination of the regulation of the digital sphere and its current evolutions in France and Europe. First, from 2020 onwards, the regulatory framework[1] has seemed increasingly unstable, driven by the accelerated pace at which legislation was adopted within the European Union (EU). Five years later, we have likely entered a phase of stabilisation, in which the principal challenge lies in ensuring the effectiveness of the mechanisms that have now been established[2]. Second, within the current context of implementing legislation on artificial intelligence (AI), a noticeable shift has occurred: the EU's previously dominant role is increasingly giving way to a more internationalised model of governance in this field.

Are Europe and France exiting from what could be termed a "golden age of digital regulation"? This golden age was characterised by a very high degree of consistency in the way the provisions of an iconic text were implemented: the General Data Protection Regulation (GDPR). That coherence was grounded in two main dimensions. First, the activity of the network of national supervisory authorities — the European Data Protection Board (EDPB) — which oversees implementation through decisions and guidelines.

1. By "regulatory framework", we mean all the European and national texts as interpreted by the case law governing the digital sector.

2. See Renaissance Numérique (2024), "EU Digital Policy: the Time has come to connect the dots", 15 pp.

Second, the generally supportive jurisprudence of the Union's courts. Although other texts have preceded it (notably aimed at regulating electronic communications), it is undeniable that when it comes to European regulation of the digital space, there is a 'before' and an 'after' GDPR.

The regulation of the digital economy, which was for some time largely centred on the implementation of the GDPR, may have led European and national institutions to believe that there a 'Brussels effect' existed, confirming the leading role of EU legislation in the global regulation of the digital economy[3]. If that period may not be replicable as such, the new regulatory landscape, as explored in this paper, requires significantly greater resources if it is to function with the same degree of effectiveness as before.

Above all, it necessitates embedding stronger elements of coherence within the EU's broader digital policy. Such coherence was insufficiently taken into account during the successive negotiations of legislative texts between 2022 and 2024[4] — or was acknowledged only formally, through generic references in those new texts to the need to consider the opinions of data protection authorities during implementation.

We are therefore at a pivotal juncture in determining whether the European model of digital regulation can be sustained. Amid mounting challenges, especially from the U.S. government, aligned with some major technology firms, now is the time for this model to demonstrate its excellence for the benefit of both consumers and economic actors. Several of the proposals outlined in the concluding section of this paper are intended to enhance this effectiveness, in order to address growing criticisms of bureaucracy and inefficiency.

3. This refers to the title of a bestseller by Anu Bradford, whose subtitle is even more revealing. Bradford A. (2020), "The Brussels Effect: How the European Union Rules the World". Faculty Books. 232pp.

4. The Digital Markets Act (DMA), Digital Services Act (DSA), Data Governance Act (DGA), Data Act (DA) and AI Act.

The 2020s Turning Point

01

↘ Favourable Conditions for Digital Regulation Prior to the Normative Surge

The relative effectiveness of the European regulatory framework governing digital matters prior to 2020 rested on certain factors that were insufficiently examined before the subsequent surge in legislation. Among these, the central role played by the GDPR and the relative effectiveness of its implementation deserve particular attention.

On the one hand, the GDPR concerns a specific type of digital data (personal data) and, until the advent of the 2022-2024 texts, did not require arbitration with other interests (e.g. competition law, copyright; see below)[5].

On the other hand, in France, there was a clearly identified supervisory authority, that was:

→ **national and singular** (the *Commission nationale de l'informatique et des libertés* (CNIL) is the competent authority for this legislation), with longstanding experience in the field since 1978 (and the advent of *Loi Informatique et Libertés*, a legal text which regulates the processing of personal data), further developed within the framework of Directive 95/46/EC on personal data protection;

→ **holding a distinct position among its European counterparts** due to its early establishment (the third to be created in Europe, after Sweden in 1975 and West Germany in 1977);

5. However, the French Competition Authority did not wait until the 2020 decade to take account of the issue of personal data in its decisions. One example is "Decision No. 14-MC-02 of 9 September 2014 on a request for interim measures submitted by the company Direct Energie in the gas and electricity sectors", in which it quotes, among other things, an opinion from the CNIL.

→ **actively involved in a group** of national supervisory authorities implemented by Directive 95/46/EC since October 1998, the G29, which became the European Data Protection Board (EDPB) from 2018 onwards, when the GDPR came into force. As a result, these national supervisory authorities have developed a strong culture of collaboration — spanning over 20 years for Member States of the European Economic Community, and over 10 years for those that joined in 2004 (Central, Eastern, and Baltic European countries).

Furthermore, the European Commission played a relatively limited role in the implementation of the GDPR. Its enforcement relied primarily on the national supervisory authorities, as well as on the regulatory and consistency mechanisms overseen by the EDPB. The Commission was not granted the power to supplement the GDPR through delegated acts. Its only recourse in the face of dysfunctional implementation lies in initiating legal proceedings before the EU courts (e.g. actions for annulment or infringement proceedings).

↘ 2022-2024: a profusion of texts with complex implementation requirements

The conditions listed above are absent from the legal and factual situation that has been prevailing since the beginning of the current decade. In fact, since 2020, the European Commission has proposed a whole series of texts[6] which need to be coordinated with the GDPR.

Each of these texts has its own objectives with regard to data (personal and non-personal):

6. For a detailed overview, see Renaissance Numérique (2024), *op. cit.*

→ **the Data Governance Act (DGA),** adopted in 2022, aims to facilitate the sharing of data between companies, citizens and administrations;

→ **the Digital Markets Act (DMA),** adopted in 2022, imposes obligations on 'gatekeepers' concerning interoperability and data sharing;

→ **the Digital Services Act (DSA),** adopted in 2022, imposes on platforms greater transparency, responsibility and control for users concerning the use of their personal data, algorithmic systems, targeted advertising and access to this data for independent research purposes;

→ **the Data Act (DA),** adopted in 2023, defines who can use, share and access data generated by connected products and associated services;

→ **the AI Act,** adopted in 2024, is to ensure that artificial intelligence systems are trained, tested and used on high-quality, relevant, representative, bias-free data and processed in compliance with fundamental rights, including the protection of personal data.

This proliferation of European-level legislation has been extended by a major piece of French legislation — the *Loi visant à sécuriser et à réguler l'espace numérique* (law aimed at securing and regulating the digital space, or SREN Act)[7] — which, despite significant challenges, has sought to strengthen the digital ecosystem by allocating new powers to relevant national authorities and administrations.

These legislative developments have occurred while the conditions for their implementation have been disrupted on several levels.

First, the regulations introduced by the above-mentioned texts

7. LAW no. 2024-449 of 21 May 2024 aimed at securing and regulating the digital space.

(including the GDPR) now require the balancing of different interests:

→ **the protection of personal data, the circulation and governance of non-personal data;**

→ **competition law:**

- in its judgment of 4 July 2023 in case C-252/21 (Meta Platforms and Others), the Court of Justice of the European Union (CJEU) stated that "[a] national competition authority can find, in the context of the examination of an abuse of a dominant position, that the GDPR has been infringed"[8];

- in its judgment of 4 October 2024 in case C-21/23 (Lindenapotheke), the Court affirmed that "Member States may make provision for competitors of the person allegedly responsible for an infringement of the laws protecting personal data to challenge that infringement in court as a prohibited unfair commercial practice"[9];

- in the conclusions of the task force on the relationship between data protection and competition, Bruno Lasserre, President of the French Commission for Access to Administrative Documents (CADA), member of the CNIL's college and former Chairman of the French Competition Authority, argued that competition law can complement the GDPR and provide new opportunities for the CNIL. "Protecting privacy and personal data requires a greater consideration of economic and competitive realities"[10], he

8. Court of Justice of the European Union Press release No 113/23, 4 July 2023.

9. Court of Justice of the European Union, Press release No 159/24, 4 October 2024.

10. Our own translation. CNIL (2024), "Conclusions de la mission de réflexion portant sur l'articulation entre protection des données et concurrence", mission entrusted by Marie-Laure Denis, President of the CNIL, to Bruno Lasserre, President of the CADA and member of the CNIL's college, with the assistance of the CNIL's Economic Analysis Mission, p. 27.

stated[11].

→ **copyright law,** as reflected in ongoing debates surrounding the AI Act.

Second, several of these texts (notably the DSA, DGA, and DA) introduce the possibility of having multiple competent national authorities, which must coordinate among themselves while also considering the special role of the national data protection authority. This 'interregulation' is made necessary by the obvious absence of a lead authority, by the need to create a network of regulatory authorities whose competences are expanding without any real overall plan, and by the obligation, in constant resources, to pool the resources of all the authorities in order to cover the extended field defined by the new European regulations.

Third, the national authorities responsible for implementing these various texts may find themselves integrated into Brussels-based *comitology* structures that bring together national bodies with limited experience of working together — and often with significantly less authority than that of the European Data Protection Board (EDPB). This is the case, for instance, of BEREC, which brings together the European electronic communications regulators and is involved in the implementation of certain aspects of the DMA, or the European Data Innovation Board (EDIB), which is involved in the application of the DGA and DA.

11. On the subject of cooperation between the CNIL and the French Competition Authority, see also: CNIL, "IA, concurrence et données personnelles : poursuite des travaux entre la CNIL et l'Autorité de la concurrence", 20 March 2025.

Interrugulation and European Comitology

Digital Services Act vs. GDPR

Under the GDPR, each of the 27 EU Member States has its own data protection authority (the CNIL in France). Since 2018, these authorities have worked closely together within the European Data Protection Board (EDPB), with the aim of harmonising the application of the regulation across the European Union.

In contrast, under the Digital Services Act (DSA), multiple regulators may be competent within a single Member State. However, each country is required to designate a Digital Services Coordinator (DSC) — an independent lead authority responsible for coordinating with other relevant national regulators. For example, in Germany, this role is held by the Bundesnetzagentur (the regulatory authority for telecommunications, postal services, energy, and railways); in Spain, by the Comisión Nacional de los Mercados y la Competencia (the national authority for competition and markets); in Latvia, by the Patērētāju tiesību aizsardzības centrs (the consumer protection authority); and in France, by Arcom (the audiovisual and digital communications regulatory authority).

Depending on the Member State, it may thus be the competition authority, the consumer protection agency, or the media and audiovisual regulator that coordinates the implementation of the DSA. This diversity of coordinating bodies complicates cooperation at the European level, as these various authorities do not necessarily have a tradition of working together. By contrast, the data protection authorities responsible for enforcing the GDPR have a long-standing history of collaboration since 1998, following the adoption of Directive 95/46/EC on personal data protection. Unlike the newly created European comitology bodies, the EDPB was not built from scratch in 2018 — it is the continuation of a structured cooperation that has been in place for more than 30 years.

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The European Board for Digital Services was established to address this challenge of coordination among regulators with differing cultures and scopes, within the framework of the DSA's implementation. Composed of the 27 national Digital Services Coordinators, it held its first meeting on 25 September 2024, during which it adopted its annual work plan. Cooperation among regulators is one of its three main priorities for 2025, alongside tackling disinformation and protecting minors.

Fourth, most of these texts introduce a recentralisation of implementation powers in the hands of the European Commission, either directly or by granting it significant authority to adopt delegated acts. Whereas the GDPR allowed the Commission to adopt two delegated acts, it is authorised to adopt five under the DMA and the DSA, and no fewer than twelve under the AI Act.

What is a delegated act?

A delegated act is a legal instrument used by the European Union to complete or amend non-essential aspects of a legislative act. It is a delegation of power granted to the European Commission, allowing it to adopt additional measures.

- They cannot modify the essential elements of the legislative act concerned.
- They allow for the addition, modification, or removal of non-essential elements of a European legislative act, with a general scope.

- Their adoption is strictly governed by the objectives, content, and duration specified in the legislative act.
- Before entering into force, the European Parliament and Council may raise objections. In the absence of objections, the delegated act comes into force.
- The Commission must consult expert groups before adopting a delegated act.

Regarding the evolution of the role of the College of the European Commission, it is still too early to assess the consequences of the departure of two Commissioners such as Margrethe Vestager and Thierry Breton, and the dispersion of portfolios related to digital matters in the current Ursula von der Leyen II College, now spread across 9 or even 10 Commissioners[12]. However, it seems that the new College is organising itself to address this dispersion of regulatory authorities[13].

12. "Nouvelle Commission : le puzzle des dossiers tech et médias", *Contexte*, 19 September 2024.

13. "Les commissaires européens rassemblés dans des groupes de travail thématiques, dont deux sur l'IA et les start-up", *Contexte*, 13 January 2025.

Interregulation: the case of France

02

The increasing heterogeneity of digital regulation actors

Few national sectoral regulatory authorities had anticipated the significance of personal data regulation when the GDPR came into force in May 2018. Today, all national regulatory authorities are "placing their pawns" to both strengthen the regulation they exercise over "their" sector of activity and, at the same time, expand their powers in the field of digital regulation.

The growing awareness of the challenges that this proliferation of regulatory actors could cause has led, both at the national and European levels, to the establishment of collaborative management mechanisms to prevent any decrease in the effectiveness of digital regulation. These mechanisms ensure that personal data protection, a fundamental right enshrined in Article 8 of the Charter of Fundamental Rights of the European Union, remains central, and aim to involve digital economic actors more closely in this regulation.

The issues encountered at the European level (regulation consistency, difficulties in recruiting technicians and experts, links with civil society) are also present at the national level and have been "revealed" (in the photographic sense) through the implementation of the AI Act. Moreover, there is an increasing heterogeneity of digital regulation actors, initially between independent administrative authorities (IAAs) and independent public authorities (IPAs), on the one hand, and between this first group and government administrations, on the other.

However, there is one notable situation: the growing involvement of central administration is mainly concurrent with the arrival of texts from the 2020 decade. But it also reflects a recognition of the expanded scope of regulation, requiring the mobilisation of administrations across the entire territory. Regulation is changing in nature: it is moving from simple "compliance" with regulator

oversight, driven by complaints and controlled by judges over a limited number of incidents, to controlling regulated activities. Authorities are anticipating incidents as close as possible to their potential occurrence, rather than sanctioning the multitude (which becomes uncontrollable) of failures. The data economy moves with such fluidity that regulation is increasingly focused on structures and procedures rather than "derailments." The control of an economy whose competitive intensity is increasing must align more closely with traditional competition procedures, as practiced by the French competition authority: it is necessary to prevent anti-competitive acts before they cause maximum damage. In other words, even more emphasis must be placed on so-called ex ante regulation than before[14].

↘ Steering the collaboration

Interactive and reciprocal pedagogy

As we have seen, more and more authorities and administrations are involved in the regulation of the digital sphere. It is not certain that this coexistence will be easy to manage, both for the players involved and when it comes to developing a collaborative process with regulated entities. However, this complementarity between authorities operating in the digital space and the digital giants is at the heart of regulation, given the influence and importance of the data that these entities can mobilise. The need for a shared representation of regulation, a sort of role-sharing between regulatory authorities and regulated operators, is recognised by the majority of the experts we have talked to as part of this research[15].

For the independent authorities we interviewed, it may not be "comfortable" to work with a group of central administrations that are almost exclusively under the umbrella of the Ministry of the

14. Sauron J.-L., "Passer du commissaire Maigret à Minority Report : L'enjeu du droit de la concurrence au temps de l'économie numérique", in *Concurrences*, n°2-2021.

15. See the "Acknowledgements" section for the full list.

Economy, Finance and Industrial and Digital Sovereignty, and that are in charge of a political strategy which includes choices that may differ from those of the independent regulators. A learning period for this collaboration is necessary, as we will explain later. However, it is worth noting that the methods of action between the IAAs/IPAs and the administrations have become closer. Decree no. 2025-346, published in the French Official Journal on 15 April 2025[16], which sets out the composition of the national coordination network for the regulation of digital services (introduced by the SREN Act) makes these relations even more complex: in addition to the usual players involved in digital regulation, this network includes the General Secretariat for Defence and National Security and the Vigilance and Protection Service against Foreign Digital Interference (Viginum), two departments of the Prime Minister with very different concerns relating to the defence of the nation's interests.

The possibility of a Digital Agency

In Europe, rather than relying on French-style interregulation, some Member States are considering or have considered the creation of a single agency that would bring together the competencies of the various regulators involved in the regulation of the digital sphere. This possibility does not fit French institutional practices. Beyond the lack of a culture in favour of such an organisation, this possibility encounters practical challenges: the importance of sector-specific knowledge held by each regulatory authority and, reciprocally, the habits established by regulated businesses within these authorities.

In Germany, where discussions on this possibility are more advanced, proponents of this approach do not share the same vision of what a single digital agency might look like. The "Bundesministerium für Wirtschaft und Klimaschutz" (the Ministry of Economic Affairs and Climate Protection) has proposed setting

16. Decree no. 2025-346 of 15 April 2025 implementing article 7-4 of law no. 2004-575 of 21 June 2004 on confidence in the digital economy.

up a new agency that would combine the typical functions of a think tank and of a regulator. Others suggest transforming the current Bundesnetzagentur (the Federal Network Agency) into a "Digitalagentur" (Digital Agency), as its scope of intervention has significantly expanded in recent years. Yet others propose that the Bundesnetzagentur serve as an incubator for a digital agency. Rather than a centralising agency, it would be a coordination and expertise collection centre, acting as a single point of contact for businesses and consumers. The debate, for now, is far from settled[17].

Various formal coordination bodies

In France, various formal coordination bodies gathering regulators and administrations coexist and are complemented by informal working groups. These bodies were often established in reaction to short-term developments, rather than in a coherent manner. They can be categorised as follows:

→ **Information exchange circles without the possibility of taking operational legal decisions.** This is the example of the 'independent regulators' club', which brings together AAIs and IPAs operating in very different sectors (Financial Markets Authority, Online Gambling Regulator, Energy Regulatory Commission, CNIL, etc.) who discuss operating problems (budgets, human resources, etc.).

→ **The transformation of a body created to prepare the French positions in the negotiations of the DMA and DSA proposals,** led by the Directorate General for Enterprises (DGE) of the Ministry of Economy (a task force that operated until 2022), **into a more political body in charge of the regulation of information society services.** This "National Coordination

17. *interface*, "A Look Ahead at EU Digital Regulation: Oversight Structures in the Member States", 19 June 2024.

Network for the Regulation of Digital Services"[18] (as foreseen in Article 51 of the SREN Act) meets three times a year and will be chaired for an eighteen-month period, alternating between the ministers in charge of digital affairs and culture. Its secretariat is provided by the DGE, which proposes the agenda for the meetings (which can be supplemented by the members of the network). According to the aforementioned decree of 15 April 2025, no less than twenty organisations, divided between the Prime Minister's departments (National Agency for the Security of Information Systems, Interministerial Digital Department, General Secretariat for Defence and National Security and Viginum) and seven different ministries, will be members of this network.

→ **Bilateral cooperation arrangements** for specific issues, such as :

- the agreement aimed at organising cooperation between the authorities (such as CNIL or Arcom) and administration (e.g. the Directorate-General for Competition, Consumer Affairs and Fraud Control (DGCCRF)) to implement the DSA[19];

- the agreement between Arcom (authority) and Viginum (administration) in the specific field of the fight against foreign interference through digital platforms[20];

- the digital cluster and the joint Arcom-Arcep College, which is unique in terms of governance and enables the

18. This network has its origins in proposal 12 of the *Conseil d'État*'s 2022 annual study on social networks, which stated (pp. 238-239): (our own translation) "It is proposed that a network of digital regulators (NDR) be set up, bringing together the competent IAAs (ARCOM, CNIL, ARCEP, Autorité de la concurrence) and the competent government departments (DGCCRF, DGE, Customs) at national level, both to encourage the regular sharing of information and, while respecting the independence of each, to better coordinate regulatory policies. It could also share expertise and best practices and, where appropriate, with the agreement of the authorities concerned, coordinate investigations. Its administrative secretariat could be provided by the interministerial department that is to be set up, which would facilitate the link between government departments and the network. It could assess research needs and, in collaboration with universities and researchers, propose roadmaps and objectives to be achieved".

19. Arcom, "Convention de coopération pour la mise en œuvre du règlement sur les services numériques entre l'Arcom, la DGCCRF et la CNIL", 24 June 2024.

20. Arcom, "Convention cadre de partenariat entre l'Arcom et VIGINUM", 10 July 2024.

two institutions to work together on certain projects and deliverables;

- older coordination processes (stemming from the law of 24 June 2020) in the specific area of online hate speech.

→ **Collaborative cooperation on technical issues.** This pooling of expertise takes place notably through the Digital Regulation Expertise Hub (PEReN). Moreover, another "means-sharing" agreement is provided for by a new cooperation protocol signed on 18 November 2024 between the CNIL and the DGCCRF, updating an initial agreement from 2011 on the same subject[21], aiming to "pool expertise on tools (notably through the use of the CNIL's Digital Innovation Laboratory) and investigative techniques."

Despite these initiatives and dynamics, do these bodies make it possible to agree on a common vision, which can then be defended at European level? Are they organised coherently enough? Making sure it is the case is essential to ensure that the regulation exercised in France is comparable to that applied in other Member States and to continue to effectively represent France's position in European comitologies under the various legislative texts.

21. CNIL, "Protection des consommateurs et des données personnelles : la CNIL et la DGCCRF renforcent leur coopération", 12 November 2024.

EU Digital Policy: 2022 and Beyond

03

A new organisation due to the AI Act?

The European Commission has also faced the challenge of organising better coordination between the different comitology bodies of the various texts adopted since early 2022 (DMA, DSA, DGA, DA, and AI Act), aiming to promote mutual learning and effective communication between these bodies while considering how to ensure better alignment between the different texts (particularly between the GDPR and other regulations). According to the work plan of the European Data Protection Board (EDPB) adopted in October 2024, European data protection authorities are planning, for example, the development of guidelines that should "address the relationship between the GDPR and other digital regulations – work is already underway with the Commission on the relationship with the DMA. The European data protection authorities also plan to release a position paper on interactions with competition law"[22]. In addition, at his plenary meeting of 8 April 2025, the EDPB decided to launch a stream of work in 'close cooperation' with the AI Office of the European Commission[23].

Towards better cooperation between European regulators?

"Henna Virkkunen and Michael McGrath want to clean up the new jungle of tech regulators. The issue of cooperation and the clear division of responsibilities between the different digital regulators at the European level comes up twice in their written responses to the European Parliament. Citing the creation of several advisory bodies during the last mandate, such as the high-level group

22. "Les Cnil européennes arrêtent leur "to-do list" pour 2025", *Contexte*, 11 October 2024.

23. EDPB, "EDPB adopts guidelines on processing personal data through blockchains and is ready to cooperate with AI office on guidelines on AI Act and EU data protection law", press release, 14 April 2025.

of the DMA, the Digital Services Committee of the DSA, and the AI Committee, Henna Virkkunen wishes to 'ensure that responsibilities are clear, while promoting mutual learning and effective communication between the various concerned bodies.' 'The Commission has an important role to play' in fostering this coordination, according to the Finnish politician. Taking the example of the European Data Protection Board (EDPB)'s initiatives to clarify the relationship between the GDPR and the new digital laws, Michael McGrath calls for 'strengthening cooperation between the authorities responsible for enforcing legislation' and intends to 'continue the reflection on how to promote more structured and effective cooperation, especially to address situations where multiple regulators are involved.'"

Source : "Henna Virkkunen et Michael McGrath veulent faire le ménage dans la nouvelle jungle des régulateurs de la tech", Contexte*, 25 October 2024.*

On 10 January 2025, the European Commission announced the creation of 14 "project groups" bringing together several commissioners around cross-cutting issues relevant to their portfolios. One of these groups will be tasked with preparing initiatives related to artificial intelligence (AI), such as the AI application strategy. Chaired by Commissioner Henna Virkkunen, it will include seven commissioners, including Stéphane Séjourné (Industry), Michael McGrath (Justice and Consumers), and Ekaterina Zaharieva (Start-ups and Innovation)"[24]. Is the last text adopted by the European Union (the AI Act) the one that will lead to a complete overhaul of the way European regulation of the digital sphere is organised?

So far, few Member States have opted for a specific authority to oversee the implementation of the AI Act; Spain is the only country that has taken this path. Other Member States seem to be leaning towards distributing responsibilities among several existing sector-specific authorities. But what would be the most relevant and effective solution? This situation highlights that not all Member

24. "Les commissaires européens rassemblés dans des groupes de travail thématiques, dont deux sur l'IA et les start-up", *Contexte*, 13 janvier 2025.

States are at the same stage in building their digital policy: those that have faced these issues for a longer period (such as Germany, France, or Italy) are also the most active in this field.

The European Data Protection Board (EDPB) appears to have started laying the groundwork in its 3 December 2024 statement, calling for regulatory coherence and cooperation between regulators of the various digital regulations[25]. In parallel, the European Data Protection Supervisor (EDPS) aims to reestablish the "Digital Clearinghouse", a former exchange center that promoted dialogue between digital regulators, in order to strengthen their cooperation. This announcement of 15 January 2025 paves the way for interregulation through the sharing of knowledge and identification of regulatory needs[26]. But will this proactive diplomacy of the initial regulators, those involved in the implementation of the GDPR, be heard?

Indeed, this approach runs counter to the choice made by Member States and the European Commission for the recentralisation of powers into the hands of the Commission itself, as evidenced by the AI Act, with European regulation being primarily exercised by either a European AI Office formed from the Commission's DG Connect or the College of Commissioners itself.

25. EDPB, "Statement 6/2024 on the Second Report on the Application of the General Data Protection Regulation - Fostering CrossRegulatory Consistency and Cooperation", 3 December 2024.

26. EDPS, "Towards a Digital Clearinghouse 2.0. Concept note", 15 January 2025.

↘ Leveraging pools of expertise to strengthen Europe's digital competitiveness

Moreover, the relationship between the two levels of regulators (at the national level in Member States and at the central level through the Commission), whose balance has shifted since the texts adopted between 2022 and 2024, is likely to clash with the pressing need to strengthen the competitiveness of a market that is completing its unification in light of the recommendations put forward in the Draghi and Letta reports.

The inclusion of a concern for competitiveness in the projection grid makes it even more vital for EU Member States to build up pools of professionals and experts in the digital field in a globalised world where all the world's economic players are looking for professionals trained in the issues of the digital economy. There will not be a single person or group of individuals holding the knowledge and who will serve as a reference to resolve practical issues, as is the case in the world of the GDPR with its Data Protection Officers (DPOs).

In the normative triad formed by the DGA, DA, and AI Act, nearly every employee will need to know exactly how they contribute to wealth creation through data. This so-called "literacy" obligation concerning data and AI heightens the necessity to create a "digital literacy certificate" at the European level[27]. The European Union has just adopted the possibility of a European diploma, meaning a qualification following a standardised training cycle in each Member State. Shouldn't the first European diploma be that of a digital expert, which could then be broken down into certificates

27. European Commission, "Commission rolls out plans for a European degree" , 27 March 2024.

attesting to shorter training durations than the diploma itself?

All of this is urgent, and measures must be taken quickly, particularly focusing on the training of trainers.

↘ What's next?

Will a decentralised regulation system, adjusted by European comitology structures (such as the EDPB) or by unifying rulings from the Court of Justice, be able to withstand the offensive North American policy launched on 20 January 2025, supported by some of the major tech players?

Another possible system, duplicating the competition authority model and Regulation 1/2003[28] in the realm of digital regulation, is hardly feasible due to the great diversity of national authorities overseeing the sectors covered by the texts adopted between 2022 and 2024.

The globalisation of digital regulation is becoming an inevitability with the deployment of artificial intelligence. In this context, is it still conceivable that each global player (Amazon, Google, Meta) will engage with specific national regulatory authorities, especially with an authority overseeing a particular segment of the digital economy, while it is becoming impossible to truly sectorise activities?

28. Regulation (EC) No 1/2003 is a fundamental piece of European Union competition law. It lays down the rules for implementing Articles 101 and 102 of the Treaty on the Functioning of the European Union (TFEU), which prohibit anti-competitive agreements and abuses of dominant positions respectively.

Proposals for a Better Digi tal Regulation in France

04

The majority of European texts examined in this note (except for the GDPR and the DSA) do not require, at the national level, the independence of the authorities responsible for overseeing the various regulations implemented[29]. This flexibility opens the possibility for increased collaboration between Independent Administrative Authorities (AAIs), Independent Public Authorities (IPAs) and administrations – or "interregulation." However, this possibility de facto shifts the balance of power in favor of central administrations. This shift is happening without public debate and without political authorities necessarily being aware of it.

In this context, the proposals outlined below all aim to strengthen "the effective coordination between digital regulators"[30] to leverage the complementarities between them, and to avoid inconsistencies. Adapting to this interregulation approach will take time, as it involves regulators of different types (AAIs, IPAs and administrations) with very different regulatory cultures:

→ **Regarding the law that is mobilised:**

- Economic law, consumer protection, contract law, the economic power relations between actors in the ecosystems, the distinction between infrastructure and usage issues, and remuneration questions: Arcep, Competition Authority, DGCCRF.

- Public or individual freedoms law and societal or democratic issues: CNIL, Arcom.

→ **Regarding the regulatory culture that is mobilised:** the culture of recommendations (Arcom, Arcep, CNIL) vs. a more jurisdictional culture (CNIL, Competition Authority, DGCCRF).

29. This does not, however, preclude the choice being made at national level to entrust the enforcement of the texts concerned to an independent authority (such as Arcep, the Competition authority or the CNIL, depending on the texts).

30. CNIL, "The law aimed at securing and regulating the digital space (SREN) strengthens the protection of Internet users by entrusting new tasks to the CNIL", 24 May 2024.

This convergence has already begun in the regulatory approaches of these entities. For instance, for the DGCCRF, the FAQs and guidelines it publishes naturally fit into an educational role, complementing its functions of monitoring compliance with the legislation and imposing sanctions for infringements. This is in line "with what is done at the European level by the European Commission"[31] and with the traditional practices of AAIs.

However, a significant divergence remains regarding the definition of action priorities, between AAIs and IPAs on the one hand, and administrations on the other hand. For example, "DGCCRF defines its control areas based on the priorities of the government"[32], as noted by the Court of Auditors in its final observations on the DGCCRF's activities for the 2020-2024 period[33].

Some of the proposals below reflect the practical and political impossibility of undertaking a profound overhaul of the regulatory system in France and Europe more generally (with different historical layers of regulatory authorities, each with its own approaches, such as market facilitation for some and more "repressive" approaches for others, and diverse legal forms, such as AAIs, IPAs and, since more recently, administrations).

This dispersion of regulatory actors makes it more difficult for their "targets" (regulated entities) and the final consumers benefiting from their work to understand the policies being pursued. Lastly, the actual expertise possessed by each of these authorities or administrations in digital regulation is undeniable and might not survive a too-aggressive redefinition or restructuring of the situation.

Therefore, in a context where the European model is being

31. "Rôle et actions prioritaires de la DGCCRF au bénéfice de l'économie et des consommateurs", interview with Sarah Lacoche, Director General of the DGCCRF, *Concurrences*, n°1-2024, art. 116514, pp.12-20.

32. *Ibid.*

33. "Pour la Cour des comptes, le manque d'indépendance de la DGCCRF nuit à son travail", *Contexte*, 7 March 2025.

challenged, it is urgent to implement measures to make their actions more effective. The goal is to strengthen, or even improve, the work of the various authorities and administrations involved in the regulation of the digital sphere in France and to reinforce the place of the French approach to regulation at the EU level.

PROPOSAL 1 - PROMOTE DIGITAL ACCULTURATION AMONG POLITICAL LEADERS IN FRANCE AND EUROPE

This approach, which aims to reintroduce national governments and parliaments into the monitoring of digital regulation, could take three mutually reinforcing directions:

1. Identifying, in each of the 26 other EU Member States, contact points of the national network for the regulation of digital services created by the SREN Act. This digital diplomacy can only be led by governmental bodies and will help foster the necessary politicisation of the issue. Furthermore, this network could serve as the primary interlocutor for the project groups set up by the European Commission in this area.

2. Develop, within national parliaments, a mechanism for cooperation in the digital field, enabling exchanges on the subject with the relevant standing parliamentary committees within the European Parliament.

3. Propose the organisation of an annual Tech Summit, bringing together all the economic and institutional players concerned, to address the issues of regulation, competitiveness and the protection of fundamental rights. There is a real cultural issue at stake when it comes to the type of digital regulation we put in place, and Europe has a duty to assert its model and its values at a time when others are seeking to move away from European-style regulation. Such an ambition could be driven by a French initiative.

This acculturation is all the more important than most European texts regulating the digital sphere take the form of regulations and

not directives. Hence, the acculturation effort that takes place when a Parliament is tasked with transposing a directive into national law doesn't occur.

PROPOSAL 2 - FACILITATE THE RETRIEVING OF INFORMATION FROM THE VARIOUS AUTHORITIES' AND ADMINISTRATIONS' INVESTIGATION PROCEDURES

Cooperation between authorities in their investigations is often hindered (or even made impossible) by technical or legal challenges (such as preserving the anonymity of agents, individuals, and companies under investigation, as well as procedural secrecy rules). The situation will see an increase in joint investigations (between authorities) and the circulation of information that could be reused by an authority other than the one initially conducting the investigation.

Harmonising investigation procedures could greatly facilitate synergies between national authorities of different kinds covering different sectors of activity and develop the necessary interdisciplinarity between them. The working groups that the national coordination network has the power to set up to work together on specific issues could deal with this procedural harmonisation proposal (as well as the one mentioned in proposal 3 below).

It should be noted, though, that the aim here is not to harmonise the way in which the various authorities work, which may differ for many reasons, including non-legal ones (organisation, established practices, etc.). However, without going as far as a 'code of common procedures', it is important to consider how to better pool the results of investigations carried out by each of the regulators[34].

34. See Decree no. 2025-387 of 28 April 2025 specifying the terms of cooperation between Arcep and the CNIL in the context of certain procedures pursuant to Article 38 of the SREN Act. Prior to any decision relating to practices in the field of data intermediation services that raise issues relating to the protection of personal data, Arcep shall refer the matter to the CNIL in order to obtain its comments, if any. Arcep shall forward to the Chairman of the CNIL any useful document or information gathered in the course of its investigation of cases and procedures in this area.

PROPOSAL 3 - LAUNCH A SINGLE NATIONAL PLATFORM FOR REPORTING INCIDENTS RELATED TO THE APPLICATION OF THE DIGITAL REGULATORY PACKAGE

A single national platform should be established to help consumers, economic operators, and their legal representatives identify the appropriate authority to handle their issue. Once the right interlocutor is identified and validated, that authority would be responsible for addressing the matter substantively[35]. An AI system designed within this framework would avoid discouraging the 'beneficiaries' of European digital texts, faced with the difficulty of identifying the right contact. The European Commission has just made a similar proposal as part of the implementation of the AI Act[36].

This same platform should also clearly outline the legal remedies available to contest decisions made by the regulatory authorities.

An alternative proposal would be that of procedural harmonisation including a provision of the type contained in article R.351-3 of the Code of Administrative Justice, which would require the authority or administration referred to, to refer of its own accord its 'inadequate' referral of a consumer or business to the legally competent authority or administration.

PROPOSAL 4 - MOVE BEYOND INFORMATIONAL COORDINATION TOWARDS OPERATIONAL COLLABORATION BETWEEN AUTHORITIES AND ADMINISTRATIONS INVOLVED IN INTERREGULATION

For the time being, the joint work consists of improving the flow of information between the various regulatory authorities involved in the regulation of the digital economy. In addition, it would be desirable to:

→ Draw up joint action plans between a number of regulators

35. This could, for example, be managed by the DGE with the support of the *Defenseur des droits*.

36. European Commission, "Commission launches a call for tender as part of the efforts to establish the AI Act Service Desk", 16 April 2025.

in the areas covered by each of the European texts. Where possible, these plans should be, when possible, coordinated with annual control programmes. This would make it possible to adjust the priorities of the authorities (AdlC, Arcep, Arcom, CNIL) and those of the administrations (DGCCRF, DGE, DGMIC), and to contribute to the best possible concerted consideration of different interests by regulators: protection of personal data, consumer protection, proper functioning of competitive markets, and protection of democratic life and the sincerity of elections (freedom of expression and the fight against informational manipulation).

→ Conduct joint hearings of the various major economic players (tech giants in particular), especially within the national coordination network set up by the SREN Act, when different authorities and/or administrations are involved. European regulation can only take place within a framework of partnership with major companies. This awareness of the complementary nature of the players (regulators/companies) would make it possible to strengthen the European approach to regulation, all the more so as the simple circulation of information between regulators will not be enough to meet the demand for predictability of the legal framework that operators legitimately expect. The concepts on which regulators must base their actions must be defined in the same way by all regulators working in the same field (for example, in the context of the DSA, Arcom, CNIL and DGCCRF must agree on a common understanding of the concept of ‘dark patterns’).

→ Enhance the transparency of the decisions that are taken by authorities and administrations, by setting up a platform to disseminate the opinions and decisions issued by the various regulators.

PROPOSAL 5 - STABILISE THE ORGANISATIONAL "COSMOGONY" OF DIGITAL REGULATION

Beyond the recent ‘back and forth’ of the Secretary of State for

Digital Affairs from Bercy (the Ministry of Economy to the Ministry of Research) under the Barnier government, then from the latter to Bercy again under the Bayrou government, it is very useful for the organisation of digital regulation to remain stable, including in the administrations mobilised to facilitate synergy between the regulatory authorities and make the decision-making chain in this area clear to third parties (platforms or consumers). It would undoubtedly be advisable to establish clearly the competences of the various authorities and to increase the resources allocated to the different regulators.

PROPOSAL 6 - IMPROVE COORDINATION OF THE VARIOUS LEVELS OF DIGITAL REGULATION IN EUROPE

Both the globalisation of digital regulation and the impossibility of unravelling the balance resulting from the legislative package negotiated between 2022 and 2024 lead us to propose measures to ensure that the work of the European and national authorities converges more effectively. First of all, it is important to ensure that national initiatives (information, surveys, legislative initiatives) are passed on to the European level to feed into the decisions taken in Brussels.

For example, initiatives are underway in five different EU Member States on the subject of age verification (in particular to control access to pornographic sites, gambling, etc.). As long as this subject is not dealt with at European level, these fragmented initiatives are unlikely to lead to the establishment of a common European position or a common European standard in this area.

This consideration of national experiences could be formalised in the rules of procedure of the various *comitology* groups chaired by the European Commission. This dual movement (from national to European level and *vice versa*) will help to ensure a 'feedback loop' between national experiences and European regulation.

PROPOSAL 7 - DEVELOP DIGITAL DIPLOMACY

On the initiative of the French 'representatives' on the aforementioned comitologies, a diplomacy should be set up between national authorities (sometimes plural) in order to help create a common culture among these authorities and strengthen the place of national regulations in European regulation. At French level, this initiative could be based on the national coordination network for the regulation of digital services. One of its remits is indeed to lead a "reflection and comparative analysis on the regulatory practices of other Member States of the European Union" (article 7.4 of the SREN Act). To this end, it could draw on the network of the French General Secretariat for European Affairs (SGAE). The national coordination network, in collaboration with the SGAE, could be tasked with coordinating the voice of French regulators and passing it on to the European level. The challenge here is to get all the regulators to agree on voicing the same message to the various European comitologies[37].

Furthermore, the need for predictability in the legal framework, which is legitimately expected by operators, also applies at European level: European comitologies must respond to this demand by harmonising the operational content of the various concepts covered by European regulations as quickly as possible, with a view to ensuring a level playing field between players at European level[38]. This harmonisation is all the more necessary as the European Commission is considering, as mentioned in the annex to its draft international digital strategy, creating international networks of DSA and DMA regulators[39]. The development of supra- or transnational investigations makes it extremely urgent to ensure that the interregulation that has been built up at national

37. It should be noted in this respect that, in the context of the DMA, the DGCCRF is a newcomer to the coordination of European competition authorities, via the European Competition Network (ECN).

38. "Rôle et actions prioritaires de la DGCCRF au bénéfice de l'économie et des consommateurs', interview with Sarah Lacoche, Director General of the DGCCRF, Concurrences, n°1-2024, art. 116514, pp.12-20.

39. "La Commission européenne veut monter des réseaux internationaux de régulateurs du DSA et du DMA", *Contexte*, 2 May 2025.

level be used in EU *comitologies* as well.

PROPOSAL 8 - MEASURE AND INTEGRATE THE COSTS AND IMPACTS OF REGULATION FOR BUSINESSES

Any regulation comes with a cost/benefit calculation. In order to assess the effectiveness of the texts regulating the digital sphere adopted in recent years, we need to be able to quantify and weigh up their costs against the benefits they have brought. Each piece of legislation should therefore be accompanied by an in-depth impact analysis, detailing the projected cost of compliance for the different types of players involved (VSEs, SMEs, start-ups, major groups, etc.). Such a measure would ensure that all businesses, including VSEs and SMEs, are actually able to comply. Without this, there is a risk of ending up with regulations that only the biggest players in the economy are able to comply with, or that are totally disproportionate (or even unabsorbable) in terms of cost for the smallest players, thereby creating barriers to market entry.

With the proliferation of regulations in recent years, the administrative burden of compliance has continued to grow for businesses, sometimes putting the brakes on innovation in the process. In addition to the impact analyses mentioned above, it is important to ensure that the transposition of European legislation into national law does not result in over-transposition.

The cost of compliance: the case of the dematerialisation of transport tickets

When a company in the mobility or transport sector plans to dematerialise transport tickets or online subscription mechanisms, by implementing systems for authenticating identity or authorisation documents (identity card, driving licence, certificate, etc.), avoiding the need to go through a subscription ‘over

the counter' or in physical locations, it can use:

- public data, access to which is governed by national legislation, the Data Act or the Law Enforcement Directive ;

- personal data, including biometric data (document recognition), governed by the GDPR and the AI Act.

The mere juxtaposition of the competent sectoral and thematic regulators and the national and European levels leads to approval costs, then to arbitration costs between regulators, which require three years of interregulatory dialogue and two years of local and then EU litigation in order to have rules that can be read by a single player.

The cost of regulatory management for a company and a project of this type is of the order of 1,000 internal hours and €500,000 of external regulatory management, then €400,000 to €2 million of litigation management, before receiving an arbitration – that is not always made public – on the methods of implementation accepted by national regulators, but only likely to be accepted by their counterparts in other EU member countries.

What company today can afford to waste two to five years before daring to become a pioneer in the dematerialisation of contractual access to a service?

PROPOSAL 9 - CREATE A EUROPEAN DIPLOMA FOR CROSS-DISCIPLINARY EXPERTISE IN THE VARIOUS DIGITAL ISSUES

The European Union has just adopted the possibility of a European university diploma, i.e. a diploma that would culminate in a course of study (Bachelor's, Master's and Doctorate) of identical composition in each Member State. The first European diploma should be that of a digital expert, which could be broken down into certificates attesting to trainings of shorter duration than the diploma. All this is urgently needed, and the training of trainers should be the first priority.

This diploma is just one part of the digital training revolution, which needs to reach the widest possible cross-section of the population. This need is well defined by Article 20 of the Council of Europe Framework Convention on Artificial Intelligence, which states that "[e]ach Party shall encourage and promote adequate digital literacy and digital skills for all segments of the population, including specific expert skills for those responsible for the identification, assessment, prevention and mitigation of risks posed by artificial intelligence systems" or here the digital economy.

Hence the importance of thinking about training well beyond initial training, and of encouraging an approach based on lifelong learning. If French society is to become familiar with the main aspects of the digital economy, the entire population needs to be brought up to speed. First of all, we need to acculturate economic and administrative circles to the need to embrace the notion of 'literacy' (in terms of data, AI, and digital literacy in general), a notion that is already well established in North America (Canada and the United States).

PROPOSAL 10 - AVOID OVER-BUREAUCRATISING REGULATION

Over-bureaucratisation could arise as a result of the large number of texts and players involved. To avoid such a situation, we need to start thinking about how civil society and economic players can be better involved in the regulation of the digital sphere, in order to incorporate concerns that may not always be sufficiently taken into account by regulators.

Acknowledgements

Renaissance Numérique would like to thank all the expert interviewed as part of the research project which led to the publication of this paper:

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Laure DE LA RAUDIÈRE, President, Arcep

Marie-Laure DENIS, President, French Data Protection Authority (CNIL)

Gabrielle DU BOUCHER, Policy Officer for Tech, Rights and Freedoms, Defender of Rights

Claire HÉDON, Defender of Rights

Sarah LACOCHE, Director, Directorate-General for Competition, Consumer Affairs and Fraud Control (DGCCRF), French Ministry of Economy

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Clara-Lou LAGARDE, Head of Department for Supervision and National Coordination, Directorate for Online Platforms, Arcom

Rodolphe LE RUYET, Technical Adviser to the President, Arcep

Benoît LOUTREL, Member of the Board, Arcom

Roch-Olivier MAISTRE, President, Arcom

Sébastien MONTAIGU, Deputy Delegate for Platform Regulation, Directorate-General for Media and Cultural Industries (DGMIC), French Ministry of Culture

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Graphic design

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Founded in 2005, Renaissance Numérique is the leading independent French think tank dedicated to the digital transformation of society and its impacts on citizens. It works to shed light on the changes that this transformation is bringing about and to give everyone the keys to mastering it.

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Renaissance Numérique is a member of the Observatory on Online Hate run by the French Audiovisual and Digital Communication Regulatory Authority (Arcom) and of the organising committee of the Internet Governance Forum (IGF) France.



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