

Annex to the Digital Services Act Consultation - Nordvision

The Nordic public service media (PSM) companies have recently had several issues with takedowns and removals of content on online platforms. The issues vary from podcasts accounts taken down; claims of how legal content have infringed platform community standards; brand stripping when published on third party platforms; to having a service blocked and completely removed from app stores. In the light of the DSA consultation, we find it important to illustrate some of the examples, and point to consequences and measures to be addressed further. The situation where global online platforms ban, edit or erroneously remove services and content from providers of legal content for conflicting with platform's community standards needs to be further scrutinized and addressed at EU level.

Editorial integrity is a key for trust in the media

Guided by strict national and European rules as well as journalistic and editorial principles, the cornerstone of independent public service media is exercising full editorial responsibility over content. Public trust is built on maintaining this independence. That is why, when digital platforms and social networks are used to make such content of societal general interest available to audiences, it should never be subject to any undue form of secondary control, be taken down, removed or modified. As Nordic PSM companies we want to operate on and alongside digital intermediaries and social networks, with the right conditions creating sustainable business relations, based on national conditions in the markets where we operate. All decisions are made and based on Scandinavian values and we comply with national and European legislation and abide by the Press Ethical Rules. Any attempt to influence or adjust content by providers of independent content of societal general interest should be considered very seriously. Regardless of platform, our editorial policy and principles are the same in all cases should the content be transmitted on television, radio or online. That is why, when digital platforms and social networks are used to make content of societal general interest available to audiences, it should never be subject to any undue form of secondary control, be taken down, removed or modified.

European digital regulation must safeguard freedom of expression and freedom of the press. **The DSA should establish safeguards which prevent platforms from applying additional or secondary control over such content. This should include removal or modification based on platforms' community standards.**

Terms and conditions are not national or European media legislation

Examples of removals mentioned here are often a consequence of the platform's own terms and conditions and community standards. Terms and conditions and community standards are unilaterally imposed with no possibility to negotiate and they often have different criteria's than the law/regulations in the EU or in individual Member States. This has significant negative consequences as it restricts the editorial independence when content providers use third party platforms to reach their audience. As such terms and conditions are regularly more restrictive than applicable law or regulations in the Member States, causing unnecessary and unwarranted removal of content.

Defining illegal and harmful content and related enforcement should therefore always be within the competence of individual EU members states in respect of culture, legislation and fundamental EU values. Allowing individual community standards, that are adjudicated with less than full transparency, to take precedence is a serious threat to editorial freedom, freedom of expression, cultural diversity and media pluralism in Europe.

1. Content/app removed from Google's Play Store

The Danish Broadcasting Corporation (DR) has recently had issues with Google over the removal and blocking of updates for the Ramasjang app for children's content. After ongoing differences over some time, Google decided to remove the app in full of in August 2020, without providing DR with further information or a reason for their decision. After negotiations, followed by an intense public debate about the need to guarantee editorial independence to content providers on online platforms, the app was reinstated in the original form by Google, without further information on change of stance.

Brief summary of the case:

May and June (2020) DR had issues getting the children's app Ramasjang (intended for kids age 4-8) confirmed on Google play. The app and content were explained to be violating Google's family policy's definition in relating to tobacco and violence, as the content contained the image of a traditional Danish liquorish candy shaped as a 'pipe' pipe being used by one of the children characters in a Sherlock Holmes resemblance.

- DR tried re-publishing/updating the app on numerous occasions without success.
- On Thursday July 30, DR received an email from Google that the app release/update was rejected again, and where they informed that the app could risk being fully removed if DR did not correct/remove listed items/content that Google could not approve.
- The 2nd of August, DR Children's app was removed in full from the Google play store without any further notice or information. DR discovered the removal after being notified by users not able to find it in the Play store.
- After several days, Google returned to DR claiming that it was on the grounds of GDPR issues that the app was rejected and later removed. DR disagreed with this as that the app clearly linked to the correct privacy policy, clear to anyone being able to read and understand Danish, which is the intended audience for the Ramasjang app with Danish language content.
- After requests for further clarification from DR, and after the story broke to the Danish press, Google returned with further information on reasons for removing the app, among them how the app was violating Googles "Family Policy Requirements" and was not considered child friendly and suitable for children in the addressed age group, as well as containing violence. According to Google, it is difficult to have country specific regulation and therefore they adhere to the IARC (International Age Rating Coalition) og PEGI (Pan European Game Information), and their own recommended age evaluation criteria.
 - In the reference to violence it was explained how the app contained a game related to karate.
 - Promotion of tobacco products: the app and content were explained to be violating Google's family policy's definition in relating to tobacco and violence, as the content contained the image of a traditional Danish liquorish candy shaped as a 'pipe' pipe being used as props by one of the children characters in a Sherlock Holmes resemblance.
 - Crude humor content: In another game, users can press an illustration and play a fart sound.



- The removal of the app has been heavily criticized in Denmark for not respecting national legislation and editorial integrity, and the app was reinstated by Google without further changes.

DR has a long tradition in producing quality content for all ages and the Ramasjang brand has been developed for ten years. Ramasjang is the biggest children’s tv channel in Denmark and its digital use is increasing day by day. The underlying values is to empowers children, togetherness and curiosity. It is an award-winning app and active co-creator of play and communities in Denmark. It has actively been reviewed by media researchers from the University of Copenhagen and by an advisory board with members including Save the Children, the National Agency for Education and Quality and the Danish Film Institute.

Google’s change of reasoning shows the power over access to content of general societal interest they have, especially in smaller markets, leading to unsustainable B2B relations and a potential layer of additional editorial control, which is unacceptable for independent media already adhering to strict editorial control and subjected to specific regulation.

2. Sveriges Radio (SR) and Instagram’s takedown of account

In June 2019, the Instagram account for SR’s youth-oriented satirical show “Think Tank” (Tankesmedjan) was suddenly, and without warning, removed from Facebook-owned Instagram. The production team were given no real explanation, just a standardised alert that one of their posts had broken Instagram’s rules. SR’s got in touch with a contact at Facebook in Sweden who passed on our concerns to their international moderating team. Two weeks later the account was reinstated.

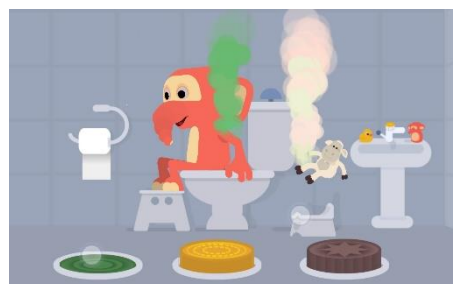
Following the takedown described above, Facebook has, in order to assist them in their decision making, been provided with a list of all of SR’s accounts and been urged to check with SR before taking down one of SR’s accounts again in the future. Constructive dialogue has been established and Facebook’s local representatives showed a willingness to make some efforts to avoid future conflict of a similar nature. SR has however still not received a full explanation for the temporary removal of the account though, highlighting the lack of transparency for platform decision-making processes in general and what led them to remove the account on this occasion in particular.

The case demonstrates the difficulties of receiving transparent and timely reasons for takedowns and the unclear reasoning behind whether content or full accounts are removed and/or reinstated by the platforms. The case also shows the importance of national and local contacts, with the opportunity to judge issues and relations in a local context. Furthermore, it illustrates that sustainable platform to business (content provider) relations are too ad hoc and dependent on good-will from the platforms.

Important factors here are further improved business relations and increased transparency between content providers and the respective platform, as well as national contact points and functional reporting mechanism implemented by platforms on national markets.

3. Norwegian Broadcasting Corporation (NRK) and issues with Google

NRK has faced several specific challenges in getting especially child and young content approved as suitable by Google. An example of this is from NRK Super, NRKs children channel targeting the youngest children, and the content including the Fantorangen.



- When NRK launched a new game for children on their Fantorangen app in 2019, the update was rejected by Google, citing legal and content-oriented rules. The reason was a picture of the Fantorangen sitting on the toilet, where a farting sound and a gushing cloud is used to illustrate body functions. The illustration led to the games not being approved in the children's category, as unappropriated for children in the intended age group.
- The case ended with a demand to NRK for the games to be fully removed or adjusted to address a higher age limit.
- Google recently claimed a “policy violation” had been found in NRK’s educational TV content about puberty. The program was considered to be "sexually offensive or violent content". The same content is well received and regarded as educational content in Norway by both Norwegian audience and regulatory authorities. These examples show how content of general societal interest produced under independent editorial control is facing secondary control and how content producers lack leverage and safeguards of their independence when publishing their content on platforms where parts of their users are active.

These examples again show how content of general societal interest produced under independent editorial control by a media company is facing a form of secondary control by online platforms. As mentioned above, the dominant position of the platforms lead to unsustainable relationships were local content producers lack leverage and safeguards of their independence when publishing their content on the platforms where their users are active.

4. Norwegian Broadcasting Corporation (NRK) and attribution issues with Apple

NRK has on several occasions experienced that Apple podcasts remove NRK logos from their podcast programs on the Apple Podcast app. NRK uploads the program with a picture including the NRK logo for each program. Apple did not remove the whole picture but removed the NRK logo within the it, making it less clear that the podcast programs are produced and published by NRK. The stripping of the brand of PSM companies on their own content increases the distance between content providers and the public. Clear attribution should always be given to the source as it is important for the audience’s ability to identify independence and trustworthiness of sources, and in turn support the objective of informed citizens. Online platforms can through actions such as in the case with NRK’s podcast operate in a manner that can decrease the prominence and clarity regarding what content originates from trusted producers of content of general societal interest.

