Chapter 4
Europe's digital agenda: people-centric, data-centric or both?

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Introduction[1]

In its *Digital Compass: How the EU prepares for the Digital Decade*, the EU Commission describes its vision of a digital Europe empowering citizens and businesses by 2030. Nine years from 2030, digital tools are already profoundly embedded in the daily life of European citizens, used for work, communication, education or for accessing public and private services. However, the digital evolution of society raises issues of fairness, reflecting pre-existing deep social, economic, generational and geographical inequalities. The Covid-19 pandemic has spotlighted this situation all the more. Two contrasting views of digitalisation coexist: one, put forward by the European Commission, considers that digital technologies, automation, artificial intelligence[2] (AI) and data will improve productivity and work efficiency and create new opportunities for both the European economy and its citizens. This is the message that European Commissioners Vestager and Breton[3] try to convey when they communicate about AI, data and skills. They consistently use the concepts of 'Ecosystem of Trust' and 'Ecosystem of Excellence', claiming that, as digital technology becomes an ever more central part of every aspect of people's lives, people should be able to trust it, and that trustworthiness is also a prerequisite for its uptake (European Commission 2020a). In a nutshell, the EC considers that, insofar as safeguards are put in place to avoid the most damaging effects of digitalisation, a wonderful world – or market – will develop and Europe will be able to succeed in a digital transformation that is considered unavoidable.

The other view, defended among others by the trade union movement, errs on the side of caution, denouncing the social risks associated with digitalisation, primarily in the field of work. From this perspective, the digital revolution will lead to the disappearance of a significant number of jobs – not all offset by the creation of new ones – and a transformation of work processes in many others. It may trigger a general polarisation of work, with a split between formal regulated employment on the one hand and

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1.   The author would like to thank Robin Williams, Institute for the Study of Science, Technology and Innovation, University of Edinburgh, for his useful advice and his help in reviewing this chapter.
2.   Russell and Norvig (2002) define artificial intelligence as 'the study of agents that receive percepts from the environment and perform actions'. For regulatory purposes, the EC in the AI Act refers to 'AI systems' as 'software that is developed with one or more of the techniques and approaches listed in Annex I and can, for a given set of human-defined objectives, generate outputs such as content, predictions, recommendations, or decisions influencing the environments they interact with'. The techniques in Annex I are, among others, machine learning, supervised, unsupervised and reinforcement learning, logic- and knowledge-based approaches as well as Bayesian estimation.
3.   Margrethe Vestager is the Executive Vice-President for A Europe Fit for the Digital Age and Competition, European Commission. Thierry Breton is the EU Commissioner for the Internal Market.

deregulated platform employment on the other, with the associated emergence of an 'underclass' of gig-workers. With digitalisation, the very concepts of work, the employer-worker relationship and workplace are changing, with the Covid-19 pandemic acting as an accelerator.

Beyond the world of work, digitalisation is transforming society. Here again, some, including privacy groups and defenders of fundamental rights, are in favour of a cautious approach. In an effort to improve public services and increase democratic participation, public authorities are using information and communication technologies (ICTs) to change the way people access – or do not access – public services, health, education and justice. States are also facing new challenges, in particular the need to educate citizens so that they become digitally literate, but also the need to re-invent the way they interact with powerful foreign tech giants. *How can states and private players use online services provided by American digital giants like Amazon, Microsoft and Google, but retain control over their data? How can national sovereignty be maintained and democracies protected against election interference?* Taxation is another challenge: *what should be done when tech giants that make huge profits in the EU pay little tax and do not contribute to the financing of social systems?*

More worryingly, the advent of AI-based systems, coupled with increasingly powerful data processing capabilities, may disrupt the way we make decisions and behave. Presenting her College of Commissioners to the European Parliament (EP), Ursula von der Leyen acknowledged that with every click we feed the algorithms that then influence our own behaviour (von der Leyen 2019).

The EU is at a crossroads, and it appears essential to implement a European policy and regulatory framework able to push the digital cursor towards responsible, social and inclusive digitalisation, rather than towards the fragmentation and polarisation of society. Using content analysis, Section 1 of this chapter describes the impressive series of regulatory initiatives[4] launched by the von der Leyen Commission in 2020 and 2021, describing those likely to have the biggest social impact. Section 2 presents the critical views and perspectives of selected civil society stakeholders and social partners. It also touches on the role of digital activists and hacktivists as emerging players. Section 3 concludes with some lessons learned and challenges.

1. A deep dive into the digital package: a description of the main regulatory initiatives

The basis of the EC's digital strategy is the Communication *Shaping Europe's Digital Future* (European Commission 2020b). It sets three objectives: a) technology that works for people; b) a fair and competitive economy; and c) an open, democratic

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4. The Artificial Intelligence Act; the Digital Education Action Plan; the European Strategy for Data; the Data Governance Act; the Digital Services Act, the Digital Markets Act; the Consumer Agenda; the Industrial Strategy Package; the European Democracy Action Plan; the Skills Agenda for sustainable competitiveness, social fairness and resilience; a social partner consultation on improving working conditions in platform work; and a circular electronics initiative.

Table 1   Summary of the main digital regulatory initiatives by the EU Commission

Shaping Europe's digital future 2020–2025			
Objective 1: Technology that works for people	Objective 2: A fair and competitive economy	Objective 3: An open, democratic and sustainable society	The international dimension – Europe as a global player
2020			
White Paper on Artificial Intelligence. European Strategies on Quantum and blockchain. Action Plan on 5G and 6G. **Digital Education Action Plan.** **Skills Agenda**. Youth Guarantee.	European Data Strategy. **Data Governance Act.** **Digital Services Act package, ex ante rules.** Industrial Strategy Package. Communication on Business Taxation for the 21st century. New Consumer Agenda.	**New and revised rules to deepen the Internal Market for Digital Services**. Revision of eIDAS Regulation. Media and audiovisual Action Plan. **European Democracy Action Plan**. Promotion of electronic health records based on a common European format.	Strategy for standardisation. White Paper on an instrument on foreign subsidies. Digital for Development Hub. Mapping of opportunities and action plan to promote the European approach in bilateral relations and multilateral fora.
2021			
EU governments interoperability strategy. **Initiative to improve labour conditions of platform workers**. **AI Package** (includes the **AI Act** and new Machinery Regulation)		Destination Earth	Global Digital Cooperation Strategy.

Note: In bold, the initiatives discussed in this chapter.
Source: Author's elaboration.

and sustainable society. Table 1 shows the three key objectives plus the international dimension, highlighting in bold the key initiatives addressed by this chapter.

1.1   The three main objectives of the digital agenda

Technology that works for people
The aim of the EC's first objective, 'technology that works for people', is to build the technological/digital ecosystem/infrastructure (including AI, 5G and 6G) and to promote education and skills acquisition.

The most significant and widely discussed legislative initiative under this heading is the *Artificial Intelligence Act* (European Commission 2021a), the first-ever legal framework related to AI systems. The Commission has opted not to regulate AI itself as a technology, but to focus on AI systems, understood as software that can generate

outputs such as content, predictions, recommendations or decisions (see AI Act Art. 3), and to use a layered risk-based approach. Some uses of AI lead to unacceptable risk and are prohibited; others create high risk and are allowed if their providers meet certain requirements and conduct an ex-ante conformity assessment. Uses considered as low or minimal risk are simply allowed.

AI uses harmful to fundamental values are considered as unacceptable risks. These are systems that deploy subliminal techniques, exploit vulnerabilities to distort human behaviour, or are used for algorithmic social scoring. Finally, the use of 'real time' remote biometric identification of people in public spaces is considered particularly intrusive and is in principle prohibited.

Low-risk AI uses, such as spam filters, are allowed. Minimum-risk AI uses, such as chatbots or deepfakes, must inform the user that they are interacting with an AI system or with manipulated content.

From a social point of view, the heart of the regulation is the list of eight specific high-risk uses found in Annex III. These touch on important aspects of people's lives: the biometric identification and categorisation of persons; management and operation of critical infrastructure; education and vocational training; essential private and public services (eligibility for benefits, creditworthiness etc); law enforcement; migration, asylum and border control management; administration of justice and democratic processes; and, crucially, employment, worker management and access to self-employment. This last category includes AI systems used to recruit, select, screen or evaluate candidates for jobs, and those used for making decisions on promotion, 'termination of work-related contractual relationships, for task allocation and for monitoring and evaluating performance and behaviour of persons in such relationships'.

The second major policy initiative under this objective is the *Digital Education Action Plan* (2021-2027). The Commission's ambition is to 'reset education and training for the digital age' (European Commission 2021b). Two priority areas are defined: first, to foster the development of a high-performing digital education ecosystem. This includes targeting 'infrastructure, connectivity and digital equipment; effective digital capacity planning and development, including up-to-date organisational capabilities; digitally competent and confident teachers and education and training staff; and high-quality learning content, user-friendly tools and secure platforms which respect e-privacy rules and ethical standards'. Second, to enhance digital skills and competences for the digital transformation, which means ensuring that all citizens acquire basic digital skills and competences from an early age or, in other words, become digitally literate. The Plan also cites the need for advanced digital skills which produce digital specialists, as well as ensuring that girls and women are equally represented in digital studies and careers. The Commission's consultation process on this initiative during 2020 showed that almost 60% of the respondents had not used distance and online learning before the crisis and that 95% considered that the Covid-19 crisis had marked a turning point in how technology is used in education and training.

The third initiative under this objective is the *European Skills Agenda for sustainable competitiveness, social fairness and resilience* with its twelve concrete actions targeting skills for jobs, including upskilling, reskilling and lifelong learning. Ambitious targets are set, such as 'by 2025, 230 million adults should have at least basic digital skills, which covers 70% of the adult population in the EU' (European Commission 2020c). One key action is the July 2020 proposal for a Council Recommendation on Vocational Education and Training (VET). Modernising Union policy on VET and confirming the central role of VET in the lifelong learning continuum are presented as essential, particularly given how the Covid-19 pandemic has disrupted learning activities.

The Commission also establishes a clear connection between the *European Skills Agenda* and the *EU's Recovery Plan* (see Verdun and Vanhercke, this volume). In the words of Margaritis Schinas, Vice-President for Promoting the European Way of Life at the EC, 'it is time to join hands and unlock a skills revolution, leaving nobody behind' (European Commission 2020d).

A fourth initiative focuses on improving the working conditions of platform workers. In the Commission's view, platform work is developing rapidly, throwing up challenges relating to employment status, working conditions, algorithmic management, access to social protection and benefits, and to collective representation and bargaining. According to Nicolas Schmit, Commissioner for Jobs and Social Rights, 'We cannot lose sight of the basic principles of our European social model (...) and social partners' views on this will be key in finding a balanced initiative for platform work in the EU' (European Commission 2021c). The EC held a two-phase consultation of European social partners on 'Improving the working conditions of platform workers' (European Commission 2021c). A Resolution on fair working conditions, rights and social protection for platform workers was adopted by a very large majority of the EP (2021b) in September and the EC will now propose a legislative initiative in December.

Through the consultation, the EC identified four challenges: the employment status, the algorithm-based business model, the cross-border nature of platform work and the existence of regulatory gaps at EU level. Although nothing is confirmed at this stage, the EC's legislative initiative will possibly propose new rights – including improved information for workers on the way algorithms manage work –, internal procedures for human oversight and accountability, redress mechanisms, information and consultation rights on algorithmic management systems, the right to privacy while off duty and effective application of other relevant General Data Protection Regulation principles (European Commission 2021d).

A fair and competitive economy

The second objective of the EC's digital agenda, 'a fair and competitive economy' focuses on building a single market for data, enabling businesses and start-ups to access high-quality data, while strengthening the responsibility of online platforms and clarifying the rules for online services.

The first key strategy here is the *European Strategy for Data* or *Data Strategy* (European Commission 2020e). Its aim is to create a single European data space, in

which data, as the lifeblood of economic development, can flow smoothly and seamlessly. The rationale is that personal and non-personal data, including sensitive business data, sensitive data in public databases (e.g. health data) and industrial data, if made accessible to private and public players, will result in the development of applications beneficial to citizens in sectors such as healthcare or transport, and in reduced costs for public services.

As part of the Data Strategy, a *Regulation on European Data Governance* or the *Data Governance Act* (DGA) (European Commission 2020f) has been proposed to govern this data space where data will flow freely. The regulation will set conditions for making data available, clarify how certain categories of data held by the public sector will be re-used, and look at the role of intermediaries in data sharing. Crucially, it introduces the concept of *data altruism*, defined as 'the consent by data subjects to process personal data pertaining to them, or permissions of other data holders to allow the use of their non-personal data without seeking a reward, for purposes of general interest, such as scientific research purposes or improving public services.' This concept serves to encourage citizens to share their data for the common good.

The second action, key to ensuring a fair and competitive economy, is the proposed *Digital Markets Act* (DMA) which, together with its sister regulation, the *Digital Services Act* (DSA) described in the next section, make up the *Digital Services Act Package*. The DMA regulates the behaviour of 'gatekeepers', defined by Art. 3 as platforms that have a significant impact on the internal market, serve as an important gateway for businesses to reach consumers, and have an entrenched and durable position in the market (European Commission 2020g). Gatekeepers act as intermediaries between businesses and users and, due to their size, have what amounts to a dominant position. Among the current best-known gatekeepers are Amazon, Apple, Google, Facebook, WhatsApp, Microsoft, SAP and Alibaba. The objective of the DMA is to ensure fair market conditions, guaranteeing that consumers have a free choice of services and preventing gatekeepers from controlling the market by excluding others.

An open, democratic and sustainable society
The third objective of the EU digital agenda, 'an open, democratic and sustainable society', is about creating trust in technology through ensuring that European values, ethical rules, social and environmental norms apply in the digital space and that European digital society is fully inclusive, fair and accessible for all.

The first key action here is the *Digital Services Act* (DSA) which revamps the e-Commerce Directive of 2000. In the words of European Commissioner Thierry Breton, the DSA is about ensuring that 'everything that is allowed offline should be authorised online; and everything that is forbidden offline should be banned online' (Breton 2020). To ensure a safe and transparent online environment, in other words to tackle the Wild West of the internet, the DSA harmonises liability exemptions and provides new rules aimed at ensuring a competitive Single Market for digital services, as well as fair and contestable platform markets. Its obligations apply to all digital services that connect consumers to goods, services or content, including intermediary services, hosting services, online platforms and very large online platforms (with at least 45 million users in the EU).

The logic is that the larger the platform, the more obligations it has. Additionally, the DSA introduces rules to ensure accountability on how platforms moderate content, on advertising and on their algorithmic processes.

The second key action is the *European Democracy Action Plan* (EDAP) (European Commission 2020h), the aim of which is to empower citizens and build more resilient democracies by promoting free and fair elections, strengthening media freedom and countering disinformation. To promote free and fair elections, the EDAP sets out legislation for greater transparency in political advertising, revised rules on the financing of European parties and measures to counter threats to electoral processes, including cyber-attacks. To strengthen media freedom and pluralism, it proposes a recommendation on the safety of journalists, projects to provide them with assistance in the EU and abroad, and measures to support media pluralism and transparency of media ownership. Finally, to counter disinformation, misinformation and foreign interference, all of which destabilise democracy and undermine citizens' trust, the EDAP proposes new tools and an overhaul of the EC's Code of Practice on Disinformation launched in 2018.

The international dimension

The EU Commission wants the EU to become a global digital role model – an objective which implies cooperating and working on numerous subjects with countries such as the USA, Russia and China, a country which has perhaps taken the lead in this field. The latter is a major investor in technology and digitalisation (Ghiretti 2021). Through its 'Internet+' and its national strategy, the 'New Generation Artificial Intelligence Development Plan of China' (2015-2030), the country is investing heavily in AI, with a view to building a competitive AI industry and using it to foster its domestic economic and technological development.

Academically, China aims to achieve an academic breakthrough in basic AI theory (Roberts et al. 2021). The country has also made specific investments in facial recognition technology, gait analysis to monitor people's movements and behaviour, and even in DNA collection. As Qiang (2019) puts it, 'China's tech giants have shown willingness to share users' personal data with the state as part of a tacit bargain that allows them to expand with minimal regulatory interference'.

Beyond its technology agenda, China is, like the EU, also setting standards for digital rights, privacy and data protection. Khalil (2020), Qiang (2019) and Zeng (2020) warn that China wants to win not only the AI technological race but also the ideological competition, and that it aims to use AI to strengthen its surveillance network, state control and techno-authoritarian model.

Interestingly, the chosen approach has been to give free rein to internet companies, in order to encourage innovation, then to intervene to counter any emerging negative effects, and finally to reap the benefits of innovation for its own security forces, the exact opposite of what has been done in the EU.

1.2 The European social partners framework agreement on digitalisation

One important initiative complementing the EC's digital regulatory catalogue presented above is the *European social partners framework agreement on digitalisation* (European Social Partners 2020). An autonomous initiative, it is the result of tough negotiations between the European Trade Union Confederation (ETUC), BusinessEurope, the European Centre of Employers and Enterprises providing Public Services and Services of general interest (CEEP) and the Association of Crafts and SMEs in Europe (SMEunited). Negotiated just before the Covid-19 crisis and signed in June 2020, the agreement represents a shared commitment of the European cross-sectoral social partners to optimise the benefits and deal with the challenges of digitalisation in the world of work.

As shown in Figure 1 below, the underlying rationale of the agreement is that digital technologies impact four interrelated dimensions: work content (skills), working conditions (employment terms and conditions, work-life balance), working conditions (work environment, health and safety) and work relations. To understand the nature of this impact, four issues need to be considered:

a) digital skills and securing employment: the challenge is to determine which digital skills and process changes are necessary, thereby allowing adequate training measures to be organised, and to foster digital transformation strategies in support of employment;
b) modalities of connecting and disconnecting;
c) artificial intelligence (AI) and guaranteeing the human-in-control principle;
d) respect of human dignity and surveillance.

The deadline for implementation of the Framework Agreement is June 2023, giving national social partners sufficient time to tailor it to their national, sectoral and/or enterprise situations and industrial relations systems. Importantly, within the first year following the agreement's signing, social partners have focused their efforts on raising awareness and improving the understanding of the opportunities and challenges resulting from the digital transformation. At the time of writing (July 2021), national social partners across Europe are in the dissemination phase of the agreement and in search of good practices, organising seminars and training courses. In France, for example, they addressed the subject of telework and signed a national cross-sector agreement on the topic.

Interestingly, it appears that the Framework Agreement could trigger legislative proposals. In January 2021, the EP invited the Commission to recognise the right to disconnect as a fundamental right. Workers would then have the right, outside working time, to switch off work-related digital tools, not to engage in work-related activities, not to respond to employers' requests or communications, with no risk of adverse consequences. Despite the EP initiative, the political signals coming from the EC remain unclear.

Figure 1   **Digitalisation partnership process**
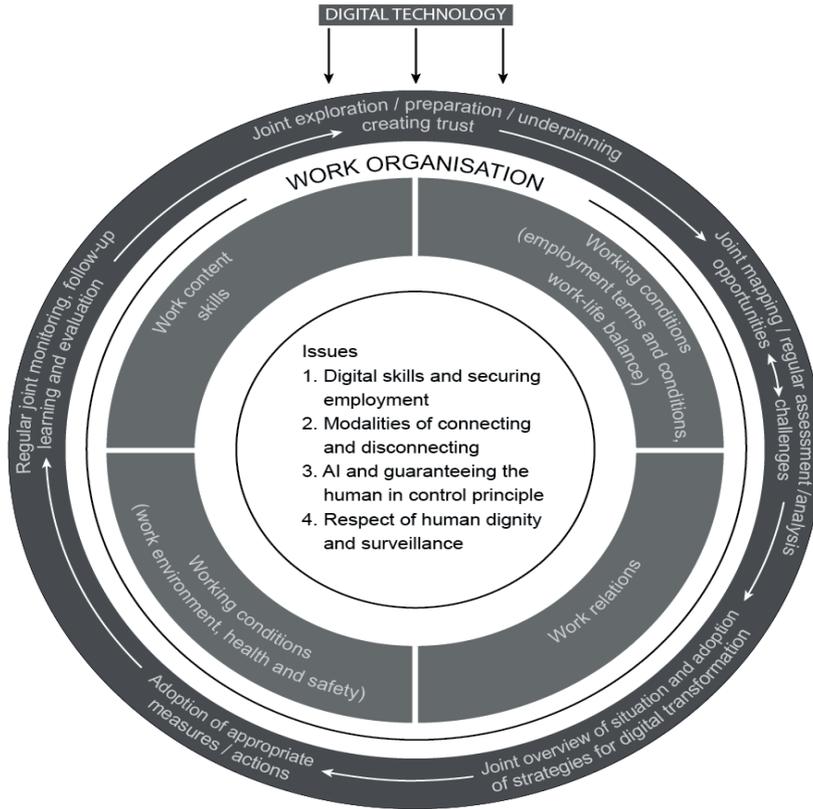
Source: BusinessEurope 2021a.

2.   Searching for the 'social' in the digital agenda: critical perspectives from civil society organisations and social partners

While Section 1 described the main features of several key digital legislative initiatives, the objective of Section 2 is to answer the key question *'Does this particular initiative contribute to a more or a less social Europe?'*. Social Europe is here understood as a space in which individuals are empowered to fully participate in society and live a fulfilling life, in all their diverse personas: worker, citizen, consumer, voter, user of social media, producer of online content, spectator, employer, etc., knowing that these personas blend together in the digital world. To do so, the author took into account the perspectives of the social partners and ten specialised civil society organisations active at European level and focusing on these personas. These perspectives were collected from opinion papers, responses to EC consultations, online meetings (held between

June 2020 and July 2021), organised and discussed around four subject areas: data and AI; digital services and markets, including platform work; education and skills; and democracy. Moreover, the specific role of digital activists and hacktivists as emerging players was considered.

2.1 Data and AI

Data, as the raw material of digitalisation, is the common denominator of all the EC's digital legislative initiatives. By 2025, the data economy is set to be worth EUR 829 billion (5.8% of EU GDP) (European Commission 2020e). The EC's underlying narrative is that data should be available, flow and be shared freely. Unable to exist without data, AI is presented by the EC as a technology that citizens should trust and a sector in which the EU should become a global leader.

The prevailing opinion among civil society organisations and social partners is that the *Data Governance Act (*DGA) is mainly designed to enable data to flow freely and be easily accessible to industrial players, through public-private partnerships. Little in the DGA is geared towards protecting citizens' rights or enhancing the social dimension. The European Consumer Organisation (*Bureau européen des unions de consommateurs*, BEUC) criticises the fact that 'consumers often cannot control how the data that they generate is used' and insists on the need to ensure that the re-use of data held by public authorities should only apply to non-personal data (BEUC 2021a). According to European Digital Rights (EDRi), the governance approach is framed 'in terms of theoretical economic benefits', which 'puts aside the civil society's goals of walking towards a people's centric internet, all in favour of private companies' (EDRi 2020a, 2021). EDRi also considers that the DGA may end up undermining protections ensured by the General Data Protection Regulation through creating a *lex specialis* which private entities and public institutions could use to avoid protections in place for personal data. Together with Access Now they are calling for the removal of personal data from the scope of the DGA (Access Now 2021a; EDRi 2020a, 2021).

BusinessEurope considers that harnessing data will lead to significant economic growth and respond to some of Europe's greatest challenges while improving its day-to-day societal conditions. It regrets the existence of technical, legal and economic obstacles to voluntary data sharing, access and re-use (BusinessEurope 2021a).

In the author's opinion, the DGA fails to address the labour dimension: it revolves around making public sector data available for re-use, raising concerns about the possible lack of protection for public sector workers' personal data at work. 'Sharing is caring', or making data re-usable on altruistic grounds, may limit the control citizens have over the use of their personal information.

The *AI Act* is in general welcomed by civil society organisations as a needed legislative initiative and an attempt by the EU to set the tone globally; however, it has generated less enthusiasm than other regulatory initiatives, such as the DSA. Although the EC recognises that certain practices that contravene union values are unacceptable and

should not be allowed, the use by law enforcement institutions of 'real-time' remote biometric identification systems in publicly accessible spaces is allowed in certain circumstances. This sort of exception is seen as a threat to citizens' rights. Real-time biometric mass surveillance, in particular, is not clearly banned, a fact denounced by EDRi and Access Now (2021c) but also by several MEPs (Breyer 2021).

Article 19, a UK-based human rights organisation, criticises the AI Act as not based on a human rights approach and that there are few safeguards for unintended consequences or uses of AI systems that may have a detrimental impact on human rights (Article 19 2021). In the words of SOLIDAR, AI can exacerbate existing discrimination, biases and violations of human rights, and a thorough impact assessment must be made by both public authorities and private stakeholders before introducing AI (SOLIDAR 2020).

From the outset, BusinessEurope called for a risk-based approach to AI, which is indeed the approach chosen by the EC. ETUC considers that the proposed AI Act fails to address the workplace dimension. Given the imbalance of power between employers and workers, it insists on the need to involve workers' representatives in the building of AI at work, with a view to achieving a robust AI framework guaranteeing the protection of workers' rights, quality jobs, and investment in workers' AI literacy. ETUC also requests that, at a minimum, the conformity assessment of AI systems used for employment, workers' management and access to self-employment (one of the 8 *ad hoc* uses listed in the Act) must be carried out by an authorised third party (ETUC 2021a).

In the author's view, the AI Act, though a highly expected legislative initiative, has disappointed many and triggered criticism, especially among those who hoped for legislation with a primary focus on AI's impact on human beings. Critics in particular express doubts about the way the AI Act classifies risks, the possibility to extend the list of high-risk AI systems (Annex III) in the future, and the fact that the Act seems to give more importance to building an AI market than making AI useful for society.

2.2 Digital services and markets, including platform work

Civil society organisations and social partners acknowledge that updating the *e-Commerce Directive* of 2000 was necessary, as the digital environment and market reality have changed and new risks have emerged. In the words of BEUC, 'monopolisation of services such as social networks and search tools can lead to locked-in consumers being deprived of meaningful choice' (BEUC 2021b). As a package, the DSA/DMA is seen as a relevant instrument to regulate this new digital reality, since it covers all platforms, including gatekeepers (e.g. Google, Facebook, Alibaba and Amazon), and has an extraterritorial dimension.

As expressed by Access Now (2020a), the most worrisome shortcoming of the DSA/DMA Package is that 'the European Commission delegated the development of human rights and due diligence safeguards for users' fundamental rights to private companies'. In the same vein, ETUC (2021b) insists that the DSA must empower users and ensure their human rights both online and offline, adding that private censorship and removal

by default are not acceptable ways to deal with content flagged as potentially illegal or harmful.

Supporting the DSA, BusinessEurope (2021b) considers platforms should be encouraged to carry out their own investigations to actively remove illegal content online, but also considers that harmful (yet not illegal) content should not be covered by the DSA and therefore not be subject to removal obligations. As EDRi (2020b) points out, some policymakers are pushing for the removal of legal content that disturbs them, by qualifying such content as illegal. The network insists that the context matters, as what is legal or harmful in one Member State may not be in another. Online platforms should not determine by themselves what is illegal, as this is key to ensuring freedom of expression (ibid.).

Related to freedom of expression, disinformation, fake news and hate speech are other phenomena on the increase, with dangerous consequences in society. EDRi (2020b) explains that 'platforms financially benefit from the spread of disinformation through increased ad revenue', adding that 'disinformation takes mostly the form of polarising or shocking content that generates engagement and thus, profiling data that can be sold to advertisers'.

According to Article 19 (2021), the DMA, in targeting gatekeeping platforms, focuses on the relationship between platforms and their business users from a competition perspective, overlooking the negative impact on individual users' civil rights. Instead of stimulating the emergence of alternative platforms, thereby encouraging the emergence of an open and free digital environment respectful of individual rights, it focuses on creating conditions for more competition at the business user level, leaving gatekeepers untouched.

As BEUC (2021b) points out, the platform network effect – the fact that the value of a product, service or platform increases with the number of buyers, sellers, or users – is a key feature of platforms' business models, in particular for social networks and instant messenger services. If interoperability is not guaranteed, it can result in people being locked into one service (Article 19 2021).

Platform work
According to the author, the Commission has focused its approach on the market, with the DSA/DMA Package overlooking the issue of employment and the protection of workers' rights, particularly platform workers.

Instead, the Commission is tackling platform work through a social partner consultation on working conditions. The central question raised by platform work is that of employment status. BusinessEurope's opinion is that an EU definition would not be appropriate or effective, as it would not be able to respect the different models in each Member State. A presumption of employment relationship, it argues, would make it more difficult for the most vulnerable to enter the labour market. BusinessEurope claims that 'the common perception that all platform workers are part of a vulnerable "digital working class" that needs to be protected from exploitative tech giants, is not the reality'

(BusinessEurope 2021c). In its view, it would not be appropriate to introduce one-size-fits-all rules, and an EU definition of who is a worker and who is self-employed would be neither appropriate nor effective. Instead, it invites the European Union to ensure that the development of new, innovative business models, including platforms, is not stifled.

The ETUC (2021c, 2021d) rejects the creation of a third status, in between employees and the self-employed. It insists that there should be a presumption of employment, as platforms are not just intermediaries but actual companies and employers. It also demands a reversal of the burden of proof: it should be the platforms' responsibility to prove that there is no employment relationship, not the worker's task to demonstrate there is one. ETUC also insists on the need to achieve rights for non-standard workers, whether they work online or offline.

Another contentious issue is algorithmic management, a topic which will be addressed by the EC in the second phase of the consultation, with more specific proposals. From the responses to the first phase of the consultation, the EC recognises that a lack of sufficient information, consultation and redress surrounds algorithmic management, that it is not always clear who is responsible for decisions reached by algorithms, and that the extent of this control could potentially surpass what is possible under human supervision (European Commission 2021d).

The European Parliament is involved in the debate. It published an own-initiative report on 'Fair working conditions, rights and social protection for platform workers', stating that the European framework is unsatisfactory and does not cover all platform workers. It also calls for a new directive on platform workers in order to guarantee them a minimum set of rights, regardless of their employment status (European Parliament 2021a). In a draft motion for a resolution on the rights of platform workers, the EP also highlights the fact that workers are at risk of being misclassified, preventing them from enjoying the rights inherent to their status and putting them at risk of obtaining less favourable work opportunities and rewards. It mentions that cases of misclassification are most prevalent on digital labour platforms dictating, directly or by means of an algorithm, the conditions and remuneration of platform work.

2.3   Education and skills

In a society that is becoming increasingly digital, education is essential in order to remain fully involved in society and avoid becoming socially excluded. The *Digital Education Action Plan* (DEAP) and the *European Skills Agenda* are not only desirable but very much needed, as evidenced by the recent increased dependency on digital tools that has been a feature of the Covid-19 pandemic.

To have access to education and knowledge, access to infrastructure has become a prerequisite. Access to the internet, computers and broadband still varies widely in the EU, thereby limiting access to education and skills. More than one in five young people across the EU fail to reach a basic level of digital skills (European Commission 2021b). As highlighted by SOLIDAR, the Action Plan acknowledges the need to equally

involve all stakeholders in digitalisation and ensure everyone obtains basic digital skills. SOLIDAR also considers that the Plan places great importance on the need to prevent 'widening the unjust gap between those most disadvantaged in society and those with sufficient resources to engage in digital skills development' (SOLIDAR 2021).

However, as noted by the European Trade Union Committee for Education (ETUCE), social partners are not mentioned in the Digital Education Action Plan, which relies on the private sector: 'Digitalisation should not become the Trojan horse of privatisation' (ETUCE 2020). As Europe becomes increasingly green and digital, learning new skills and adapting to a digital work environment will be an absolute necessity for millions of citizens. The ETUC emphasises that there is a social and economic responsibility in this process, which is why national and company-level skills strategies are needed. Employers have responsibilities and the recently signed European Social Partners Framework Agreement on Digitalisation is an expression thereof (ETUC 2020). Correctly targeting educational strategies is a concern, and SOLIDAR points out, critically, that acquiring digital knowledge should benefit learners, not only tech companies, and that digital education should not preclude people from an education focused on the personal development of all learners (SOLIDAR 2021).

2.4 Democracy

As evidenced during the Brexit referendum and the US presidential elections, election interference has become a key concern for EU institutions, states and citizens, as are digital disinformation, fake news and the polarising effect they have on society. According to the Eurobarometer (2019), 83% of Europeans consider that fake news is a threat to democracy. The European Democracy Action Plan (EDAP) is an important initiative which, as recognised by the European Federation of Journalists, should contribute to more journalistic editorial freedom, security and pluralism. Guaranteeing the independence of journalists and, in the same way, press freedom, quality working conditions and social protection are also fundamental in democratic systems (European Federation of Journalists 2020).

In a recent conference organised by the European Economic and Social Committee (EESC 2021), the ETUC signalled that EDAP fails to recognise the crucial importance of social dialogue in a healthy democracy.

Though digital platforms, in particular social media, now play a role in our democracies, as the European Citizen Action Service points out, 'the lack of transparency around political ads' threatens the credibility of our electoral processes. A key question is whether EDAP will address the fact that digital platforms decide what is political advertising and what is not, hence what is and what is not subject to their transparency regimes (European Citizen Action Service 2020).

Access Now and BEUC raise another issue that EDAP will have to address, namely the fact that platforms – whose objective is to engage with users and thus increase

**Box 1 Digital activists and hacktivists: emerging players in the digital transformation**

Social policies have traditionally been debated and negotiated between traditional social players, notably social partners and civil society stakeholders, some of whom are mentioned in this chapter. The digital field is opening the door to new movements and players whose action deserves a mention here. Focusing on technology as a starting point, digitally mediated social activism (George and Leidner 2019) and hacktivism, understood as the use of hacking principles to change the social or the political (Jordan 2008) are increasingly influencing the social debate. Although some of them are known for cyber-attacks and 'denial of service' (DoS) attacks, most digital activists and hacktivists make up communities working on the linkages between the technical and political dimensions of tech and contributing to the social debate with expert knowledge. Claiming that technology can be used for new or unexpected uses (Jordan and Taylor 1998), they express a desire for social change, can organise collective action (Dikme 2013), and try to present a new opportunity for social participation through connective action (George and Leidner 2019). Their work may be reflected in the position papers of civil society stakeholders, and they sometimes influence policymakers within EU institutions.

The 'Free, Libre and Open Source Software' (FLOSS) movement, one of the first 'online communities' using the internet in order to develop free and open source software as its core activities, lobbied the EC against the directive on the Patentability of Computer-Implemented Inventions, opposing the introduction of software patents in the EU (Breindl 2010). Founded in Germany and present in several European countries, the 'Chaos Computer Club' (CCC), the largest hacker group in Europe, is calling for more transparency in government, freedom of information, and the human right to communication, based on a set of hacker-ethical principles. The CCC (2020) has warned of and provided technical expertise on the socially adverse aspects of contact-tracing apps in Europe. The Italian 'Tracking Exposed' group believes that we should, as a society, 'consciously build our own algorithms, change them whenever we want, and not have to delegate this decision to a commercial entity, with opaque functioning and objectives' (Tracking Exposed 2021). It has developed a framework that analyses the stories published in Facebook's Newsfeed, demonstrating how the Facebook algorithm works to direct users' attention in line with Facebook's goals. This framework has also been applied to YouTube's recommendation engine, unveiling how users are being tracked, profiled and influenced by algorithms.

'Computer Professionals for Social Responsibility' is another activist group worth mentioning. It has a global presence, promotes the responsible use of computer technology and aims to educate policymakers and the general public on a wide range of tech and internet issues. In Germany, the 'Forum Computer Scientists for Peace and Social Responsibility' works on the social effects of information technology. 'Netzpolitik.org', a blog platform, covers digital freedom rights and their political implementation.

Source: Author's elaboration.

Figure 2   **Key social issues organised by subject areas in the EC's digital agenda**
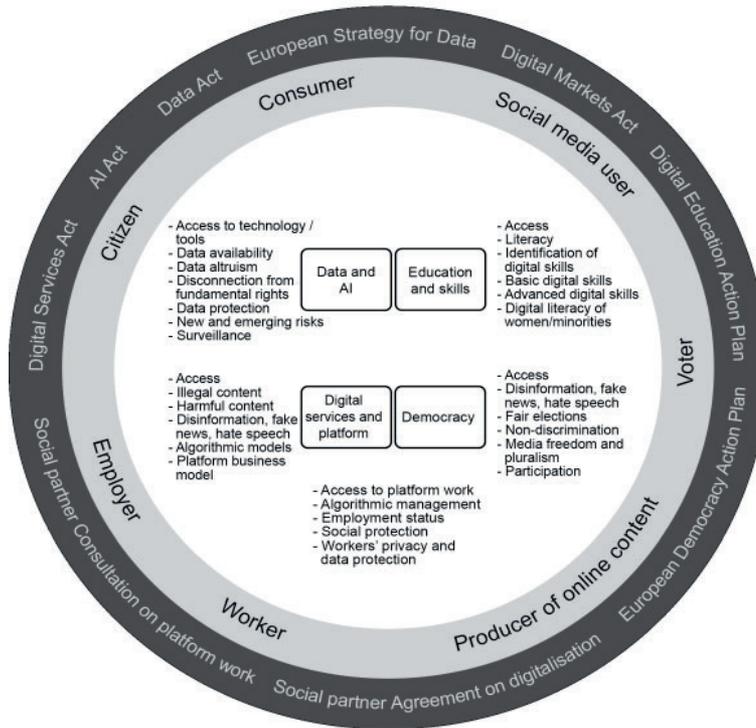
profit – use behavioural surveillance, algorithms and content recommender systems to personalise the content that individual users will see or not see, in turn having a detrimental impact on democratic discourse and the diversity of information (Access Now 2020b).

Finally, as expressed by the European Women's Lobby, a key question is whether EDAP will be able to deal with online violence against women and girls, ensuring that they are safe in online spaces, able to express their views and to participate in democratic life (European Women's Lobby 2020).

Though we have described issues and their remedies sequentially, there are deep links between these aspects. These are best presented visually in Figure 2. The four main subject areas of the digital agenda are at the centre, surrounded by two layers, one for the various personas every individual can 'be' in a digital society, the other for the regulatory initiatives, strategies and plans set to shape digital Europe. The key social issues, derived from the views expressed by social partners and the ten civil society organisations, are attached to each subject area.

Conclusion: lessons learned and challenges in building a social digital Europe

To identify the social challenges raised by digitalisation, the author's approach has been to filter the recent digital legislative initiatives through a guiding question: *does this particular initiative, strategy or plan contribute to making Europe more social?*

The Commission's efforts to set global criteria in the field of digitalisation are generally welcomed by most civil society organisations and social partners. Published in the Digital Compass, the EC's macro vision promising a digital Europe in 2030 that empowers citizens and businesses and promotes values such as solidarity, prosperity and sustainability, is seen as positive. However, important hurdles remain, potentially limiting the construction of a Europe that is both digital and social. Indeed, there appears to be little conversation between the digital and the social agenda: the digital agenda sees digitalisation as a way to build a digital infrastructure at the service of the economy, at best with a neutral impact on social Europe, at worst with increased digital-led inequalities, uncertainties and disruption to people's work and wellbeing.

One recurring problem identified throughout the EC's digital proposals is the fact that employment is systematically overlooked. The focus is on the market and not on protecting workers' rights: platform work is addressed through a social partner consultation; the AI Act classifies AI systems used in employment as a high-risk use case but establishes weak requirements for providers; workers are increasingly under algorithmic surveillance with no clear provisions in place to limit the use of algorithmic management.

The digital agenda is about more than just technology: its effects reach much further and affect not only the economy, but also politics, culture and social dimensions, in the EU and globally. The EC's legislative proposals can bring benefits to society by limiting the domination of large digital platforms, helping citizens to acquire necessary digital skills, facilitating their access to certain public and private services, and protecting our democratic processes. Essentially, they should ensure that citizens are engaged and able to exercise agency in their various personas, on- and offline.

The Commission's narrative revolves around notions such as 'trust', 'values', 'ethics', 'technology made for people', 'altruism', 'sharing', etc. The legislative initiatives propose few concrete ways to translate these concepts into reality, focusing instead on competition, data-sharing and technology deployment. The EU Commission may have fallen into the trap of considering that digital technologies are so powerful and innovative that they can solve social concerns. Genuine protective measures, including redress mechanisms, prevention or provisions to strengthen fundamental rights, are often weak or absent.

In addition, the author notes the lacking interconnection between the various digital legislative initiatives. The Digital Services Package is not linked to the social partner consultation on platform work. The AI Act makes no reference to the possibility of regulating algorithmic management, nor to social partners. Also, a self-regulatory

approach permeates the initiatives. The AI Act, with its focus on high-risk AI systems, an approach based on self-assessment and limited requirements for AI providers, falls short of the mark.

All of this may be a symptom of a deep flaw in how the Commission develops technology governance. In regulating digital matters, the Commission relies on experts, voluntary codes of conduct, standards and regulatory sandboxes, leaving out the principles of prevention and precaution essential to build Social Europe. Building on literature on anticipatory governance and science policy (Kuhlmann and Rip 2019; Guston 2014) and on the importance of 'social robustness' in policymaking (Nowotny 2003), the Commission should give more space to the necessary anticipation of social issues, the inclusion of different perspectives, the genuine participation of social partners, or public engagement, as key ingredients of an accountable, inclusive, socially shaped and human-centred technology governance.

In the catalogue of digital initiatives, four challenges situated at the intersection of the social and digital spheres will require further attention: access, algorithms, digital platforms as employers, and the agency of social players, social partners and other digital activists.

With the increased reliance on digital channels and tools, access to the digital world means access to the real world. Lack of access, whether due to insufficient infrastructure or skills, means an increased risk of social exclusion and, for vulnerable groups – the long-term unemployed, the elderly, persons with disabilities and the homeless – the inability to benefit from much-needed public services, job opportunities, education or information.

The abuse of algorithmic power is another issue that is not adequately addressed by the AI Act, the DSA/DMA and the European Democracy Action Plan. Algorithms are not living entities, they do not self-generate and act on their own. Instead, they are built and owned by individuals and organisations which ultimately remain in control and should be held responsible for their use. Algorithms will orient you towards certain TV series, expose you to targeted ads while chatting on Facebook. They can also 'decide' whether or not you are the right candidate for a job, push you into buying certain products, or even into voting for a certain candidate. They can dismiss you automatically if you are a platform worker, assign you a 'risk level' in your workplace, 'inform' you that vaccination is not a good thing. If you are at work, intrusive surveillance practices may be used to monitor your behaviour and emotions as you read this – and these rely on algorithms.

Digital platforms are not unmanned websites that evolve in an autonomous technological architecture. They are actual companies with infrastructural power and important network effects – the more users a platform collects, the more potential it has to extract and generate value from its users and their engagement (Gawer 2011; Srnicek 2017). Platform work, as an attempt to create a new form of work organisation and labour outsourcing, deprives workers of a clear status, leaving them without access to social security, training, health and safety protection and workers' rights, including the right to organise and bargain collectively through a trade union.

The contribution of societal stakeholders and social partners to the EC's digital agenda remains limited and marginal. As experts in social matters, their agency could and should be better integrated. For some, their influence can be noticed, such as in the case of BusinessEurope. The positions it expresses in its position papers are recognisable in the structure of the legislative proposal, particularly for example in the logic and narrative of the AI Act.

For digitalisation to contribute to a strong Social Europe, where people benefit from the highest standards in working conditions, broad social protection and safeguards against inequality and exclusion, the Commission's digital regulatory package needs to shift its focus towards people, in all their personas, rather than the market. The European social model is unique and should not only bring opportunities but also ensure protection to all, irrespective of gender, racial or ethnic origin, religion or belief, disability, age or sexual orientation. Given these challenges and the difficulties social players have in resisting the push of big tech and their lobby power, strategic coalitions involving trade unions, privacy and human rights groups are an avenue to further explore, as they can lead to cross-fertilisation, the sharing of expertise and increased influence.

Though the challenges described across this chapter are real, several years may pass before the final version of the legislative texts are adopted. This leaves social players sufficient time to influence the process and socially shape the way the EU regulates data, technology and digital markets.

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