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Governance of Digital Platforms: Non-Statutory Regulatory Practices in Latin America

OBSERVACOM





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An Invitation to Debate

More than three centuries ago, British thinker, poet, and politician John Milton published one of the most important and well-known texts against censorship: *Areopagitica*. It was one of the catalysts for an important debate on the protection of freedom of expression and freedom of the press.

Many centuries before him, the Greeks had strong arguments about the importance of the *doxa* (opinion) for democracy.

Debates on the vital importance of freedom of expression and access to information for democracies and for the protection and promotion of human rights are by no means new.

However, there is no doubt that the advent of information and communication technologies, particularly the expansion of the Internet and more recently the development of artificial intelligence (AI), offers a unique and unprecedented dimension to these discussions.

The impact of these developments on democratic life, the respect of human rights, and, ultimately, on the everyday life of every citizen is unprecedented.

The progress of knowledge societies is intimately related to the deepening of discussions on the right to freedom of expression and universal access to information. Press freedom, internet governance, disinformation, the ethical use of AI, independent journalism as a public good, open and transparent governments, and media and information literacy are some of the many issues on the agenda.

As part of the organization's role as a laboratory of ideas, the UNESCO Office in Montevideo offers these Communication and Information Discussion Papers (CIDP).

Produced by leading experts on each subject, their main objective is to provide input for decision-makers and public policymakers to consider different perspectives on issues in the international agenda, always guided by existing international standards.

This publication does not intend to have the last word. On the contrary, the purpose is to contribute to an informed and pluralistic debate on core contemporary issues.

CIDP 31 "Governance of Digital Platforms: Non-Statutory Regulatory Practices in Latin America" analyses how Latin American regulatory bodies are contributing to the development of an open, protected and safe digital environment. It focuses on non-statutory practices, acknowledging that State regulators in the region often lack jurisdiction over large digital platforms.

Enjoy your reading!

Executive Summary

This report reviews and analyses non-statutory practices of public bodies in Latin American countries –particularly, but not limited to, audiovisual regulators–, that are related to the governance of digital platforms in the terms set forth in the *Guidelines for the Governance of Digital Platforms*, developed by UNESCO in 2023.

State bodies can adopt statutory or non-statutory decisions. The former, which are binding in nature, are derived from laws and regulations that have been formally approved by the legislative branch; failure to comply with them may entail legal consequences. Non-statutory decisions – which are the ones of interest in the context of this report–, are those that can be adopted by State bodies and do not derive from formally approved and binding laws and regulations, but rather refer to guidelines, recommended practices, administrative decisions, and policies that play a key role in administrative management. These are relevant tools in a regional context where State regulators lack jurisdiction over large digital platforms, and, in general, their non-compliance does not entail legal consequences.¹

Thus, this document systematises media and information literacy (MIL) initiatives; requests of information from platforms; recommendations for good practices on policies, products or services; agreements with public authorities that include action commitments by platforms, particularly in electoral contexts; State measures aimed at protecting individuals or groups from the infringement of their rights; and the production of research works as key inputs for the development of informed diagnoses and the definition of public policies.

This research also aims to contribute to the Observatory of Regulatory Frameworks and Decisions initiative, promoted by the Global Forum of Networks (GFN). For this reason, the report ends with reflections on the analysed practices and recommendations from the Latin American perspective. This is followed by a series of proposals for the development of the regional chapter of the Observatory, within the framework of the joint effort between the networks of regulators.

1 See Sánchez, A. (2012), *Derecho Administrativo: Teoría General del Derecho Administrativo y Derecho Administrativo Especial*, Tirant lo Blanch Publishing House; and González, E. (2009), *El derecho administrativo en el contexto moderno*, Civitas Publishing House.

1. Presentation

The *Guidelines for the Governance of Digital Platforms*, developed by UNESCO, reflect an international consensus on the configuration of a governance system that is grounded in human rights and mitigates risks caused by private content moderation and curation, with its consequent impacts on freedom of expression and access to information for people around the world. Within this framework, the *Guidelines* outline a set of duties, responsibilities and roles for States, digital platforms and other stakeholders in the development of an open and protected environment, which is safe for individuals within digital platforms. During the International Conference on Digital Platform Governance that took place in Dubrovnik, on 18-19 June 2024, the regulatory bodies attending the meeting acknowledged significant progress in this area, emphasising the urgency of learning about, sharing and supporting research on regulatory practices, as well as monitoring their implementation in different contexts globally.

The purpose of this report is to review and analyse the non-statutory regulatory provisions and practices implemented by national audiovisual regulators and other relevant public bodies in Latin America,² in relation to the governance of Internet platforms. This research aims to contribute to the Observatory of Regulatory Frameworks and Decisions initiative, promoted by the Global Forum of Networks (GFN), providing information and analysis on relevant action initiatives and strategies developed by countries within the region in this field. The report ends with a series of reflections on the analysed practices, as well as recommendations and inputs, from a Latin American perspective.

² In addition to audiovisual regulators, examples of initiatives by electoral bodies, children and adolescents' protection agencies, and telecommunication bodies, are also included.

2. Conceptual Clarifications and Methodology

2.1. Remarks on the non-statutory regulatory practices considered in this report

We need to define the concept of *non-statutory regulatory practice* on which this report is based, and the elements that distinguish these practices from other activities that may be conducted by State bodies.

State bodies act based on the powers granted to them. Power is the ability to act; the activities that, according to the administrative system, each body should carry out based on subject matter, territory, and time. Thus, powers should be granted to a State body or entity by a rule.³ In addition to these specific powers, there are other powers that arise from generic obligations incumbent upon the State (for example, conducting public consultations as part of the participatory process of drafting certain regulations or the requirement to comply with the State efficiency and informality principles in favour of the individuals subject to administration).

In turn, State bodies can adopt statutory or non-statutory decisions. The former are derived from laws and regulations that have been formally approved by the legislative branch, are binding in nature, and failure to comply with them may entail legal consequences. Non-statutory decisions – which are the ones of interest in the context of this report –, do not derive from formal laws, but rather refer to guidelines, recommended practices, administrative decisions, policies or regulations, are more flexible and not binding, and, in general, failure to comply with them does not entail legal consequences.⁴ Non-statutory regulations play an important role in administrative management.

Since the set of practices to be reviewed and analysed in this report was defined based on these preliminary concepts, we thought it was relevant to include them here. Additionally, the recommendations that come with the conclusions of this report provide tools to further develop State practices of this nature.

2.2. Information gathering tools

Research was conducted using a methodology designed to gather, compare and select relevant information on practices, policies and mechanisms related to digital platforms and their relationship with electoral processes in Latin America.

Regarding the bodies whose initiatives are reviewed, priority was given to the Latin American audiovisual regulatory bodies which are members of the Ibero-American Platform of Audiovisual Regulators (PRAI), which is part of the Global Forum of Networks (GFN): the audiovisual authorities of **Argentina, Brazil, Chile, Colombia, Ecuador, Mexico** and **Peru**. In the case of **Brazil**, we have also looked into the initiatives of the Secretariat for Digital Policies.

3 See Gordillo, A. (2013), *Tratado de derecho administrativo y obras selectas: teoría general del derecho administrativo*, 1a ed. - Buenos Aires: Fundación de Derecho Administrativo, p. XII-5 [online: https://gordillo.com/pdf_tomo1/capituloXII.pdf].

4 See Sánchez, A. (2012), *Derecho Administrativo: Teoría General del Derecho Administrativo y Derecho Administrativo Especial*, Tirant lo Blanch Publishing House; and González, E. (2009), *El derecho administrativo en el contexto moderno*, Civitas Publishing House.

Additionally, based on priority given to the protection of vulnerable audiences and the electoral integrity in the Context-specific Provisions of the *Guidelines for the Governance of Digital Platforms*, and given the relevance of these issues to democratic life and the guarantee of rights, we have analysed initiatives carried out by thematic regulatory authorities that may have developed policies or regulations in this field.⁵

As a first step, a worksheet was developed to include the identification of the countries to be reviewed, the relevant regulatory bodies, and the necessary contacts to access the required information. This worksheet also served as a tool for monitoring and systematically registering the information gathering process.

Based on this, three consultation tools were designed for key actors: regional male and female experts, and authorities from audiovisual regulatory bodies.⁶

In addition, we worked to identify primary sources (information available directly on the institutions' websites, such as resolutions and other administrative acts; official reports; press releases and other publications; information on the implementation of public policies, etc.), and secondary sources (including the mapping of MIL strategies⁷ carried out by PRAI and UNESCO).

For this report, based on the information gathered, we made a curated selection of practices and topics, focusing on those aspects backed by verifiable and sufficient information.

5 We have mainly reviewed initiatives carried out by authorities in the areas of electoral matters and the protection of the rights of children and adolescents.

6 In the expert survey, we got 24 answers from individuals in social organizations, academic institutions and other entities in Argentina, Brazil, Chile, Colombia, Costa Rica, Ecuador, Mexico and Peru. In the regulator survey, we received answers from members of regulatory bodies in **Argentina, Chile, Colombia, Ecuador, Mexico and Peru**.

7 Communication and Information Discussion Paper Nr. 30
<https://unesdoc.unesco.org/ark:/48223/pf0000390030>.
Annex 1: <https://unesdoc.unesco.org/ark:/48223/pf0000389909> (in Spanish).
Annex 2: <https://unesdoc.unesco.org/ark:/48223/pf0000389911> (in Spanish).

3. The Audiovisual Regulatory Authorities' Situation in Latin America: Powers and Institutions

It should be noted that, in the countries whose experiences and practices are documented in this report, there are no regulations that, comprehensively and based on the characteristics of the digital platforms, establish guidelines for their democratic and human rights-based governance. Although they are still draft regulations, **Brazil** stands out from its peers within the region as various initiatives on this topic are being discussed in the country's Parliament (legislative projects No. 2630/2020, 2628/2022, 2768/2022, 2338/2023, and 4691/2024; the first being the most important and widely discussed).⁸

Two issues should also be noted in relation to the powers and characteristics of audiovisual regulatory institutions in Latin America. Understanding these issues is key to developing a realistic scenario that explores opportunities in an innovative and creative way while demanding political powers to make the decisions required by the challenges of the digital environment.

On the one hand, Latin American regulatory authorities of the audiovisual sector lack specific powers to monitor, regulate, study, request information about or make decisions on the situation, functioning or impact of audiovisual communication services on the Internet, OTT platforms and digital platforms in general on the rights of citizens and users. Audiovisual regulators have jurisdiction over radio and TV (in some cases only free-to-air TV, not even subscription services via cable or satellite), but they do not ensure rights are guaranteed beyond this limit. The public institutional framework of the sector is thus challenged by this weakness (CRC, 2022; CNTV, 2020).

On the other hand, the current institutional design of most of these bodies does not comply with international standards on freedom of expression, particularly regarding their functional, administrative, and financial autonomy, and their independence, which is primarily based on a pluralistic structure, separate from political power, and on protection from undue political interference and interference of another kind. Two extreme examples are: the Federal Telecommunications Institute (IFT), in **Mexico**, which the executive branch has decided to dissolve, thereby undermining its autonomy, which was enshrined in the Mexican Constitution; and the National Communications Agency (ENACOM), in **Argentina**, which has been taken over and is currently managed by an auditor, although the regulations establish that a collegiate and pluralistic board of directors should be in place.

⁸ Among other smaller-scale initiatives that could be mentioned, there is the intense debate that took place in Colombia, in 2021, on Bill No. 600, which sought to regulate children and adolescents' protection in the digital environment. In Mexico, following the deterioration of the Telecommunications and Broadcasting Law as a result of successive regressive reforms regarding rights, a new Telecommunications Law would be implemented in order to grant the Digital Transformation and Telecommunications Agency (which takes over the Federal Telecommunications Institute), powers to regulate digital platforms. Compared to Brazil, the rest of the countries are in the very early stages of the debate on this type of regulations.

This scenario poses limitations on the actions taken by these authorities, even within the powers granted by the corresponding regulations. It should be noted, however, as evidenced by the information gathered for this research, that in some countries, such as **Chile** and **Colombia**, there are indeed proposals and initiatives, some of them even arising from the audiovisual authorities themselves, regarding the need to extend current powers to cover OTT services and digital platforms. However, as we have pointed out in relation to regulatory discussions, these debates are still in their early stages, being spasmodically promoted by political actors.

4. Review and Analysis

This section is organised based on the identification of non-statutory regulatory practices –as defined in section 2.1– regarding the governance of platforms, which could be shared among regulators in Latin America and the Caribbean, as well as with other authorities globally.

For each of these practices, after a general description, the specific actions involved in each initiative are detailed and the public body in charge of their implementation is identified. Regarding their assessment, it should be noted that it has been difficult to get information from those who have implemented these practices or from third parties.⁹

4.1. Media and information literacy (MIL) activities and strategies

Media and information literacy (MIL) is one of the areas in which **audiovisual regulators** are carrying out different initiatives, in a context of powers limited to services that do not include OTT or digital platforms. This is because such initiatives empower citizens to think and critically interact with media environments. Beyond the new challenges posed by the digital environment, many of these capacities can be deployed independently of the screen or technology people use to access content.

According to the *Mapping of Media and Information Literacy Initiatives in Ibero-America* report, jointly developed by the Ibero-American Platform of Audiovisual Regulators (PRAI) and UNESCO, there is an upward trend in the implementation of MIL initiatives across Ibero-America.¹⁰ However, the study warns that: “In the Americas, while some territories have certain regulatory provisions in place, there is a notable need for specific policies to promote and disseminate MIL, and for these to have a supporting legal framework and regulatory authority to set goals and allocate the necessary resources to achieve them”.¹¹

There follows detailed information on the initiatives reviewed for this report. Only those that are related or refer to digital platforms, carried out by audiovisual organisations and other relevant state bodies, have been included, considering that the *Guidelines for the Governance of Digital Platforms* have served as a reference for this report.

In **Colombia**, the Communications Regulation Commission (CRC) has reported on online courses that promote the critical consumption of content on any screen, workshops for children, adolescents and adults (teachers and parents) on tools to encourage the critical consumption of content and parental mediation strategies. In February 2025, the CRC launched the #SaludAloquevemos strategy, an educational campaign that comprehensively addresses key issues such as the influence of algorithms on access to information and targeted advertising, strategies to identify and put a stop to disinformation, the importance of parental support in digital media consumption, and the representation of diversity in audiovisual content.¹²

9 Most of the answers received were “Good”, but without any further details showing an assessment or follow-up process simultaneous to and/or after their implementation.

10 See, PRAI - UNESCO (2023), *Mapping of Media and Information Literacy Initiatives in Ibero-America*, p. 17 [online: https://unesdoc.unesco.org/ark:/48223/pf0000390030_eng].

11 *Idem*, p. 24.

12 See <https://www.crcm.gov.co/es/saluda-lo-que-vemos>

Likewise, in **Peru**, the Radio and Television Advisory Council (CONCORTV) website includes a specific section on MIL, to disseminate MIL information and initiatives that include digital environments, also focusing on disinformation.¹³ According to the information gathered for this report, MIL is part of the National Education Project 2036.¹⁴ In **Argentina**, the National Communications Agency conducted actions within the framework of the ICT and Media Literacy Programme until 2022.¹⁵

Also in **Argentina**, the Public Defender's Office for Audiovisual Communication Services (an organization created by law and reporting to the National Congress), carried out until 2024 a line of work called "Media Literacy and Educommunication", which in recent years has expanded to the digital environment (i.e., beyond the audiovisual communication services that are within its scope of action). One of the latest actions in this line of work was the teacher training course "Media and Information Literacy in the Age of AI" conducted in September 2024. Sponsored by UNESCO, **Chile's** CNTV and the Inter-American Organisation of Audience Defenders (OID), the course had more than 1,600 participants from different countries in the region.¹⁶

These initiatives show that audiovisual public bodies can promote actions that expressly adopt an updated perspective on the scope of media literacy, despite lacking jurisdiction in relation to digital services and platforms

Mexico's Federal Telecommunications Institute (IFT) has reported on the development of MIL initiatives that are part of the 2021-2025 Roadmap, whose objective 4 is to ensure the quality, diversity and plurality of telecommunications and broadcasting services and strengthen the rights of users and audiences in the digital ecosystem, with MIL being one of the strategies and lines of regulatory action related to this objective.¹⁷ The IFT has developed an online resource: the *Interactive Tool for Policies, Terms, and Conditions Applicable to the Use of Digital Platforms*. The information provided by this tool focuses on the platforms' Terms and Conditions and Privacy Policies. Interestingly enough, it distinguishes between different types of platforms, differentiating the so-called "entertainment platforms" (here you can find information about Netflix, Disney, Claro Video, Prime Video, Deezer and Spotify)¹⁸ from "social media" (this category includes WhatsApp, TikTok, X, Instagram, Facebook, Telegram and YouTube).¹⁹

It should be noted that this repository of information includes OTT, audiovisual and social media platforms in a broader universe of digital platforms (including, for example, dating, e-commerce, and transport apps), and provides information on their policies, thus "mapping" the multiple dimensions of everyday life in which we coexist with platforms. What is interesting is the "translation" of the information on Terms and Conditions into graphs, allowing easier access to the policies' content (and even compare them, as in the case of Facebook and Instagram, both owned by Meta). Although links to the original documents are available, the tool should

13 See <https://www.concortv.gob.pe/alfabetizacion-mediatica/>

14 See <https://www.gob.pe/institucion/cne/informes-publicaciones/1942002-proyecto-educativo-nacional-al-2036-el-reto-de-la-ciudadania-plena>

15 See <http://www.obserdiscriminacion.gob.ar/capacitaciones-en-medios-y-tic-a-referentes-de-diversos-sectores-de-la-sociedad/>

16 See <https://defensadelpublico.gob.ar/inscripcion-record-arranca-el-curso-alfabetizacion-mediatica-e-informacional-en-la-era-de-la-inteligencia-artificial/>

17 See <https://www.ift.org.mx/sites/default/files/contenidogeneral/transparencia/estrategia20202025.pdf>

18 See <https://www.ift.org.mx/usuarios-y-audiencias/alfabetizacion-digital>

19 See <https://www.ift.org.mx/usuarios-y-audiencias/alfabetizacion-digital>

state which version was used to develop these graphs and tables, as Terms and Conditions are documents that companies change, modify and adjust periodically.

The abovementioned initiatives explicitly integrate reflection on the influence of algorithms and content consumption through digital platforms, thus recognising that the information and communication ecosystem cannot be understood if the centrality of the digital environment is not considered.

According to the information gathered to produce this document, the Ministry of Science and Technology of **Costa Rica** is developing a Digital Literacy programme linked to the so-called “smart community centres”. In these centres, which offer State-provided free and open access to the Internet, access restrictions are also implemented, for example, to protect underage users.

In June 2024, the Secretariat of Communication of the Presidency (SECOM-PR) of **Brazil** launched media literacy courses and initiatives aimed at people working in the education sector.²⁰ Two elements of this initiative, related to its potential impact and sustainability, should be highlighted: i) it is part of a joint alliance with the Ministry of Education and civil society organisations that are already conducting actions in this area, and ii) **Brazil** has included Digital Culture in its National Common Core Curriculum (BNCC). The addition of media literacy to the official curricula is key to guarantee continuous teacher training and access to literacy in the classroom.

One example of MIL initiatives carried out by electoral authorities is the one conducted in **Chile**, through the work of the Electoral Service (SERVEL), which coordinates various strategies to combat disinformation circulating on social media and impacting electoral bodies.²¹

Between 2019 and 2020, SERVEL began coordinating with platforms such as Facebook to address the role of social media in political propaganda, especially in the context of the 2020 National Plebiscite.²² These actions included meetings to get information on the transparency measures applied by social media in relation to political propaganda and disinformation. Additionally, SERVEL promoted the discussion on social media and electoral processes as a central theme of the 20th Conference of the Association of South American Electoral Bodies and organised an internal seminar to train its staff on these issues. These efforts seek to improve transparency and the oversight of online political propaganda.

In **Brazil**, the Superior Electoral Court created in 2024 the Integrated Centre for Combating Disinformation and Defending Democracy (CIEDDE), headed by the president of the Court. The CIEDDE promotes cooperation between the judiciary, public bodies and private entities (including platforms) to ensure compliance with the Court’s rules on electoral propaganda and may also suggest regulatory changes. The CIEDDE will also coordinate the implementation of courses, seminars and studies to promote education in areas such as citizenship, democracy, electoral

20 See <https://agenciagov.etc.com.br/noticias/202406/secom-lanca-novos-cursos-gratuitos-de-educacao-midiatica-em-parceria-com-ministerio-da-educacao>

21 During the meeting “Preserving Information Integrity and Public Trust in Elections” (organised by the International Foundation for Electoral Systems and the Superior Electoral Court in Brazil in 2023), Advisor María Cristina Escudero highlighted the existing experiences regarding prevention, such as information transparency, the strengthening of institutional processes and the links with citizens and media actors, universities and political parties. “Servel presented at a meeting on the integrity of electoral information in Brazil,” August 18, 2023. Available at: <https://www.servel.cl/2023/08/18/servel-expuso-en-encuentro-sobre-la-integridad-de-la-informacion-electoral-en-brasil/>

22 SERVEL and the role of social media, February 21, 2020. Available at: <https://www.servel.cl/2020/02/21/servel-y-el-rol-de-las-redes-sociales/>

justice, digital rights and the fight against electoral disinformation, and organise advertising and educational campaigns.²³

Finally, it should be noted that, based on the survey of information published by **children and adolescents' protection agencies** in the main countries of the region, most agencies include information on MIL initiatives on their institutional websites, including links for access or even hosting them within their own sites. **Mexico's** National System for the Protection of Children and Adolescents (SIPPINA) publishes regular reports with general recommendations on safe Internet access and specific information on social media most widely used by adolescents. Regarding the latter type of content, while it does not question the opacity of the platforms and the harmful impacts of algorithmic logic on this population –which is widely documented, particularly on networks such as TikTok, X, and Instagram–, it does provide useful information to make the experience of adolescents on these networks safer.²⁴ Although limited and without questioning the logic of the platforms, the relevance of this issue on the agenda of the Mexican protection agency contrasts with its scant relevance on the agenda of children and adolescents' protection agencies in other countries.²⁵

4.2. Requests of information on content moderation and data use, particularly in electoral periods

With regard to these practices, no action has been taken by audiovisual authorities in relation to OTT services and digital platforms, with the exception of **Colombia's** CRC, which reported that it had requested information from OTT companies on specific issues related to traffic and the networks they use, but had not received a response to its request (presumably because they considered that such a response could imply a tacit recognition of the CRC's jurisdiction over these services).

No other audiovisual regulatory body has reported adopting measures of this kind. The legitimate consideration of this regulatory practice as a statutory practice explains why it is not included in the set of actions, within a general framework of powers that is highly limited in relation to OTT services and digital platforms. However, in the context of research or as input for the adoption of, for example, media and information literacy initiatives on platform policies –such as some of those discussed in the corresponding section–, it could be a type of practice worth exploring. It could even promote dialogue and interaction with the companies on the issues under consultation.

Regarding platforms' impact on electoral processes, in **Brazil** there have been initiatives to request reports or information (which, according to the information gathered, are answered by the platforms in question). It is important to bear in mind that Brazilian electoral legislation considers the dissemination of fake information to be a violation of electoral regulations, which is why there are numerous decisions by the Superior Electoral Court limiting, or determining, content exclusion.

23 See <https://www.tse.jus.br/comunicacao/noticias/2024/Marco/tse-tera-centro-integrado-de-enfrentamento-a-desinformacao-e-defesa-da-democracia>

24 See, for example, in relation to TikTok, <https://www.gob.mx/sipinna/es/articulos/toma-nota-de-tiktok-una-de-las-plataformas-digitales-mas-populares-entre-las-y-los-adolescentes?idiom=es>

25 This is the case of the Secretariat for Childhood, Adolescence and the Family in Argentina, that only provides information for adults on grooming prevention and reporting mechanisms. See <https://www.argentina.gob.ar/grooming>

In relation to this situation, in 2024 the Superior Electoral Court created the *Centro Integrado de Enfrentamento à Desinformação e Defesa da Democracia* (CIEDDE) (Integrated Centre for Combating Disinformation and Defending Democracy), which is chaired by the president of the Court. Its duties include promoting cooperation between the Electoral Court, public bodies and private entities, especially social media platforms and private messaging services, during the electoral period, to ensure compliance with the rules established by the Superior Electoral Court Plenary Session for electoral propaganda. The Centre will help Regional Electoral Courts improve the regular use of artificial intelligence (AI) in elections, combat disinformation and deepfakes, and protect voters' freedom of choice. The Centre will also play an important role in promoting civic education, democratic values, and digital rights.²⁶ This initiative allows to notice its relevance in addressing communication problems through platforms, particularly when democracy is at stake, based on an innovative, increasingly solid, and socially legitimised institutional framework.

4.3. Actions to address potential infringements of rights by platforms

Before delving deeper into the subject matter of this section, it should be clarified that any rights' protection measure taken by a public body with jurisdiction in this matter is always a statutory practice, i.e., it should be based on formal laws that assign said jurisdiction, establishing mechanisms and procedures. However, there are measures that agencies, particularly audiovisual agencies, could adopt based on general obligations incumbent upon public administration agencies when they become aware –for example, through complaints– of a situation that could affect the rights of individuals or groups of individuals. General rules on the efficiency of the civil service and on acting in the interest of individuals may cover decisions on referral, communication of information, etc.²⁷

This is an area in which we have not received any answers that allow us to acknowledge the adoption of standardised procedures in this regard by audiovisual organisations. The lack of jurisdiction of audiovisual organisations or other bodies in the information and communications sector regarding digital platforms explains the absence of practices that could be registered in this study.

It is important to highlight that, in response to the query regarding the reception by audiovisual organisations of complaints and claims from citizens on the infringement of rights on digital platforms (e.g., in situations involving children and adolescents, or alleged cases of gender-based digital violence or situations that compromise public health), only the CRC of **Colombia** and the Communications Council of **Ecuador** have reported receiving requests for the agency to intervene to address potential infringements of rights in the digital environment.

26 See <https://www.tse.jus.br/comunicacao/noticias/2024/Marco/tse-tera-centro-integrado-de-enfrentamento-a-desinformacao-e-defesa-da-democracia>

27 We are referring to the rules included in public ethic or similar laws, rules on access to public information and open government. For example, in Peru, Law No. 27815, Civil Service Code of Ethics (2002), defines principles and duties of public servants, such as honesty, efficiency and respect, and the Law of Transparency and Access to Public Information, of the same year, promotes administrative transparency and the right to information. In Chile, Law No. 18.575, Constitutional Organic Law on the General Bases of the State Administration (of 1986, as amended), defines the principles of efficacy, efficiency, responsibility and coordination for State's management. In Colombia, Law No. 872 of 2003 creates the Quality Management System in Public Administration, mandatory for public entities and through which efficiency, quality of service and citizen's satisfaction are sought.

At the same time, it has not been possible to establish whether, if received, these complaints are referred to other public authorities for processing or even to the platforms to be aware of them. On this regard, the Communications Council of **Ecuador** has reported that, in the event of potential violation of rights, the Council brings the technical reports it has prepared to the attention of the Office of the Ombudsman. Regarding the reception of citizens' concerns on audiovisual services on the Internet or platforms, according to the information provided, there have been complaints on violent and discriminatory content on OTT platforms.

In this framework, it is important to mention that, even in a context of limited powers, public bodies with jurisdiction over the information and communication ecosystem can play a key role in receiving and properly channelling such complaints (if there is a public institution with the power to process them), and also in raising awareness of the issues raised by citizens that concern the governance of digital platforms. This is a non-statutory practice that agencies can develop, not only to maximise their ability to respond to citizens, but also to address the need for public institutions that can interact appropriately, timely and efficiently with digital platforms to guarantee certain rights.

There are decisions adopted in legal proceedings, but said measures are not part of the scope of this investigation.²⁸ Similarly, it should be understood –as it does not arise from publicly reported interventions– that children and adolescents' protection agencies, whose core power is the protection of rights in every context, can articulate concrete, fully statutory intervention measures when the rights of children and adolescents are at risk in the digital environment.

In this context, it should be noted in this section, as a protective measure, the adoption of Ordinance 351/2023 by the Ministry of Justice and Public Security of **Brazil**, with new guidelines for social media platforms. This decision was adopted after a series of attacks on schools that took place that year, in a context of a sustained increase in this type of incidents in that country.²⁹ This ordinance focuses on platforms' responsibility on the dissemination of content that promotes violence in schools. This arises from one of the reasons for adopting the ordinance, which states: “considering the dissemination of illegal, harmful and damaging content on social media platforms related to violent extremism that promotes attacks against schools or defenders and incites these crimes or their perpetrators”.³⁰

The document provides guidelines for companies, based on preventing the dissemination of the type of content identified in the previous paragraph, including the immediate removal of content following a request by the competent authorities, a systemic risk assessment, the adoption of measures to prevent the spread of new threats to schools, and a policy of active content

28 In **Chile**, cases brought by the Audience Defender's Office stand out. This Office has a legal team that pursue strategic litigation against digital platforms, with the purpose of establishing precedents in the protection of freedom of expression. Some of these lawsuits have sought to spark debates on regulation in content moderation and to challenge self-regulatory decisions taken by companies (there are various court decisions in this regard, and some appeals are pending on the violation of fundamental rights on social media, according to information provided by the Defender's Office). In **Brazil**, among other cases involving digital platforms, the Federal Supreme Court is currently considering the constitutionality of Article 19 of the Civil Rights Framework for the Internet – the law that has regulated Internet use since 2014–, which could modify platforms' liability regarding third-party publications.

29 See <https://www.gov.br/mj/pt-br/assuntos/noticias/mj-sp-edita-portaria-com-novas-diretrizes-para-redes-sociais-apos-ataques-nas-escolas>

30 Ministry of Justice and Public Security of Brazil, Ordinance 351/2023, p. 1, available at https://www.gov.br/mj/pt-br/assuntos/noticias/mj-sp-edita-portaria-com-novas-diretrizes-para-redes-sociais-apos-ataques-nas-escolas/portaria-do-ministro_plataformas.pdf

moderation on networks. In addition, they must inform the ministry about the recommendation algorithm rules used on their domains.

Although the regulation does not come from an audiovisual authority but from a ministry, based on its jurisdiction over security matters, and in the face of a crisis caused by a series of attacks with victims in educational institutions, it shows the range of possibilities enabled by this type of scenarios for public policy decisions involving platforms and impacting the protection of groups. The regulations provide guidelines for the actions of both the National Secretariat for Consumers (SENACOM) –on the understanding that social media also fall within the scope of consumer relations, regulated by the Consumer Protection Code– and the National Secretariat for Public Security (SENASP).

Finally, it should be noted that, in the Province of Buenos Aires, **Argentina**, the Provincial Directorate for Consumer and User Rights summoned Netflix and Max for including abusive clauses in their terms of use, which were considered to be in violation of National Consumer Protection Law No. 24,240. The investigation was initiated *ex officio*, the companies were summoned, and, because of this action, they have made changes to their contracts. This action shows that the State (in this case, a provincial state) can, when appropriate, summon large companies and make them change certain decisions in favour of people's rights, in this case in their capacity as users and consumers.

4.4. Development of recommendations for good practices on policies, products or services

The adoption of guidelines and directives is an important regulatory practice, as it allows organizations to provide guidance to different stakeholders. If implemented as a statutory practice, these guidelines and recommendations may provide for mechanisms to monitor compliance. As a non-statutory practice, audiovisual authorities can use these tools to impact platforms' activity, even when, as we have already pointed out, they lack the powers to take part in their governance.

On the one hand, regulated services (particularly TV) use information and content provided by digital platforms, especially in news coverage and information approaches in different programme formats.

For example, there should be no objection to regulatory authorities making recommendations on the necessary protection of personal data, even when these are exposed in accounts and social media, because consent for their disclosure should generally be explicit, with a clear and defined purpose to obtain compliance.

They can also recommend appropriate ways to cover gender-based violence that may have social media as a source, or to deal with information on suicide –or suicidal behaviour–circulating through interactions in social media. This is the type of content that journalism ethics manuals usually address with special consideration. The same can be said of how they address hate speech messages, an issue that has already been acknowledged in different forums and areas in relation to social media contents.

This type of strategies are relevant, and, although they do not have a direct impact on the platforms' policies and services, they do impact on the way in which communicators and the general public engage with the information and content of those platforms, and can also motivate improvements in their terms of service and moderation rules.

Two examples of this type of measures are: the guidelines of good practices for information integrity developed by the CRC in **Colombia**, considering both traditional and digital media; and the recommendations adopted by the Public Defender's Office for Audiovisual Communication Services in **Argentina** on the dissemination of hate speech on social media or on the coverage of digital violence.³¹

In **Brazil**, where the debate on the regulation of digital platforms is highly topical due to very advanced initiatives and bills, SECOM created in 2023 a working group on the use of screens and digital devices by children,³² focused on developing a Guide for the conscious use of screens and digital devices by children and adolescents.³³ The initiative envisages integrating the Guide with media and information literacy actions and public campaigns. In relation to this initiative, two central issues should be highlighted: i) the articulation, by the State, of a multi-stakeholder space (with a focus on stability) to channel the issues that in this case particularly affect children and adolescents, and to develop inputs and actions from this participatory approach; and ii) the use of a central instrument (the Guide developed in a participatory manner) as a tool to coordinate other related actions. This is a model of public policy development in which participation legitimises the initiative.

Finally, we believe it is worth to include in this section the initiative of the Advisory Committee against Disinformation that operated in **Chile** in 2023. Although it was not promoted by the public bodies we have referred to so far (mainly, CNTV and the electoral authority), it was a public initiative (more precisely, of the Ministry of Science, Technology, Knowledge and Innovation) that aimed to produce two technical reports establishing a conceptual analysis framework and a comparative study of regulatory frameworks in other countries that have addressed the issue, as well as a set of recommendations to counter disinformation, aimed at different actors and based on the principles of transparency, accountability, human rights protection, protection of information integrity, and international collaboration. Clearly, in this kind of actions, it is key to follow up on the recommendations and to involve both civil society and the academic sector, so that neither the diagnosis nor the "roadmap" of the recommendations virtually fall in deaf ears. Nevertheless, it is important to highlight this initiative, which at the beginning was highly resisted by **the most influential actors** in **Chile's** information and communication environment.³⁴

4.5. Adoption of agreements with commitments for digital platforms

Agreements are an important non-statutory practice, as they allow agencies to propose and negotiate commitments with different sectors, including the private sector, in order to achieve certain objectives. In the electoral area, the preparation of this report has allowed us to identify valuable initiatives.

31 "Discursos mediáticos libres de odio: manual de sugerencias para la moderación de redes sociales", jointly published by the Public Defender's Office, General San Martín National University, and the Ana Frank Centre, among others. See <https://www.unsam.edu.ar/leda/docs/Manual-10-final.pdf>. The guide for the coverage of violence in digital contexts is available at: <https://defensadelpublico.gob.ar/wp-content/uploads/2023/03/violencia-en-entornos-digitales-v3.pdf>

32 Formalised by the following provisions: SECOM/PR No. 13/2023; SPDIGI/SECOM/PR No. 1/2024; and SPDIGI/SECOM/PR No. 2/2024

33 See <https://www.gov.br/secom/pt-br/assuntos/uso-de-telas-por-criancas-e-adolescentes>

34 The presentation of the Committee, along with its members, actions, and reports, are available at <https://www.minciencia.gob.cl/areas/comision-contra-la-desinformacion/>

In **Brazil**, in 2022, the Superior Electoral Court (TSE) signed agreements with numerous digital platforms, such as WhatsApp, TikTok and Google, to fight disinformation in the context of the general elections.³⁵ These agreements established commitments to collaborate in curbing the dissemination of fake content and strengthening the integrity of the electoral process. In addition, in 2021, the TSE had approved Ordinance No. 510, which created the Permanent Programme to Combat Disinformation in the Field of Electoral Justice,³⁶ as a policy sustained over time.

In **Chile**, the Electoral Service (SERVEL) has been working for several years to reflect on and propose good practices regarding the role of social media in electoral processes. In 2020, SERVEL published a document on the role of social media in the electoral context,³⁷ recognising its growing impact on shaping public opinion and the need to establish mechanisms to strengthen the integrity of online information.

In **Argentina**, the National Electoral Chamber promoted the Digital Ethical Commitment, an initiative that is in force since 2019³⁸ and was updated for the 2021³⁹ and 2023⁴⁰ elections. This is a voluntary agreement that calls on political parties, the media, digital platforms, and civil society organisations to commit to disseminating verified information and not promoting fake content or content that may affect the electoral process.

In **Mexico**, the National Electoral Institute (INE) has developed strategic alliances with various platforms. In the run-up to the 2024 elections, it has established an agreement with Meta to combat electoral disinformation.

Similarly, the Electoral Court of the Judiciary of the Federation (TEPJF) of **Mexico**, signed a Memorandum of Understanding with TikTok to collaborate in the dissemination of verified electoral information and combat disinformation during the Mexican electoral process.⁴¹ The agreement sought to promote transparency, accountability, and electoral integrity through joint actions, such as information sharing, dissemination of relevant content, sending notifications to TikTok users, and mutual training. TikTok committed to implement the best practices in electoral integrity and to collaborate with the Court in the dissemination of official and reliable information, and to keep its platform free of fake or misleading information. The Memorandum also provides for the organisation of workshops, seminars, and other training sessions on electoral issues and legal obligations, both for TEPJF staff and representatives of the platform. This agreement was also signed by other authorities of the Court and the National Electoral Institute (INE).

In **Peru**, the Ethical Electoral Pact (PEE), an initiative promoted by the National Elections Board (JNE), seeks to guarantee transparency and fairness in electoral processes. This voluntary agreement, signed by the political organisations that took part in the 2021 general elections, establishes commitments to behave ethically during the political campaigns, including promoting

35 The Superior Electoral Court of Brazil and digital platforms sign an agreement to combat disinformation ahead of the 2022 elections, February 28, 2022. Available at: <https://www.observacom.org/tribunal-superior-electoral-de-brasil-y-plataformas-digitales-firman-acuerdo-contra-la-desinformacion-de-cara-a-las-elecciones-de-2022/>

36 Available at: <https://www.tse.jus.br/legislacao/compilada/prt/2021/portaria-no-510-de-04-de-agosto-de-2021>

37 SERVEL and the role of social media, February 21, 2020. Available at: <https://www.servel.cl/2020/02/21/servel-y-el-rol-de-las-redes-sociales/>

38 See: https://www.electoral.gob.ar/nuevo/paginas/cne/compromiso/comp_digit_2019.php

39 See: https://www.electoral.gob.ar/nuevo/paginas/cne/compromiso/comp_digit_2021.php

40 See: https://www.electoral.gob.ar/nuevo/paginas/cne/compromiso/comp_digit_2023.php

41 The TEPJF and TikTok shall contribute to the communication of relevant and true public electoral information in favour of the electorate and to discourage disinformation, October 25, 2023. Available at: <https://www.te.gob.mx/front3/bulletins/detail/15366/0>

informed voting, showing mutual respect among candidates, and disseminating proposals based on truthfulness.

In the context of digital platforms, the PEE emphasises the responsibility of political organisations to make proper use of these media. Specifically, the signatories commit to avoiding the publication of fake or misleading news on social media and web platforms. Additionally, they commit to refraining from using bots, trolls or fake accounts to spread propaganda, thus promoting an authentic and transparent communication with the electorate. These measures seek to mitigate disinformation and guarantee that the information disseminated in the digital environment during political campaigns is accurate and reliable. Platforms such as Facebook, Google, and Twitter have also joined this commitment, signing agreements with the JNE to support the fight against disinformation and promote official information during the elections.⁴²

These agreements also seek to improve direct communication with citizens and to increase transparency of official information available on social media.

The abovementioned experiences show a growing concern among electoral authorities to establish guidelines and cooperation agreements with digital platforms in order to protect the integrity of democratic processes considering the risks posed by online disinformation.

4.6. Studies and research

The development and dissemination of studies and research is another area in which some audiovisual regulators engage in good non-statutory practices. Although these studies mainly explore audience preferences (therefore including analysis of content consumption via OTT services and platforms), there are also studies on the regulatory situation in some countries that raise the need to review the legal frameworks and powers of existing public institutions. These studies have the value and potential to stimulate social debate, challenge public policy decision-makers, and enable dialogues with the platforms themselves.

Regarding OTT services, since 2016, studies carried out by the CRC in **Colombia** have reviewed consumption habits for OTT and traditional TV services. Since 2019, studies on children and adolescents have analysed consumption habits and perceptions regarding the protection of their rights in audiovisual services which are not online, OTT services, and social media.⁴³ In **Mexico**, the IFT publishes annual reports on the demand for and supply of OTT services in the country.⁴⁴ In **Chile**, the CNTV has been publishing studies on OTT services since 2015. These are diagnostic studies on the ongoing debates, a mapping of the different views of the actors involved, and a comparative review of what is going on in other countries; none of them

42 Social media and digital platforms policies around electoral propaganda, February 9, 2021. Available at: <https://hiperderecho.org/2021/02/las-politicas-de-las-redes-sociales-y-plataformas-digitales-en-torno-a-la-publicidad-electoral/>

43 See for example:
 (2023) <https://www.postdata.gov.co/story/el-rol-de-los-servicios-ott-en-el-sector-de-las-comunicaciones-en-colombia-2023>;
 (2025) <https://www.crcm.gov.co/es/biblioteca-virtual/informe-ejecutivo-estudio-infancia-y-medios-audiovisuales-2024>;
 (2021) <https://www.crcm.gov.co/es/biblioteca-virtual/estudio-sobre-industria-contenidos-audiovisuales-colombia>;
 (2021) <https://www.crcm.gov.co/es/biblioteca-virtual/estudio-infancia-y-medios-audiovisuales-apropiacion-usos-y-actitudes-informe>

44 See the 2024 edition in https://somasaudiencias.ift.org.mx/archivos/4_Oferta_OTT_1T2024.pdf

proposes any concrete public policy or regulatory actions.⁴⁵ Similarly, based on the information gathered for this report, the National Television Survey, the map of TV and audiovisual media consumption and surveys are all noteworthy, as they are initiatives within the context of media convergence. However, it is important to note that, as evidenced by the existence of these inputs, the impossibility of intervening does not extend to the ability to study the OTT ecosystem. The ultimate purpose of these studies should be their use as inputs for public policy decision-making.

In this regard, it is worth noting that the regulatory bodies in **Chile** and **Colombia** have developed and published several regulatory review documents highlighting the shortcomings regarding both the regulatory framework in force and its powers to address the challenges posed by OTT services and digital platforms.⁴⁶

Similarly, it should be noted that in **Peru**, the Supervisory Agency for Private Investments in Telecommunications (OSIPTEL), has developed reports on the competition between OTT services and traditional operators, and on how the growing popularity of the former is affecting traditional pay TV services. Always from its market perspective, OSIPTEL raises the need to determine whether OTT services should be subject to specific regulations to ensure fair competition and an adequate protection for users.

In **Brazil**, the National Telecommunications Agency is conducting several studies –some of them in coordination with universities and research institutions– on different aspects of the digital ecosystem. In these studies, said ecosystem is not limited to services regulated by telecommunications, but rather is considered in its entirety in order to identify regulatory and institutional challenges, impacts on rights, best regulatory practices, and other relevant elements to promote and adopt public policies.⁴⁷

4.7. The imposition of warnings, fines and sanctions in the electoral context

As part of the preparation of this report, we have also decided to review the imposition of warnings and sanctions. Although this is a type of statutory regulatory practice, given the issuance, in recent years, of several decisions affecting platforms, particularly during election periods, we consider it appropriate to record them with the corresponding clarification of their purely statutory nature.

In terms of warnings, fines or sanctions imposed to digital platforms, based on the information gathered, only **Brazil** and **Chile** register actions by their electoral authorities. In the case of **Brazil**, the Superior Electoral Court (TSE), has ordered relevant measures to address disinformation

45 CNTV (2015) [online https://cntv.cl/wp-content/uploads/2020/04/regulacion_contenidos_audiovisuales_y_ott.pdf]; CNTV (2017) [<https://www.cntv.cl/wp-content/uploads/2021/10/Convegencia-OTT-y-Regulacion-audiovisual-Asuncion-Media-Show-1.pdf>]; CNTV (2018) [<https://www.cntv.cl/wp-content/uploads/2021/12/Servicios-OTT-Audiovisuales-n-Internet-Regularo-Desregular.pdf>]

46 See, for example, the following documents in CRC: “Actualización de medidas de participación y protección de televidentes, especialmente niños, niñas y adolescentes” (2023); “Modelo de vigilancia y control en materia de contenidos” (2020), available at the institutional website www.crcom.gov.co. The CNTV documents that include these proposals are, among others, “Desafíos regulatorios CNTV 50 años” (2020) and “Mapa de la TV en Chile” (2024), available at the institutional website www.cntv.cl

47 See, among others, “Study on Regulatory Institutional Shaping Scenarios for the Digital Ecosystem” (2024) online https://sei.anatel.gov.br/sei/modulos/pesquisa/md_pesq_documento_consulta_externa.php?HWH32bONvibUcMC3mewfUpIX7e-9fyZZC4iEjI2QHwXAoLCoRVZwNzRf5vR3YcCMWNZ4eCgQDLmVzIOFPcg7Rqsl0y9am3tuyKMZS7Jfr28fOQlvmBfesW2ux1hz8QNe

during electoral processes. For example, it ordered the blocking of the monetisation of channels investigated for disseminating fake information on elections, prohibiting money transfers from social media to these channels.⁴⁸ Additionally, the TSE issued a resolution prohibiting the generation of free content and illegal conducts during electoral campaigns, and has set new rules regarding electoral propaganda on digital platforms.⁴⁹

In a concrete action to demand greater accountability from platforms, **Chile's** electoral authority imposed a fine on Google for failing to disclose information related to electoral propaganda.⁵⁰ It is worth noting that the sanction is based on Law No. 21.261⁵¹, which establishes that SERVEL may ask digital media providers for information on the identity and amounts involved of anyone hiring electoral propaganda, in the manner and within the deadlines established by the Electoral Service. This fine is the maximum amount that can be imposed on an offender.

In contrast, no similar measures were identified in **Argentina, Bolivia, Colombia, Ecuador, Mexico** or **Peru**, suggesting that these countries have not yet implemented specific actions to sanction platforms for their role in disseminating disinformation or in relation to their obligations during electoral processes.

48 Electoral Justice of Brazil requires platforms to put an end to the monetisation of channels that include election disinformation, August 18, 2021. Available at: <https://www.observacom.org/justicia-electoral-de-brasil-exige-a-plataformas-fin-de-la-monetizacion-de-canales-con-desinformacion-sobre-elecciones/>

49 See: <https://www.tse.jus.br/legislacao/compilada/res/2021/resolucao-no-23-671-de-14-de-dezembro-de-2021>

50 Google is fined in Chile for not disclosing information on electoral propaganda, September 26, 2023. Available at: <https://www.observacom.org/google-recibe-multa-en-chile-por-no-transparentar-informacion-sobre-propaganda-electoral/>

51 See <https://www.bcn.cl/leychile/navegar?idNorma=1148743>

5. Conclusions and Recommendations

This report has reviewed several non-statutory practices carried out by public bodies, particularly audiovisual regulators, that are related to the governance of digital platforms in the terms set forth in UNESCO's *Guidelines for the Governance of Digital Platforms*.

As noted in the conceptualisation section at the beginning of the document, non-statutory practices refer to these bodies' guidelines, recommended practices, administrative decisions, policies or regulations, which play an important role in administrative management, particularly in a regional context where State regulators lack jurisdiction over large digital platforms.

There follows a series of conclusions on the reviewed practices and their context, along with several recommendations that we hope can be further consolidated and deepened, as they are good practices for the governance of platforms, which requires commitment and action in the region.

1. The current context of regulations and powers assigned to audiovisual regulatory authorities in Latin America offers almost no solutions to address the challenges of governance of digital platforms. This, insofar as **neither the platforms nor their activities are considered as subjects or activities subject to regulation** by these public bodies. On the other hand, the **discussions** on bills and institutional reforms that may impact on the governance of platforms are in an early stage, **not articulated, and lacking relevant drivers in the political scene** (the exception is Brazil.)

The starting point of the work agenda associated with the governance of platforms in Latin America and the Caribbean from the regulators associated to PRAI should be the recognition of this diagnosis.

2. This context also shows the **weakness and scarcity of non-statutory practices**, with the **exception of media and information literacy (MIL) initiatives, and the development of research works** that could translate into new public policy initiatives. The report (and the systematic responses to the questionnaires sent to experts and leaders of these regulatory bodies) duly accounts for this diagnosis.
3. This report reviews numerous MIL initiatives that, for some years now, audiovisual authorities have been disseminating to a communication environment that goes beyond the limits of their powers. In this regard, **the inclusion of MIL content in official curricula is key**, as it allows for the coordination and strengthening of actions carried out by different public bodies within the scope of their powers. The case of Brazil provides elements in this regard.
4. **There are also some non-statutory regulatory practices that could be further explored** by the bodies analysed in this report, including requests for information from platforms. As mentioned in the case of the (unsuccessful) **request for information** to OTT services made by the CRC of Colombia, the argument of the body's lack of powers allows them to justify their lack of response. Meanwhile, when they are a statutory practice or a practice established within the regulator's powers, companies are obliged to answer the requests for information.

Thus, those regulators that do not have any power to demand information from platforms, may request certain information for statistical purposes, expressly subject to confidentiality or reserve. So, while this information can only be used for statistical purposes, getting it from the source itself is a significant fact and, in instrumental terms, a valuable input for getting information about a certain situation, documenting, integrating, comparing it, and conducting other activities that are essential to generate knowledge to inform the decisions and actions of both the public body and other relevant actors.

Regional specialised protection agencies (such as, children protection or electoral agencies, which do have the power to request information), could request information from platforms and publicly report these requests and the response received, or not, to these requests. This visibility strategy operates with a twofold objective. On the one hand, it shows the importance of public authorities questioning the actions of the platforms when there are grounds to do so, and, on the other hand, it allows to get a response by the platforms, which should be compelled to provide the requested information, particularly in situations of great significance or public commotion.

5. **Another example** is the response that regulatory bodies can develop in the face of possible situations of infringement of citizens' rights on digital platforms, particularly, audiovisual services on the Internet. Although the adoption of protection measures is statutory in nature, **the documentation and channelling of complaints that citizens may make in relation to the actions of the platforms**, are initiatives that could be adopted and that respond to the general obligations of public bodies. They would also make it possible to have an idea of citizens' main concerns regarding the actions of the platforms, identify any violation of rights that may be occurring, and respond to those violations through their appropriate and formal channelling to the public bodies that are competent to deal with them. They can even be reported to the platforms themselves within the framework of the obligation to guarantee rights that is incumbent on the State as a whole, which could even result in a virtuous dialogue.
6. Similarly, within the framework of the studies and research they are already conducting, regulators could carry out **more specific analysis that articulate platforms' policies with the activity of those services that are regulated**. Also, as part of the research, and considering the interrelationships inherent to the information and communication ecosystem, **research could address some form of impact assessment of platforms**, for example, in terms of the rights of the audiences of OTT services' content or the rights of children and adolescents on video-sharing platforms such as YouTube.

This type of initiatives may complicate research proposals that are already being carried out (in some cases for years, for example on audiovisual consumption), but they are part of a more comprehensive and deeper understanding of current consumption. Moreover, **it is an opportunity to promote the interdisciplinary approaches** required to study this field.

7. Regarding the **formulation of non-binding recommendations, guidelines and codes of conduct**, as mentioned in the corresponding section, it should be noted that this is a type of non-statutory practice that **could be further developed** and **would represent an important tool for other social actors** (civil society organisations, journalists and their umbrella organisations, etc.).

In addition to their intrinsic value, these recommendations can contribute to strengthening social demand towards the platforms, particularly if they are developed in a participatory manner with these social actors and supported by diverse and specialised knowledge, since **both the participatory process and the technical rigor of their content are key elements of their legitimacy**. Finally, it should be noted that, in case the services covered by the recommendations are within the powers of the organization adopting them, **said recommendations may include enforcement mechanisms** to trigger compliance **and/or mechanisms to encourage or promote compliance**.

8. The survey of non-statutory practices carried out for this report, reveals a lack of synergy between public bodies that have –or could have, based on future regulation– jurisdiction over the governance of digital platforms. **In the region, there is still much to do, both in terms of progress and innovation, regarding the articulation between Ministries of Education and children protection agencies in the MIL field, or between audiovisual regulators and electoral authorities for the adoption of joint recommendations, to mention just two of many examples.**
9. Considering all that was mentioned above, we believe that the implementation of strict competition rules for State bodies, although it inhibits them from treating OTT services and platforms as objects of their pre-existing regulation, does not prevent them –under the protection of general operation rules of the State– from adopting measures or policies for the expansion of rights, particularly considering how the information and communication ecosystem works.

Thus, in comparative law, we may find general rules that promote the holding of **public consultations and thematic hearings**, as well as the **participatory drafting of regulatory projects or general measures to promote rights**. These could be implemented to inform research, develop action proposals, recommendations, etc. Similarly, active transparency general rules could be considered.

10. This report also presents initiatives by electoral authorities that have an impact on the governance of digital platforms. In this regard, **the commitments, agreements, memoranda and similar decisions** documented here show the possibilities of developing **actions based on dialogue processes that seek to combat disinformation, improve information quality and transparency. The central challenge of these initiatives is to evaluate their real and effective impact** in relation to the fulfilment of these objectives. For this reason, in this type of initiatives, it is essential that the authority promoting them foresees and deploys mechanisms that allow monitoring, maintaining a permanent dialogue with the platforms and evaluating their effectiveness after the electoral processes.
11. One issue worth highlighting in relation to the information gathered for this research is that there seems to be no information on the monitoring and evaluation of the implementation of these practices. We expressly asked about this issue and received a general consideration of “Good” without further elements to support this assessment. The **monitoring and evaluation of the implementation** of practices and policies is a **key instance that allows for confirming or rectifying paths** in any matter to which these practices refer, particularly in areas where the first steps are being taken.

6. Contributions to the Development of an Observatory of Regulatory Frameworks and Decisions from the Latin American Perspective

The creation of the Observatory of Regulatory Frameworks and Decisions stands out among the initiatives agreed within the framework of the Global Forum of Networks (GFN). In this section of the report, and in articulation with the analysis carried out so far, we present a series of proposals regarding the characteristics and functioning that we consider appropriate for the development of a regional Observatory that is part of this joint effort between the networks of regulators.

6.1. About the model and activities of the Observatory

Given the dynamic nature of the regulatory frameworks and decisions that impact on the governance of digital platforms, we believe that the best model is that of an Observatory that periodically provides a report on new developments in relation to the information gathered. This requires a systematic gathering and monitoring of the decisions adopted by the regulators in the region, as well as of the information and reports arising from primary and secondary sources to complete the mapping and observe relevant initiatives or actions in a timely manner. Noteworthy sources include national conferences, government decision-makers, other related regulatory authorities (e.g., electoral authorities) and judicial powers (as primary sources), as well as various and/or specialised reports and publications from research centres, the media, and public and private universities in the region.

Analysis and systematisation of the information should be added to its gathering in order to identify good regulatory practices, existing trends, emerging issues and/or issues that are being addressed by regulators, among others.

The objective should be to develop Observatory products that can be shared both on its own website and through monthly newsletters (a series of informative stories on relevant events, case law and regulatory decisions, or briefings on relevant research works or reports, among others). Likewise, papers could be produced every four months with the Observatory's own analysis based on a previously planned agenda of topics, in response to highly significant practices or processes occurring in the region, as a way of providing up-to-date and useful tools for those who make decisions or do research on these issues.

Thus, the Observatory would not only work as an updated, organized and relevant repository of important information, but it would also produce and disseminate value-added inputs for regulators, policy makers and even experts and academics who work on these issues, so as to become a reference of information and knowledge, both globally and regionally.

6.2. About the issues and processes to be observed

The Observatory should provide information and analysis on –as well as monitor– the following topics:

- **Regional and national regulatory frameworks related to digital platforms, both social media and Internet audiovisual services.**

In addition to information and analysis on the laws, decrees, resolutions and other relevant regulations that have been adopted, the Observatory should also include relevant bills that have reached advanced stages in the legislative debate.

- **Administrative decisions adopted by relevant bodies.**

The governance of digital platforms may involve different State regulatory bodies: from an audiovisual regulatory authority with broad powers, to an electoral authority or an organization that protects children and teenagers, consumers or people with disabilities. Considering the limitations of powers that audiovisual regulators, for example, still have, we believe it is very important that the Observatory reports on the statutory and non-statutory governance decisions of a wide range of State actors.

- **Decisions adopted by national courts and protection bodies of the Inter-American Human Rights System.**

From the perspective of Latin America and the Caribbean, where there are no rules that comprehensively regulate content digital platforms, or Internet audiovisual services specifically, the decisions adopted by the courts of justice are key, as that is where conflicts over rights in the digital environment are being settled, which may have an impact on, or at least be of interest to, regulatory bodies in countries in the region.

The same applies to the decisions of the Inter-American human rights system, in particular relevant decisions of the Inter-American Court of Human Rights on different cases and the interpretation expressed in relevant Advisory Opinions. The reports of the Inter-American Commission on Human Rights (IACHR) and the Office of the Special Rapporteur for Freedom of Expression of the IACHR should also be included as instances to be observed, as these are standards and principles that both States and companies should respect.

6.3. About its role and governance

The Latin American Observatory should be promoted and led from within the region; managed by human resources of think tanks and experts from the region, with a governance structure that allows for the (consultative, advisory, strategic) participation of civil society organisations, regulators and the academic sector, either providing strategic support, having advisory roles or integrating research projects and initiatives, among other things.

Its challenge lies in being able to integrate ideas and resources into the global efforts committed to in Dubrovnik, but its sustainability lies in its ability to have autonomy and certain characteristics that take into account its particularities and the Latin American context.

The objectives, goals and activities set out here may be adopted in stages, depending on the resources that can be obtained from international cooperation, the contribution of strategic allies (including regulatory authorities in the region and other members of the Global Forum of Networks), contributions from its managers, and even the sale of services and products.

The Observatory should have a close relationship with the Global Forum of Networks (GFN)⁵², form part of the Global Knowledge Network (I4T)⁵³ effort to accompany the process of implementation of the UNESCO *Guidelines for the Governance of Digital Platforms*, and serve as a tool for the development and consolidation of the Ibero-American Platform of Audiovisual Regulators (PRAI), supporting the studies and analyses carried out by its own technicians.

Its role would be to develop valuable inputs for the different members of the PRAI and other regional networks⁵⁴:

- Produce information on practices and decisions that are useful for regulators and other key actors in the region.⁵⁵
- Contribute to the exchange of knowledge on emerging issues or issues of interest to regulators, in cooperation with the academic sector, international organisations and the civil society.
- Make recommendations on regulatory and public policy matters based on the practices surveyed and evidence-based analyses developed by the Observatory team.

The short-term objective should be to ensure that this Observatory begins its activities in 2026 (during the second year of the PRAI Strategic Plan), initially based on seed capital from international cooperation for the initiative, combined with existing resources and capacities, and then gradually expanding its work.

52 <https://www.unesco.org/es/internet-trust/building-network-networks>

53 <https://www.unesco.org/es/internet-trust/i4t-knowledge-networks>

54 African Communications Regulatory Authorities Network (ACRAN), European Regulators Group for Audiovisual Media Services (ERGA), European Platform of Regulatory Authorities (EPRA), Global Online Safety Regulators Network (GOSRN), Mediterranean Network of Regulatory Authorities (MNRA), French-speaking Network of Media Regulators (REFRAM).

55 Digital rights organizations, research centers and universities, experts in digital platforms' regulation and freedom of expression, policy makers, parliaments and other authorities, among others.

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