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ARTICLE

Digital Media Platforms and GenAI: A Case for Domain-Specific Regulation

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Abstract

Should we adopt broad, anticipatory regulatory frameworks for AI to address its wide-ranging societal impacts? This Article argues that such a universal approach is misguided. Instead, it contends that we should adopt a two-track regulatory strategy that maintains agnosticism about AI's uncertain long-term trajectory while implementing targeted interventions to address specific, documented harms in the present. The Article develops this argument through a case study of generative AI systems in digital media, examining how these technologies are reshaping the algorithmic dynamics of the public sphere. Tracing the ways in which AI-powered content generation and curation are amplifying long-standing challenges like the erosion of shared epistemic foundations, the entrenchment of echo chambers, and the concentration of informational power, the Article highlights the limitations of the EU's horizontal AI Act and the potential of China's more focused, domain-specific approach to regulating these harms. Drawing on this analysis, it makes the case for a hybrid governance model that combines targeted oversight of AI's known dangers with a continuing spirit of regulatory humility and openness toward its transformative potential. In an age of rapid technological change, this balancing act offers a path beyond the false choice between reactive overregulation and reckless laissez-faire - one that remains attuned to AI's contextual nuances while advancing the public interest.

Keywords: AI regulation; generative AI; EU AI Act; public sphere; two-track regulation; regulatory humility; digital media; hybrid governance

A. Introduction

The explosive growth of generative artificial intelligence (GenAI) has triggered widespread debate over how we should regulate these powerful new technologies.[1] Many observers advocate for comprehensive new regulatory frameworks that treat generative AI as a sui generis phenomenon demanding novel forms of oversight.[2] But this approach misses a crucial point. We need to understand these systems as part of the ongoing evolution of algorithmic control over our information environment. Using my earlier analysis of how generative AI builds upon existing

[1] *See, e.g.*, David Leslie & Xiao-Li Meng, *Future Shock: Grappling with the Generative AI Revolution*, 5 HARV. DATA SCI. REV. May 31, 2024, at 2.

[2] *See, e.g.*, Philipp Hacker, Andreas Engel & Marco Mauer, *Regulating ChatGPT and Other Large Generative AI Models*, OXFORD BUS. L. BLOG (Mar. 1, 2023), https://blogs.law.ox.ac.uk/oblb/blog-post/2023/03/regulating-chatgpt-and-other-large-generative-ai-models (arguing that existing AI regulations are inadequate for large generative AI models and proposing a novel regulatory framework tailored to their unique characteristics).

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forms of algorithmic content generation as a case study,[3] I argue for a two-track regulatory strategy: maintain agnosticism about AI's uncertain future while implementing focused interventions to address specific, documented harms in the present. This balanced approach recognizes both the revolutionary potential and evolutionary nature of generative AI, helping us avoid the twin dangers of regulatory overreach and regulatory paralysis.

Regulatory agnosticism, as advanced here, recognizes that overly broad or restrictive regulations, however well-intentioned, risk stifling innovation and chilling the development of beneficial AI applications that have yet to be conceived.[4] The history of communications technologies is replete with examples of unanticipated societal impacts and unintended regulatory consequences.[5] Given the vast potential of generative AI across domains as diverse as creative expression, scientific discovery, education, and healthcare,[6] imposing all-encompassing governance frameworks at this nascent stage could prematurely constrain valuable use cases and stunt the technology's evolution.

Yet this agnosticism toward future applications must be tempered by a laser-like focus on addressing the known challenges and harms associated with algorithmic systems, particularly in the digital media context. Generative AI represents the latest chapter in what I have characterized as the progressive algorithmization of our information ecosystem, building upon the troubling trajectories of search engines and social media platforms.[7] These predecessor technologies have already given rise to a range of well-documented societal harms, including the viral spread of disinformation, the formation of polarized echo chambers, and the erosion of a shared public discourse.[8] Generative AI threatens to dramatically amplify these harms by enabling the automated production of persuasive content at an unprecedented scale,[9] posing grave new challenges for content authenticity, information quality, and the very integrity of the digital public sphere.[10]

When we examine whether the European Union and China's contrasting regulatory approaches offer workable solutions, we see two sharply different visions of AI governance. The EU's AI Act represents a sweeping attempt to regulate all AI applications through a single comprehensive framework built around risk categories.[11] China, by contrast, has pursued a more focused, domain-specific approach,[12] as reflected in measures like the Interim Measures for the

[3]*See generally* Gilad Abiri, *Generative AI as Digital Media*, 15 Harv. J. Sports & Ent. L. 279 (2024).

[4]*See, e.g.*, Alessio Tartaro, Adam Leon Smith & Patricia Shaw, *Assessing the Impact of Regulations and Standards on Innovation in the Field of AI*, arXiv, at 2–4 (Feb. 8, 2023), https://arXiv.org/abs/2302.04110 (analyzing arguments that AI regulations may stifle innovation and proposing alternative viewpoints on how regulations and standards can foster innovation); Vikram Kulothungan, Priya Ranjani Mohan & Deepti Gupta, *AI Regulation and Capitalist Growth: Balancing Innovation, Ethics, and Global Governance*, arXiv (Apr. 1, 2025), https://arXiv.org/abs/2504.02000 (discussing how excessive AI regulation may risk stifling innovation and entrenching incumbents, while advocating for carefully calibrated data privacy regulations to foster sustainable growth).

[5]*See generally* Tim Wu, The Master Switch: The Rise and Fall of Information Empires (2010).

[6]*See* Nick Bostrom & Carl Shulman, *Propositions Concerning Digital Minds and Society*, 3 Cambridge J. L., Pol., & Art (forthcoming 2025) (manuscript at 9–12) (on file with the authors).

[7]*See generally* Abiri, *supra* note 3.

[8]*See* Eli Pariser, The Filter Bubble: What the Internet is Hiding From You (2011). *See also* Cass R. Sunstein, #Republic: Divided Democracy in the Age of Social Media (2017).

[9]*See generally* Sarah Kreps, R. Miles McCain & Miles Brundage, *All the News That's Fit to Fabricate: AI-Generated Text as a Tool of Media Misinformation*, 9 J. Experimental Pol. Sci. 104 (2022).

[10]*Advances in AI: Are We Ready for a Tech Revolution?: Hearing Before the Subcomm. on Cybersecurity, Info. Tech., and Gov't Innovation of the H. Comm. On Oversight and* Accountability, 118th Cong. 7 (2023) (statement of Aleksander Mądry, Director, M.I.T. Ctr. for Deployable Mach. Learning).

[11]*See* Martin Kretschmer, Tobias Kretschmer, Alexander Peukert & Christian Peukert, *The Risks of Risk-Based AI Regulation: Taking Liability Seriously* (Ctr. for Econ. Pol'y Rsch., Discussion Paper No. 18517, 2023) (analyzing the EU AI Act's ex-ante, risk-based regulatory approach and discussing its implications for liability and innovation).

[12]*See, e.g.*, Mimi Zou & Lu Zhang, *Navigating China's Regulatory Approach to Generative Artificial Intelligence and Large Language Models*, 1 Cambridge F. on A.I: L. & Governance 3 (2025), https://www.cambridge.org/core/journals/cambridge-

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Management of Generative AI Services—regulations that specifically target content security and algorithmic transparency in digital media platforms. By comparing these divergent strategies and asking whether they adequately address the fundamental challenges that generative AI poses to public discourse while preserving space for beneficial innovation, we can better understand the virtues of a more targeted regulatory approach that speaks directly to the distinctive problems these technologies create for the digital public sphere.

In light of these pressing risks, the Article contends that a targeted regulatory approach narrowly focused on remedying the specific algorithmic harms associated with generative AI's applications in digital media is more prudent than sweeping, one-size-fits-all AI legislation. This call for narrower, domain-specific regulation aligns with the understanding of generative AI as an evolutionary development in the algorithmic mediation of communication, rather than a sui generis phenomenon demanding entirely novel governance paradigms. As rapid advances in AI continue to transform the landscape of public discourse and knowledge production, we must resist the temptation of hasty, reactive legislation in favor of more nuanced, multifaceted policymaking approaches harnessing the collective wisdom of diverse stakeholders, leveraging international knowledge-sharing, and adaptively responding to the technology's breathtaking pace of change. The path ahead requires threading an exceedingly delicate needle between the twin perils of stifling overregulation and reckless techno-optimism—a daunting but essential undertaking as we strive to imbue the development of generative AI with an abiding commitment to democratic values and the flourishing of the human spirit.

The argument proceeds in three sections. Section B examines the key challenges posed by generative AI and digital media platforms, with a particular focus on the bypass effect, echo chambers, and informational capitalism. Section C undertakes a comparative analysis of the regulatory approaches adopted by the European Union and China, highlighting the limitations of the EU's horizontal, risk-based framework embodied in the proposed AI Act and the potential advantages of China's more targeted, iterative strategy. Finally, Section D advances the central thesis that a domain-specific regulatory approach focused on remedying known algorithmic harms in digital media is likely to prove more effective than sweeping, all-encompassing AI governance frameworks.

B. Digital Media Harms

The rise of generative AI represents another significant transformation in our digital infrastructure and its relationship to democratic self-governance. While many commentators fixate on GenAI's novel capabilities for automated content creation, we should understand this technology as the latest development in a longer historical process of private control over public discourse. The key analytical point is to see how GenAI amplifies and accelerates existing problems of platform power rather than introducing entirely new challenges. For the past twenty years, we have witnessed the steady transformation of the public sphere through digital intermediaries and their algorithms. GenAI does not so much create new questions as it pushes existing ones to their logical conclusion, forcing us to confront fundamental issues about democratic legitimacy, private governance, and the future of free expression that have been brewing since the early days of social media.[13]

forum-on-ai-law-and-governance/article/navigating-chinas-regulatory-approach-to-generative-artificial-intelligence-and-large-language-models/969B2055997BF42DE693B7A1A1B4E8BA; Gilad Abiri & Yue Huang, *A Red Flag? China's Generative AI Dilemma*, 37 Harv. J.L. & Tech. Dig. 1 (2023); Gilad Abiri & Xinyu Huang, *The People's (Republic) Algorithms*, 12 Notre Dame J. Int'l & Comp. L. 16, 19–20 (2022).

[13]*See* Tarleton Gillespie, Custodians of the Internet: Platforms, Content Moderation, and the Hidden Decisions that Shape Social Media (2018) (examining the role of algorithms in shaping public discourse on digital platforms).

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The deployment of algorithmic systems for content moderation, recommendation, and personalization across social media and search platforms offers essential lessons for understanding GenAI's societal implications.[14] These systems have demonstrably contributed to the fragmentation of public discourse, accelerated the spread of misinformation, and undermined trust in democratic institutions.[15] Moreover, they have generated serious concerns about privacy, surveillance, and the concentration of power in the hands of a small number of dominant technology companies.[16]

My premise is, therefore, that when we consider the emergence of GenAI, we must understand it as part of the continuing transformation of our digital infrastructure and its effects on democratic discourse. The lessons we've learned from content moderation and recommendation algorithms—their impact on public communication and democratic deliberation—provide essential guidance for addressing the challenges that GenAI presents to constitutional democracy.[17]

In what follows, I identify three central challenges that GenAI shares with existing algorithmic systems that shape public discourse: the bypass effect, echo chambers, and the commodification of information flows. Drawing on our experience with digital platforms and insights from law, media studies, and political economy, I seek to demonstrate how these challenges reflect deeper tensions in the relationship between technology, democracy, and private power.[18]

My aim in this analysis is not to provide final answers, but to spark a broader conversation about what GenAI means for democratic self-governance and how we might regulate these powerful new technological systems.[19] The central question before us is how to preserve democratic values and public participation in an era of algorithmic control over speech and information. By confronting these challenges directly and experimenting with new forms of democratic oversight, we can work toward a digital public sphere that genuinely serves democratic ends. [20]

I. Digital Media Platforms

In this Section, I show how generative artificial intelligence—particularly chatbots and media generators—represents the latest evolution in what I have previously termed "digital media platforms."[21] These platforms include services like X (formerly Twitter), Google's search infrastructure, and OpenAI's ChatGPT. While they share some features with traditional media organizations and earlier algorithmic systems, they operate in fundamentally different ways that require us to rethink our existing frameworks for analysis and regulation.

[14]*See generally* SUNSTEIN, *supra* note 8 (exploring the impact of algorithmic personalization on political polarization and the fragmentation of the public sphere).

[15]*See generally* YOCHAI BENKLER, ROBERT FARIS & HAL ROBERTS, NETWORK PROPAGANDA: MANIPULATION, DISINFORMATION, AND RADICALIZATION IN AMERICAN POLITICS (2018) (analyzing the spread of misinformation and the erosion of trust in democratic institutions in the context of algorithmic media systems).

[16]*See generally* SHOSHANA ZUBOFF, THE AGE OF SURVEILLANCE CAPITALISM: THE FIGHT FOR A HUMAN FUTURE AT THE NEW FRONTIER OF POWER (2019) (examining the economic imperatives and power dynamics underlying the algorithmic media ecosystem).

[17]*See generally* Mike Ananny & Kate Crawford, *Seeing Without Knowing: Limitations of the Transparency Ideal and Its Application to Algorithmic Accountability*, 20 NEW MEDIA & SOC'Y 973 (2018) (discussing the challenges of anticipating and governing the societal implications of algorithmic systems).

[18]*See* JULIE E. COHEN, BETWEEN TRUTH AND POWER: THE LEGAL CONSTRUCTIONS of INFORMATIONAL CAPITALISM (2019) (exploring the legal and political dimensions of the algorithmic media landscape and their implications for public discourse and democratic governance).

[19]*See* John Danaher, *The Threat of Algocracy: Reality, Resistance and Accommodation*, 29 PHIL. & TECH. 245, 254 (2016) (arguing for the need for a more proactive and participatory approach to the governance of algorithmic systems).

[20]*See generally* ETHAN ZUCKERMAN, MISTRUST: WHY LOSING FAITH IN INSTITUTIONS PROVIDES THE TOOLS TO TRANSFORM THEM (2021) (exploring the potential for rebuilding trust in democratic institutions through a process of critical inquiry and experimentation).

[21]Abiri, *supra* note 3.

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Previously, I argued that these platforms share five foundational characteristics.[22] First, they are constituted through algorithmic processes that perform essential governance functions: content moderation[23], personalized information delivery[24], and media generation.[25] These algorithmic frameworks are not merely technological tools but rather represent fundamental organizing principles through which these platforms structure public discourse.[26]

Second, these platforms shape information consumption through three distinct algorithmic mechanisms. Search algorithms determine what information users encounter when actively seeking knowledge, structuring the architecture of online information accessibility. Feed and recommendation algorithms, deployed across social media and content platforms, curate what information users passively encounter, personalizing their exposure based on behavioral data. Finally, generative algorithms create new information in response to user queries, synthesizing and presenting knowledge in novel ways.

Third, these platforms depend on vast data infrastructures that shape their operational character. The algorithms that constitute their operational core—whether for recommendations, moderation, or generation—require massive data repositories.[27] This dependency creates distinctive dynamics: network effects that privilege established data aggregators and raise profound questions about informational power concentration.[28]

Fourth, these platforms have achieved a scope of influence that transcends traditional boundaries, operating at a global scale while remaining concentrated in the hands of a small number of corporate entities. This concentrated power has significant implications for information flow, market competition, and local information ecosystems.[29] The observation that major GenAI developers frequently overlap with dominant social media and search providers—as exemplified by Google, Facebook, and Microsoft—underscores this convergence.[30]

Fifth, these platforms have assumed critical gatekeeping functions previously performed by traditional media institutions.[31] However, their gatekeeping differs fundamentally in its reliance on algorithmic governance rather than traditional editorial control. This shift represents a transformation in how societies structure and regulate information flows, with GenAI's emergence potentially amplifying these dynamics.

When we examine the shared features of these platforms, we see how their basic structure creates recurring problems for democratic self-governance and the organization of public discourse. Through their algorithmic architecture and concentrated private power, these platforms generate three fundamental challenges that we must address. First, through what I call

[22]Abiri, *supra* note 3.

[23]*The Role of AI in Content Moderation and Censorship*, AICONTENTFY, https://aicontentfy.com/en/blog/role-of-ai-in-content-moderation-and-censorship (last visited March 15, 2025).

[24]*See* Dorcas Adisa, *Everything you Need to Know About Social Media Algorithms*, SPROUT SOC. (Oct. 30, 2023), https://sproutsocial.com/insights/social-media-algorithms/.

[25]Ajay Bandi, Pydi Venkara Satya Ramesh Adapa & Yudu Eswar Vinay Pratap Kumar Kuchi, *The Power of Generative AI: A Review of Requirements, Models, Input–Output Formats, Evaluation Metrics, and Challenges*, 15 FUTURE INTERNET 260, 261 (2023).

[26]*See* Kurtis Pykes, *Promoting Responsible AI: Content Moderation in ChatGPT*, DATACAMP, https://www.datacamp.com/blog/promoting-responsible-ai-content-moderation-in-chatgpt (last visited March 15, 2025) (noting that ChatGPT, for example, very likely operates recommendation and content moderation algorithms on top of their LLM GPT4).

[27]Abdulaziz Aldoseri, Khalifa N. Al-Khalifa and Abdel Magid Hamouda, *Re-Thinking Data Strategy and Integration for Artificial Intelligence: Concepts, Opportunities, and Challenges*, 13 APPLIED SCIS. 7082, 7082 (2023).

[28]*See* ZUBOFF, *supra* note 16 (discussing the implications of data collection and analysis by digital platforms for privacy, autonomy, and democracy).

[29]*Id.*

[30]*See* Ege Gurdeniz & Kartik Hosanagar, *Generative AI Won't Revolutionize Search—Yet*, HARV. BUS. REV. (Feb. 23, 2023), https://hbr.org/2023/02/generative-ai-wont-revolutionize-search-yet.

[31]*See* GILLESPIE, *supra* note 13 (analyzing the role of digital platforms as information gatekeepers and the implications for public discourse).

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the bypass effect, they evade traditional mechanisms of democratic accountability. Second, they create echo chambers that fragment public discussion and undermine democratic deliberation. Third, through their business models and market dominance, they concentrate unprecedented economic and social power in the hands of a small number of private companies.

In the sections that follow, I examine how these three challenges—the bypass effect, echo chambers, and informational capitalism—manifest across different types of digital media platforms. Through this analysis, I demonstrate how GenAI systems, despite their novel capabilities, fundamentally extend and intensify these existing platform dynamics rather than introducing entirely new challenges. This framework provides a foundation for understanding both the continuities and discontinuities in how different digital media platforms shape public discourse and democratic governance.

1. The Bypass Effect

The emergence of generative AI platforms, much like the advent of digitalization and social media, heralds a dramatic shift in the control and dissemination of information. This change exemplifies what I've previously called the "bypass effect."[32] In Pre-digital media ecosystems, community norms and local gatekeepers—ranging from local media elites, such as the local newspaper, to public intellectuals—played a crucial role in shaping public discourse, setting standards for acceptable speech, and managing the flow of information.[33] These gatekeepers, deeply embedded in their respective communities, were instrumental in enforcing community-specific norms around speech and information, including aspects like insults, hate speech, and misinformation.

In prior works, I examined the impact of social media's global influence and its disconnect from local contexts, highlighting how this shift poses a challenge to the existing political structure.[34] The digital revolution has reshaped the media landscape, transforming the role of traditional media from gatekeepers of information to gatewatchers within a more open and democratized information ecosystem.[35] Unlike the concentrated control typical of mass media, where few entities governed the distribution of content, the internet has introduced a markedly decentralized media setting. This novel environment enables broader production and distribution of information, marked by its extensive reach and lowered cost. The essence of this transformation lies in a pivotal shift: "[I]t is no longer speech itself that is scarce, but the attention of listeners."[36]

As attention shifts from the limited number of speakers to the limited number of listeners, the role of mass media undergoes a transformation.[37] In this digital media environment, traditional mass media, such as TV, radio, and newspapers, though still important, is merely one of many influences in the sphere of public discourse.[38] This has transformed the way information is spread and the influence of media in crafting societal narratives.[39]

An inherent challenge lies in the attempt by these platforms to apply uniform speech norms across a diverse, global user base.[40] Despite efforts to tailor their enforcement to resonate with local communities and engage with local stakeholders, the inherent contradiction of this global-

[32]*See* Gilad Abiri & Sebastián Guidi, *The Platform Federation*, 26 YALE J.L. & TECH. 240 (2024).

[33]*Id.*

[34]*See id.*; Gilad Abiri & Sebastián Guidi, *From a Network to a Dilemma: The Legitimacy of Social Media*, 26 STAN. TECH. L. REV. 92 (2023); Gilad Abiri, *Moderating from Nowhere*, 47 BYU L. REV. 757 (2022).

[35]*See* Abiri & Guidi, *supra* note 32.

[36]*See* Tim Wu, *Is the First Amendment Obsolete?*, 117 MICH. L. REV. 547, 548 (2018).

[37]*See generally* JÜRGEN HABERMAS, THE STRUCTURAL TRANSFORMATION OF THE PUBLIC SPHERE: AN INQUIRY INTO A CATEGORY OF BOURGEOIS SOCIETY (Thomas Berger trans., 1989) (examining the evolution of the public sphere and its relationship to the state and civil society).

[38]*See* PARISER, *supra* note 8 (discussing how personalized search algorithms can isolate individuals in cultural or ideological bubbles).

[39]*See* ZUBOFF, *supra* note 16 (analyzing the impact of digital platforms on privacy, autonomy, and democracy).

[40]Abiri, *supra* note 34.

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local dichotomy renders the mission somewhat quixotic. This tension underscores a fundamental reconfiguration in the dynamics of speech regulation, paradoxically making the power to influence speech both more dispersed— individuals can post content directly to a mass audience without requiring acceptance by traditional media[41]—and centralized—since the platform internet is dominated by very few corporations that are managed by a handful of individuals.[42] Both centralization and dispersion, however, bypass the effective influence of local media on public discourse.

GenAI represents a further shift in the landscape of information dissemination and public discourse. This technology stands in contrast to social media platforms which, despite their worldwide influence, maintain at least a basic framework of community standards crafted by humans.[43] On the one hand, these standards, although developed in remote headquarters and implemented through a combination of algorithms and global content moderators, still reflect human decision-making and oversight.[44] On the other hand, GenAI functions through advanced algorithms that independently create and distribute content, thereby bypassing conventional gatekeeping mechanisms altogether.

The rise of GenAI intensifies what we call the bypass effect—the ability to circumvent traditional controls over public discourse and information flows. Throughout modern history, social elites, particularly newspaper editors and public intellectuals, served as primary gatekeepers of societal narratives. While social media platforms began to challenge this arrangement by questioning established media's gatekeeping function and broadening participation in public discourse, they did not fundamentally displace traditional media's role in content creation. Indeed, much of what circulates on social media continues to originate from these conventional sources.[45]

With the growing spread of AI-generated content, we are witnessing a further evolution. The capacity to create content, once predominantly in the hands of local gatekeepers, is increasingly transitioning to global technology corporations and their AI systems.[46] This transition is not merely a redistribution of content creation power but also a potential diminishment of the barriers posed by language, once a significant obstacle to the globalization of content. The erosion of this linguistic barrier heralds a future where content is not only universally accessible but also universally producible.

The crux of this change lies in the training methodology of generative AI, typically characterized by the ingestion of vast, globally sourced datasets. This approach presents a significant challenge: attuning the AI to the nuances of local speech patterns and cultural contexts proves immensely difficult.[47] Consequently, the content generated by these AI systems exhibits a propensity for unpredictability, often lacking the necessary context and sensitivity to resonate with specific communities.[48] This inherent unpredictability, compounded by the "bypass effect," raises

[41]*See* generally Clay Shirky, Here Comes Everybody: The Power of Organizing Without Organizations (2008) (examining how digital technologies enable new forms of collective action and social organization).

[42]*See* Gillespie, *supra* note 13, at 6, 8 (analyzing the central role of digital platforms in shaping public discourse and the challenges of content moderation).

[43]*See generally* Kate Klonick, *The New Governors: The People, Rules, and Processes Governing Online Speech*, 131 Harv. L. Rev. 1598 (2018) (examining the role of social media platforms in moderating online speech).

[44]*See generally* Sarah T. Roberts, Behind the Screen: Content Moderation in the Shadows of Social Media (2019) (exploring the hidden labor of content moderation in the digital platform economy).

[45]*See generally* Benkler et al., *supra* note 15 (analyzing the spread of disinformation and propaganda in the American political landscape).

[46]*See* Gillespie, *supra* note 13, at 15 (examining how major digital platforms have assumed roles traditionally held by local media gatekeepers, influencing the creation and dissemination of content).

[47]*See, e.g.*, Gábor Bella, Paula Helm, Gertraud Koch & Fausto Giunchiglia, *Towards Bridging the Digital Language Divide*, arXiv, at 17 (July 25, 2023), https://arXiv.org/abs/2307.13405 (analyzing the linguistic biases in AI language technologies and proposing methods to reduce these biases to support linguistic diversity in digital content).

[48]*See generally* Meredith Broussard, Artificial Unintelligence: How Computers Misunderstand the World (2018) (discussing the limitations and biases of artificial intelligence systems).

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concerns about the future of public discourse. As the influence of local norms and values in shaping public narratives diminishes, the potential risk to the cohesion and identity of local communities grows. One could hypothesize that the global nature of training data employed in LLMs, coupled with the increasing prevalence of data generated by these models themselves, ushers in the emergence of a singular, global culture.[49] Depending on one's perspective, this concept can be interpreted as either a utopian synthesis of elements from worldwide cultures or a dystopian homogenization that erases the vibrant tapestry of local and regional diversities.

Global datasets and inherent unpredictability do not shield GenAI from cultural imperialism concerns, such as Silicon Valley elites applying US-based speech values globally in content moderation.[50] Similar to social media platforms, companies wielding generative AI must heavily moderate their models' outputs.[51] Unmoderated LLMs risk generating harmful content, necessitating post-training moderation mechanisms.[52] In simple terms, these algorithms are akin to content moderation algorithms on platforms: they try to figure out whether the content generated by the LLM breaks with a set of pre-determined rules, and if it does, they delete it. Bots like ChatGPT, therefore, are already trained on these existing social (speech) norms and are thereby inserted into the internet culture wars, with some characterizing them as being "trained to be woke."[53]

It is likely that generative AI content moderation is significantly more effective than social media content moderation since corporations such as OpenAI control both the generation of content and the content moderation itself, which enables them to be very careful with regard to enforcing their own rules on the content that is presented to the user. This tendency towards very careful speech control is also motivated by the unclear status of generative AI under the common liability shields enjoyed by social media.[54]

The growing ability to download open-source AI models and run them on personal computers, combined with the emergence of AI personal agents, presents an intriguing shift in how we interact with these technologies. These developments allow individuals to maintain greater control over both content generation and filtering, potentially addressing concerns about cultural imperialism and the centralized power of global platforms. Yet while this decentralization might appear to resolve certain problems, it fails to adequately address the fundamental challenge of the bypass effect. The erosion of shared social foundations necessary for maintaining a coherent political community persists, regardless of whether the bypassing occurs through centralized platforms or personalized AI agents running on individual machines.

In the following Subsection, I discuss the potential ramifications of such personalization—and the potential creation of ever more narrow, well-calibrated echo chambers—on the political and social fabric of our communities.

[49]*See, e.g.*, Wenxuan Wang, Wenxiang Jiao, Jingyuan Huang, Ruyi Dai, Jen-tse Huang, Zhaopeng Tu & Michael R. Lyu, *Not All Countries Celebrate Thanksgiving: On the Cultural Dominance in Large Language Models*, *in* 1 Proceedings of the 62nd Annual Meeting of the Association for Computational Linguistics (Volume 1: Long Papers) 6349 (2024), https://aclanthology.org/2024.acl-long.345/ (identifying cultural dominance issues within LLMs due to the predominant use of English data in model training, leading to inappropriate English-culture-related answers in non-English contexts).

[50]*See* Abiri, *Moderating from Nowhere*, *supra* note 34, at 757.

[51]*See* Susan Hao, Piyush Kumar, Sarah Laszlo, Shivani Poddar, Bhaktipriya Radharapu & Renee Shelby, *Safety and Fairness for Content Moderation in Generative Models*, arXiv, at 1 (June 9, 2023), https://arXiv.org/abs/2306.06135 (discussing the necessity of implementing content moderation strategies, such as safety input and output filters, in generative AI systems to mitigate the risks of replicating harmful content from training data).

[52]*Id.*

[53]*See* Alice E. Marwick, *Morally Motivated Networked Harassment as Normative Reinforcement*, 7 Soc. Media & Soc'y, April–June 2021, at 1 (discussing how online harassment is used to enforce social norms and punish perceived transgressions).

[54]*See* Noor Waheed, *Section 230 and Its Applicability to Generative AI: A Legal Analysis*, Ctr. for Democracy & Tech. (Sept. 4, 2024), https://cdt.org/insights/section-230-and-its-applicability-to-generative-ai-a-legal-analysis/ (analyzing how generative AI systems may fall outside the scope of Section 230 immunity when they are responsible, in whole or in part, for the creation or development of content).

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2. Echo Chambers

As we have seen, by bypassing traditional media gatekeepers,[55] digital media platforms have fundamentally altered the media landscape. This alteration has dismantled the once-common media experience that is central to the formation of a unified "public."[56] This bypass was complemented by the shift to a personalized media experience curated by recommendation algorithms on platforms like YouTube.[57] Through algorithmic personalization, each user's experience becomes distinct and separate, diverging from the mass media era's collective narrative and shared information environment.[58] This fragmentation represents a significant shift from the traditional mechanisms through which a societal "public" is forged and maintained.[59]

The absence of gatekeepers, combined with the personalized business models of social media and search, fosters the creation of digital echo chambers.[60] Digital echo chambers can be defined as "environments in which the opinion, political leaning, or belief of users about a topic gets reinforced due to repeated interactions with peers or sources having similar tendencies and attitudes."[61] Selective exposure and confirmation bias, the inclination to seek out information that aligns with existing opinions, likely contribute to the formation of echo chambers on social media.[62] In examining social networks and the influence of digital media on forming like-minded groups, the research consistently reveals the existence of ideologically similar social clusters.[63] Furthermore, these homophilic social formations are often linked to an increase in hate speech and sentiments against outgroups.[64] The digital public sphere is, therefore, fragmented into myriad subgroups, each confined to its echo chamber, thus diminishing the possibility of a collective conversation and a cohesive public opinion. The evolution of social media lays the foundation for grasping the wider impacts of personalized generative AI in democratic societies.

Now, with the advent of personalized GenAI, [65] we are likely to witness an even deeper fragmentation of the epistemic and social fabric that social media initiated. Unlike social media, whose social nature necessitates operating within the confines of shared platforms, personalized generative AI represents a more radical individualization of media experience. Each user can interact with a unique AI entity, tailored to their specific preferences and viewpoints.[66] We are

[55]*See* Abiri & Guidi, *supra* note 32, at 280–87.

[56]*See generally* HABERMAS, *supra* note 37.

[57]*See generally* PARISER, *supra* note 8.

[58]*See generally* CASS R. SUNSTEIN, REPUBLIC.COM 2.0 (2007) (exploring the impact of the Internet on democracy and the risks of personalization and fragmentation).

[59]*See generally* MANUEL CASTELLS, COMMUNICATION POWER (2009) (analyzing the transformation of communication and power relationships in the digital age).

[60]*See generally* Sunstein, *supra* note 8 (examining the effects of social media on political discourse and polarization).

[61]Matteo Cinelli, Gianmarco de Francisci Morales, Alessandro Galeazzi, Walter Quattrociocchi & Michele Starnini, *The Echo Chamber Effect on Social Media*, 118 PROC. NAT'L ACAD. SCI., Feb. 23, 2021, at 1, 1, https://www.pnas.org/doi/epdf/10.1073/pnas.2023301118.

[62]*See, e.g.*, NATALIE JOMINI STROUD, NICHE NEWS: THE POLITICS OF NEWS CHOICE (2011) (examining the relationship between political ideology and media consumption habits).

[63]*See* Eytan Bakshy, Solomon Messing & Lada A. Adamic, *Exposure to Ideologically Diverse News and Opinion on Facebook*, 348 SCIENCE 1130, 1130 (2015) (analyzing the role of social networks and algorithms in shaping users' exposure to diverse viewpoints).

[64]*See* Alexandra A. Siegel, *Online Hate Speech*, *in* SOCIAL MEDIA AND DEMOCRACY: THE STATE OF THE FIELD AND PROSPECTS FOR REFORM 56, 66–68 (Nathaniel Persily & Joshua A. Tucker eds., 2020) (examining the prevalence and impact of hate speech on social media platforms).

[65]*See* Jiahong Liu, Zexuan Qiu, Zhongyang Li, Quanyu Dai, Wenhao Yu, Jieming Zhu, Minda Hu, Menglin Yang, Tat-Seng Chua & Irwin King, A Survey of Personalized Large Language Models: Progress and Future Directions, ARXIV (Feb. 17, 2025), https://arXiv.org/abs/2502.11528 (discussing the ethical implications of personalized generative AI systems).

[66]*See* Andrew D. Selbst, Danah Boyd, Sorelle A. Friedler, Suresh Venkatasubramanian & Janet Vertesi, *Fairness and Abstraction in Sociotechnical Systems*, *in* PROCEEDINGS OF THE CONFERENCE ON FAIRNESS, ACCOUNTABILITY, AND TRANSPARENCY 59 (2019) (exploring the challenges of ensuring fairness in complex sociotechnical systems, including personalized AI).

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already seeing the early stages of such developments: Anthropic's Claude allows users to customize their AI's communication style through preset options like Formal and Explanatory, or by providing sample content that reflects their preferred tone. Similarly, Meta's AI Studio enables users to create personalized AI characters with distinct personalities and traits for automated interactions across platforms like Instagram and WhatsApp. These developments signal a shift toward increasingly individualized AI experiences, where each user can shape their AI's characteristics to match their specific needs and preferences.[67]

This technological advancement might intensify the decline of the common public dialogue crucial for democratic participation. Essentially, the trend towards personalized generative AI doesn't just extend the patterns set by social media; it markedly enhances them. Personalized generative AI employs algorithms to deliver customized content to each user, creating isolated experiences that diverge from a shared public narrative. This effect, akin to echo chambers already seen in social media, is amplified in generative AI. It crafts text, images, videos, and audio that resonate with individual preferences and convictions, potentially cocooning us in bespoke informational realms. Such echo chambers could, conceivably, cultivate a singular information environment tailored to one person.

GenAI surpasses social media in fostering echo chambers in more ways than one. For instance, ideologically-driven social media platforms like Truth Social or Gab struggle to gain traction, largely due to the network effects inherent in the social component of these platforms.[68] GenAI, however, is not subject to such network effects post-training.[69] It's quite feasible for smaller groups to operate their own specialized GenAI models—envision an ideologically "Republican AI" versus a "Democratic AI."[70] The training data for these models would be selectively curated to reflect each model's ideological leanings, and content moderation algorithms could be tweaked to exclude information that contradicts their foundational ideology.[71] Thus, a conservative might receive content from the Republican AI that reinforces their beliefs, while opposing facts are filtered out. Each faction becomes more deeply embedded in their respective, polarized realities.

Without shared facts and experiences, citizens cannot engage in reasoned democratic debate and collective will-formation.[72] Without adequate oversight and transparency, generative AI poses a risk to the integrity of truth and the trust placed in crucial democratic institutions such as journalism. Consequently, the effects of social media in fragmenting discourse and spreading misinformation serve as a pressing caution about the potential ramifications of deploying personalized generative AI without appropriate safeguards.[73]

[67]*See* Meredith Whittaker, Meryl Alper, Cynthia L. Bennett, Sara Hendren, Liz Kaziunas, Mara Mills, Meredith Ringel Morris, Joy Rankin, Emily Rogers, Marcel Salas & Sarah Myers West, AINow, Disability, Bias, and AI 7–12 (2019) (examining the potential biases and accessibility issues in personalized AI systems).

[68]*See* Shawn Langlois, *Why Shares of Truth Social–Parent Digital World Keep Falling*, Marketwatch (Mar. 22, 2023), https://www.marketwatch.com/story/it-could-save-lives-this-scary-coronavirus-simulation-attracted-a-virtually-unheard-of-number-of-people-2020-03-17 (discussing the struggles of ideologically-driven social media platforms to gain widespread adoption).

[69]*See* Sameer Singh, *Generative AI: Platforms, Network Effects, and the Economics of Abundance*, Speedinvest (Feb. 21, 2023), https://www.speedinvest.com/blog/generative-ai-platforms-network-effects-and-the-economics-of-abundance?ref=speedinvest.ghost.io (last visited Apr. 23, 2025).

[70]*See* David Beer, *The Social Power of Algorithms*, 20 Info., Commc'n & Soc'y 1, 6 (2017) (analyzing the social and political implications of algorithmic systems, including the potential for ideological fragmentation).

[71]*See* Gillespie, *supra* note 13, at 1–24 (examining the role of content moderation in shaping online discourse and the challenges faced by platforms).

[72]*See* Robert C. Post, *Data Privacy and Dignitary Privacy: Google Spain, the Right to Be Forgotten, and the Construction of the Public Sphere*, 67 Duke L.J. 981 (2018).

[73]*See* Zeynep Tufekci, *Engineering the Public: Big Data, Surveillance and Computational Politics*, 19 First Monday, (July 2, 2014), https://firstmonday.org/ojs/index.php/fm/article/view/4901/4097 (examining the use of big data and algorithmic systems in shaping public opinion and political discourse).

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Thus, the evolution from a unified public sphere—once the hallmark of mass media—to a splintered one through social media, and now potentially to an even more atomized one via generative AI, signals a worrying transformation in the democratic landscape. This shift poses critical challenges for the formation of a cohesive public opinion, a cornerstone of democratic theory and practice.[74]

3. Informational Capitalism

As we examine how digital media platforms operate as a distinct form of media institution, we must confront informational capitalism as the third major challenge they present, alongside the bypass effect and echo chambers. This challenge connects directly to what Zuboff identifies as surveillance capitalism—a system that monetizes personal information through advertising and requires massive data collection and processing.[75] This business model transforms the basic relationships between individuals, private companies, and the state, raising fundamental questions about privacy, fairness, and democratic accountability.[76]

While still in its early stages, corporations developing GenAI systems are likely to face similar challenges stemming from the logic of informational capitalism. First, GenAI exhibits an even more pronounced data maximization imperative compared to social media platforms.[77] The training of their models and their continuous improvement require vast quantities of data, creating strong incentives for these companies to gather information and maintain secrecy regarding their data sources.[78] This dynamic is already discernible in the way GenAI corporations such as OpenAI, Google, and Anthropic obfuscate the origins of their training data[79] and employ permissive user data collection and usage policies.[80] The relentless drive for data maximization stands in stark contrast to users' privacy and data protection interests, and has already embroiled GenAI providers in legal controversies.[81]

Second, GenAI platforms may ultimately embrace the logic of surveillance capitalism, depending on their chosen business model. We can already envision how targeted advertising could seamlessly integrate into chatbot interactions—imagine ChatGPT offering sponsored links to noodle makers or local Sichuan pepper producers when discussing Dandan noodles.[82] While most chatbot providers currently use freemium subscription models that don't require constant

[74]*See generally* Robert Post, Democracy, Expertise, and Academic Freedom: A First Amendment Jurisprudence for the Modern State (2012) (exploring the tensions between democracy, expertise, and free speech in the context of the modern state).

[75]*See generally* Zuboff, *supra* note 16 (developing the idea of surveillance capitalism).

[76]*See generally* Jathan Sadowski, Too Smart: How Digital Capitalism is Extracting Data, Controlling Our Lives, and Taking Over the World (2020) (analyzing the social, political, and economic implications of the data-driven economy).

[77]*See* Melissa Heikkilä, *OpenAI's Hunger for Data Is Coming Back to Bite It*, MIT Tech. Rev. (Apr. 19, 2023), https://www.technologyreview.com/2023/04/19/1071789/openais-hunger-for-data-is-coming-back-to-bite-it/.

[78]*Id.*

[79]*How ChatGPT and Our Language Models Are Developed*, OpenAI, https://help.openai.com/en/articles/7842364-how-chatgpt-and-our-language-models-are-developed (last visited Apr. 23, 2025) (stating that OpenAI's information comes from "(1) information that is publicly available on the internet, (2) information that we license from third parties, and (3) information that our users or human trainers provide").

[80]*See Privacy Policy*, OpenAI, https://openai.com/policies/row-privacy-policy/ (effective Jan. 31, 2024) (last visited Apr. 23, 2025).

[81]*See generally* Teresa Xie & Isaiah Poritz, *ChatGPT Creator OpenAI Sued for Theft of Private Data in 'AI Arms Race'*, Bloomberg (Jun. 28, 2023), https://www.bloomberg.com/news/articles/2023-06-28/chatgpt-creator-sued-for-theft-of-private-data-in-ai-arms-race; *Doe 1 v. GitHub, Inc.*, 672 F. Supp. 3d 837, (N.D. Cal. 2023).

[82]*Our Approach to Advertising and Expanding Access to ChatGPT*, OpenAI (Jan. 16, 2026), https://openai.com/index/our-approach-to-advertising-and-expanding-access/.

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data collection, the long-term viability of this approach remains uncertain. [83] Though the choice of subscription revenue shows an awareness of advertising's problems,[84] the promise of personalized ad revenue may prove too tempting to resist. This could lead these platforms to adopt the same engagement-maximizing incentives we've seen in social media, potentially promoting addictive design patterns that undermine individual autonomy and well-being.[85]

Finally, as generative AI companies do not fully internalize the social costs of their activities, they may be inclined to minimize oversight and accountability measures that do not directly enhance their profits.[86] This could result in a prioritization of commercially viable AI models at the expense of long-term ethical considerations, as exemplified by the *NYT v. OpenAI* lawsuit, which highlights the inherent conflict of interest that exists even at the training stage of GenAI.[87] Cybersecurity measures may be inadequate if not directly profit-enhancing, jeopardizing user data integrity and privacy.[88] Efforts to address biases in AI systems, crucial for ensuring fairness and non-discrimination, might be underemphasized unless they align with financial objectives.[89] Transparency and accountability mechanisms could also be compromised in the absence of direct financial incentives, undermining public trust and hindering democratic oversight.[90]

The challenges posed by informational capitalism in the context of digital media platforms, including GenAI, are deeply interconnected with the issues of the bypass effect and echo chambers discussed earlier. The business models and incentives driving these platforms shape not only their data collection practices and content moderation policies but also the very architecture of the digital public sphere.[91] As we grapple with the societal implications of these technologies, it is crucial to recognize the complex interplay between the economic imperatives of informational capitalism, the fragmentation of the public sphere, and the transformative impact on democratic discourse.[92]

II. AI Regulation and Media Harms

1. EU AI Act

The EU's AI Act exemplifies what I call a horizontal approach to regulation, an ambitious attempt to govern all AI systems through a single, unified framework organized around risk

[83] *See* Jeffery Dastin, Krystal Hu & Paresh Dave, *Exclusive: ChatGPT Owner OpenAI Projects $1 Billion in Revenue by 2024*, Reuters (Dec. 15, 2022), https://www.reuters.com/business/chatgpt-owner-openai-projects-1-billion-revenue-by-2024-sources-2022-12-15/ (explaining ways ChatGPT makes money).

[84] *See Introducing ChatGPT Plus*, OpenAI (Feb. 1, 2023), https://openai.com/blog/chatgpt-plus. *See also* Jordan Hart, Lakshmi Varanasi & Britney Nguyen, *Meet Sam Altman, OpenAI's Cofounder and CEO*, Bus. Insider (Nov. 18, 2023), https://www.businessinsider.com/sam-altman-chatgpt-openai-ceo-career-net-worth-ycombinator-prepper-2023-1.

[85] *See* Natasha Dow Schüll, Addiction by Design: Machine Gambling in Las Vegas (2012) (examining the design strategies used by the gambling industry to maximize addiction and the parallels with digital platforms).

[86] James Broughel, *OpenAI Is Now Unambiguously Profit-Driven, and That's a Good Thing*, Forbes (Dec. 9, 2023), https://www.forbes.com/sites/jamesbroughel/2023/12/09/openai-is-now-unambiguously-profit-driven-and-thats-a-good-thing/?sh=6b813d2e572f.

[87] *See* The N.Y. Times Co. v. Microsoft Corp., No. 1:23-cv-11195 (SHS) (OTW) (S.D.N.Y. filed Dec. 27, 2023) (alleging copyright infringement by OpenAI in the training of its AI models).

[88] *See* Bruce Schneier, Data and Goliath: The Hidden Battles to Collect Your Data and Control Your World (2015) (examining the cybersecurity risks posed by data collection and the challenges of protecting user privacy).

[89] *See* Safiya Umoja Noble, Algorithms of Oppression: How Search Engines Reinforce Racism (2018) (examining the ways in which search algorithms can perpetuate and amplify racial biases).

[90] *See generally* Ananny & Crawford, *supra* note 17 (discussing the limitations of transparency as a mechanism for ensuring algorithmic accountability).

[91] *See* José van Dijck, Thomas Poell & Martijn De Waal, The Platform Society: Public Values In A Connective World (2018) (examining the social and political implications of the rise of digital platforms and the challenges of governance).

[92] *See* Jack M. Balkin, *The Three Laws of Robotics in the Age of Big Data*, 78 Ohio St. L.J. 1217, 1226–42 (2017) (proposing a framework for regulating robots and AI systems based on the principles of fiduciary duty, information fiduciaries, and algorithmic nuisance).

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categories.[93] While this comprehensive strategy aims to create regulatory harmony across the EU, it struggles to keep pace with the rapid evolution of generative AI and its diverse applications.[94] The Act relies heavily on regulatory sandboxes to foster innovation while asserting broad extraterritorial reach, it applies to any AI system used in the EU, regardless of where it was developed or trained.[95] Yet this horizontal approach reveals significant limitations. Most critically, it stumbles in applying broad regulatory principles to swiftly evolving technologies.[96] The governance challenges posed by platform-specific harms risk being lost in this sweeping framework.[97]

The EU's risk-based approach sorts AI systems into distinct categories based on their potential for harm.[98] This "ladder approach" creates a hierarchy of regulatory obligations.[99] Systems posing unacceptable risks to fundamental rights face outright prohibition.[100] High-risk systems must meet strict certification requirements.[101] Low-risk systems face minimal oversight.[102] Systems falling between these categories must meet transparency obligations.[103] Notably, the final text introduces a new "systemic risk" category for general-purpose AI models that could significantly affect the market.[104]

The Act seeks to regulate AI systems throughout their entire lifecycle, from data collection through deployment, addressing everything from data quality to continuous risk management.[105] It pays particular attention to general-purpose AI models, recognizing their unique regulatory challenges.[106] These models are defined by their broad capabilities across diverse tasks and potential for integration into various downstream applications.[107]

[93]Matt O'Shaughnessy & Matt Sheehan, *Lessons From the World's Two Experiments in AI Governance*, Carnegie Endowment For International Peace (Feb. 14, 2023), https://carnegieendowment.org/posts/2023/02/lessons-from-the-worlds-two-experiments-in-ai-governance?lang=en.

[94]Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 Laying Down Harmonized Rules on Artificial Intelligence, arts. 2(1)(a), (c), 57(5), 2024 O.J. (L 1689) 1 (applying to providers placing AI systems on the market or putting them into service in the Union "irrespective of whether those providers are ... located ... in a third country," and to third-country providers/deployers where the system's "output ... is used in the Union"; requiring AI regulatory sandboxes to provide "a controlled environment that fosters innovation" before systems are placed on the market or put into service) [hereinafter Artificial Intelligence Act].

[95]Philipp Hacker, *What's Missing from the EU AI Act: Addressing the Four Key Challenges of Large Language Models*, Verfassungsblog (Dec. 13, 2023), https://verfassungsblog.de/whats-missing-from-the-eu-ai-act/.

[96]Giusella Finocchiaro, *The Regulation of Artificial Intelligence*, 39 AI & Soc'y 1961, 1967 (2024).

[97]*See* O'Shaughnessy & Sheehan, *supra* note 93.

[98]Artificial Intelligence Act, *supra* note 94, recital 26 (explaining the Act's "risk-based approach" and the resulting structure: prohibitions for "unacceptable" practices, requirements for "high-risk" systems, and transparency obligations for certain other systems).

[99]*See* O'Shaughnessy & Sheehan, *supra* note 93.

[100]*Commission White Paper on Artificial Intelligence – A European Approach to Excellence and Trust*, Com (2020) 65 final (Feb. 19, 2020) [hereinafter *Commission White Paper*].

[101]Hacker, *supra* note 95.

[102]Artificial Intelligence Act, *supra* note 94, recital 26.

[103]Artificial Intelligence Act, *supra* note 94, recital 26, art. 50 (explaining that, alongside prohibitions and the high-risk regime, the Act "lay[s] down transparency obligations for certain AI systems," and setting those obligations out in Article 50).

[104]Artificial Intelligence Act, *supra* note 94, at arts. 3(65), 51, 55 (defining "'systemic risk'" to include risks tied to "high-impact capabilities" of general-purpose AI models "having a significant impact on the Union market due to their reach," and establishing classification criteria for "general-purpose AI model[s] with systemic risk" plus additional obligations for such models).

[105]*See* Artificial Intelligence Act, *supra* note 94, recitals 65, 67.

[106]Artificial Intelligence Act, *supra* note 94, recital 105 ("General-purpose AI models, in particular large generative AI models ... present unique innovation opportunities but also challenges ...").

[107]Artificial Intelligence Act, *supra* note 94, at art. 3(63) (defining a "general-purpose AI model" as one that "displays significant generality" and "is capable of competently performing a wide range of distinct tasks ... and that can be integrated into a variety of downstream systems or applications").

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The EU grounds this framework in technological neutrality, focusing on AI's uses rather than its technical specifics. This risk-based categorization aims to future-proof the law, providing regulatory certainty through clear, unified rules.[108] Yet this horizontal approach faces serious limitations.[109] The challenge of applying broad frameworks to rapidly evolving technologies becomes particularly acute with generative AI.[110] Recent amendments addressing general-purpose AI models highlight the difficulty of creating stable, comprehensive regulation in this dynamic field.[111]

The Act's risk management model faces further criticism. While it aims to promote "trustworthy AI" through risk acceptability standards, critics argue this effectively outsources crucial decisions to AI providers with inherent conflicts of interest.[112] The Act assumes clear distinctions between acceptable and unacceptable risks—an assumption that may prove unrealistic given AI's complexity.[113]

The framework's inflexibility poses additional problems.[114] Risk classifications will require constant revision as technology evolves.[115] The Act's broad definitions of AI and autonomy risk capturing irrelevant technologies.[116] Heavy compliance costs and legal uncertainty could accelerate market concentration, while complex requirements may stifle innovation, particularly for smaller firms.[117]

2. The EU AI Act and Media Harms

These broad structural limitations become particularly acute when we examine the Act's treatment of platform governance and digital media. As I will show, the Act's horizontal approach reveals fundamental weaknesses in addressing the specific challenges that algorithmic systems pose to democratic discourse and public communication.

Consider three specific failures that flow directly from this structural mismatch. First, the Act's focus on individual AI systems blinds it to the bypass effect—the way platforms systematically evade democratic accountability.[118] While the Act prohibits certain "unacceptable-risk" AI systems that enable subliminal manipulation, it demonstrates a fundamental inadequacy in addressing the more nuanced mechanisms through which digital media platforms—including generative AI—shape public discourse.[119] The bypass effect, through which these platforms evade traditional democratic accountability mechanisms, remains unaddressed within the Act's regulatory framework. Moreover, the absence of specific content moderation obligations within its high-risk AI requirements leaves the governance of algorithmic content curation largely unregulated.

Second, the Act's technological neutrality principle prevents it from meaningfully addressing echo chambers and information fragmentation. Despite substantial empirical evidence documenting how algorithmic systems fragment public discourse through personalization and targeting, the Act maintains a conspicuous silence on AI-powered targeted advertising and

[108] *Commission Proposal for a Regulation of the European Parliament and of the Council Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act) and Amending Certain Union Legislative Acts*, § 5.2.1, at 12, COM (2021) 206 final (Apr. 21, 2021) ("The definition of AI system in the legal framework aims to be as technology neutral and future proof as possible, taking into account the fast technological and market developments related to AI.").

[109] *See* O'Shaughnessy & Sheehan, *supra* note 93. *See also* Finocchiaro, *supra* note 96, at 1967.

[110] Zou & Zhang, *supra* note 12, at 3.

[111] Natali Helberger & Nicholas Diakopoulos, *ChatGPT and the AI Act*, 12 Internet Pol'y Rev. 1, 2 (2023).

[112] Johann Laux, Sandra Wachter & Brent Mittelstadt, *Trustworthy Artificial Intelligence and the European Union AI Act: On the Conflation of Trustworthiness and Acceptability of Risk,* 18 Reg. & Governance 3, 3–5 (2024).

[113] *Id.* at 3–5.

[114] *Id.* at 115.

[115] Finocchiaro, *supra* note 96, at 1965.

[116] Hacker, *supra* note 95.

[117] *See* O'Shaughnessy & Sheehan, *supra* note 93.

[118] *See, e.g.*, Rory Van Loo, *Federal Rules of Platform Procedure*, 88 U. Chi. L. Rev. 829, 836–37 (2021) (discussing how technology platforms have developed their own procedural systems for content moderation and dispute resolution, effectively operating outside traditional democratic oversight and legal accountability mechanisms).

[119] *See generally* Abiri, *supra* note 3.

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profiling.[120] The absence of transparency obligations for AI-based content personalization, coupled with insufficient provisions addressing generative AI's potential to amplify these dynamics, represents a significant oversight in the regulatory architecture.[121]

Third, the Act's approach to data governance fails to confront the power dynamics of informational capitalism.[122] While it establishes provisions regarding generative AI training data, these requirements lack meaningful transparency regarding data collection practices, user consent, and the scale of data exploitation.[123] The limited data transparency requirements and absence of explicit GDPR compliance obligations for generative AI interfaces leave the fundamental structures of algorithmic control unchallenged.

These failures demonstrate why horizontal, technology-neutral regulation cannot effectively govern algorithmic media systems. This analysis indicates that a more targeted regulatory approach, focused specifically on digital media platforms and their documented algorithmic harms, might prove more effective than the current comprehensive framework.[124] Such an approach would enable more precise governance of generative AI's role in our information ecosystem while maintaining regulatory agnosticism toward potential applications in less understood domains. China's regulatory response to generative AI, to which we turn to now, offers an instructive contrast, demonstrating both the potential benefits and limitations of a more targeted, domain-specific approach.

C. Chinese AI Regulation

China's approach to AI regulation offers a striking contrast to the EU model, embodying a state-led framework driven by techno-nationalist ambitions and an emphasis on social stability.[125] This regulatory strategy simultaneously promotes AI development while tightly controlling its effects on public discourse.[126] China's ambition to achieve global AI leadership by 2030 shapes its regulatory choices, reflecting a view of AI as essential to both economic growth and national security.[127] The result is a distinctive regulatory model that encourages innovation while maintaining strict oversight of AI's role in the public sphere.[128]

What distinguishes China's AI governance is its vertical approach to regulation, targeting specific AI applications and risks rather than attempting to create comprehensive rules.[129] Unlike the EU's horizontal framework, China's strategy enables more precise, nimble interventions in

[120]*See generally* Hacker, *supra* note 95.

[121]*Id.*

[122]*See generally* Laux et al., *supra* note 112.

[123]*See* Rainer Mühlhoff & Hannah Ruschemeier, *Updating Purpose Limitation for AI: A Normative Approach from Law and Philosophy*, 33 INT'L J.L. & INFO. TECH. 1, 2, 8, 19 (2025) (describing large-scale extraction of training data from many sources and the resulting "power asymmetry"; arguing that "consent" and individual-rights tooling is structurally inadequate against "massive data extraction" in LLM training; observing that the AI Act's generative-AI "minimum standards" have been criticized as "extremely weak," providing "mere transparency" plus limited copyright-related obligations, and that its data-governance duties at most require transparency about original data-collection purposes rather than robust constraints).

[124]Sangchul Park, *Bridging the Global Divide in AI Regulation: A Proposal for a Contextual, Coherent, and Commensurable Framework*, 33 WASH. INT'L L.J. 216, 239–44 (2024).

[125]*See* Angela Huyue Zhang, *The Promise and Perils of China's Regulation of Artificial Intelligence*, 63 COLUM. J. TRANSNAT'L L. 101, 109 (2025).

[126]*Id.*

[127]*Id. See also* Xinyidai rengong zhineng fazhan guihua (新一代人工智能发展规划) [New Generation Artificial Intelligence Development Plan](promulgated by St. Council, July 8, 2017, effective July 8, 2017), *translated in* https://digichina.stanford.edu/work/full-translation-chinas-new-generation-artificial-intelligence-development-plan-2017/ (China) [hereinafter *Development Plan*]; Huw Roberts, Josh Cowls, Jessica Morley, Mariarosaria Taddeo, Vincent Wang & Luciano Floridi, *The Chinese Approach to Artificial Intelligence: An Analysis of Policy, Ethics, and Regulation*, 36 AI & SOC'Y 59, 62 (2021).

[128]*See* Zhang, *supra* note 125; Matt Sheehan, *China's AI Regulations and How They Get Made*, CARNEGIE ENDOWMENT FOR INT'L PEACE (July 10, 2023), https://carnegieendowment.org/research/2023/07/chinas-ai-regulations-and-how-they-get-made.

[129]*See* Zhang, *supra* note 125, at 21.

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response to emerging technologies.[130] This adaptability proves particularly valuable in addressing the evolving challenges posed by algorithmic systems in our information ecosystem.[131] When new issues arise, regulators can amend specific provisions without overhauling entire regulatory frameworks.

The speed of China's regulatory response to technological change demonstrates this advantage.[132] While the EU spent years finalizing its AI Act, China rapidly introduces and refines measures through public consultation.[133] This agility allows regulators to address emerging risks more effectively, particularly regarding algorithmic mediation of public discourse.[134]

The Cyberspace Administration of China (CAC) stands at the center of this regulatory framework.[135] The CAC's dominance in AI regulation flows from its ability to set the agenda and bring issues before the CCP Central Committee.[136] Once the Committee approves regulation, the CAC drafts the rules, drawing on expertise from think tanks affiliated with the Ministry of Industry and Information Technology and the Ministry of Science and Technology.[137] By bringing other ministries in as co-signatories, the CAC creates bureaucratic buy-in that enhances enforcement.[138]

The CAC's focus on controlling online content makes it a natural leader in early AI regulation.[139] Yet questions remain about whether it will maintain this position as AI governance expands to domains like autonomous vehicles or financial technology.[140] While the Ministry of Science and Technology played a significant role in early policies like the 2017 AI Plan and established high-level principles for AI ethics, it has stepped back from more targeted regulation.[141]

China's targeted approach to platform governance emerged clearly in its 2021 Provisions on Management of Algorithmic Recommendations.[142] These rules directly addressed the Party's concerns about algorithms undermining its control over public discourse—what we identified earlier as the bypass effect.[143] The regulations require algorithmic recommendation providers to "uphold mainstream value orientations" and "actively transmit positive energy."[144] They mandate platform intervention in trending topics to align with government priorities and grant users rights like disabling algorithmic recommendations.[145] Providers with "public opinion properties or social mobilization capacity" must register their algorithms.[146] These measures created a template for future algorithmic regulation.

The regulation of synthetic media followed a similar pattern. Between 2017–2019, the Party identified deepfakes as a threat to its information environment.[147] The resulting Provisions on

[130]*See* O'Shaughnessy & Sheehan, *supra* note 93.
[131]*See* Zhang, *supra* note 125, at 2–4.
[132]Zou & Zhang, *supra* note 12, at 3.
[133]*Id.* at 5.
[134]*Id.* at 10.
[135]Sheehan, *supra* note 128. *See also* Abiri & Huang (2022), *supra* note 12, at 19, 20.
[136]Sheehan, *supra* note 128. *See also Abiri & Huang (2022),* *supra* note 12, at 19, 20.
[137]Sheehan, *supra* note 128. *See also* Abiri & Huang (2022), *supra* note 12, at 19, 20.
[138]Sheehan, *supra* note 128. *See also* Abiri & Huang (2022), *supra* note 12, at 19, 20.
[139]Sheehan, *supra* note 128. *See also* Abiri & Huang (2022), *supra* note 12, at 19, 20.
[140]Sheehan, *supra* note 128. *See also* Abiri & Huang (2022), *supra* note 12, at 19, 20.
[141]Sheehan, *supra* note 128. *See also* Abiri & Huang (2022), *supra* note 12, at 19, 20; *Development Plan*, *supra* note 127.
[142]Sheehan, *supra* note 128. *See also* Abiri & Huang (2022), *supra* note 12, at 19, 20.
[143]Sheehan, *supra* note 128. *See also* Abiri & Huang (2022), *supra* note 12, at 19, 20.
[144]Hulianwang xinxi fuwu suanfa tuijian guanli guiding (互联网信息服务算法推荐管理规定) [Internet Information Service Algorithmic Recommendation Management Provisions] (promulgated Cyberspace Admin. et al., Dec. 31, 2021, effective Mar. 1, 2022), *translated in* https://digichina.stanford.edu/work/translation-internet-information-service-algorithmic-recommendation-management-provisions-effective-march-1-2022/ (China) [hereinafter Recommendation Algorithm Regulation].
[145]Sheehan, *supra* note 128. *See also* Abiri & Huang (2022), *supra* note 12.
[146]Sheehan, *supra* note 128. *See also* Abiri & Huang (2022), *supra* note 12.
[147]Sheehan, *supra* note 128. *See also* Abiri & Huang (2022), *supra* note 12.

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Deep Synthesis Internet Information Services imposed content review obligations and labeling requirements for AI-generated content.[148] The regulations adopted Tencent's term "deep synthesis" over the politically charged "deepfakes," covering most forms of generative AI including image, video, voice, and text generation.[149]

China's approach incorporates technical standards and multi-tiered obligations for different actors in the AI ecosystem.[150] The National Technical Committee 260 develops standards for content labeling and security.[151] AI service providers face obligations as content producers, responsible for ensuring legal compliance, accuracy, personal information protection, and preventing misinformation.[152]

The regulatory framework for generative AI in China reached a new milestone with the July 2023 Interim Measures for the Management of Generative AI Services,[153] which became the world's first binding instrument specifically targeting generative AI systems.[154] These measures addressed the unique challenges posed by large language models like ChatGPT, establishing a dual-obligation system that treats generative AI service providers simultaneously as content producers and technical service providers.[155] This approach reflects China's recognition that generative AI blurs traditional distinctions between content creation and service provision, requiring providers to both label AI-generated content and assume responsibility for its compliance with content security requirements. The Measures specifically target public-facing generative AI services while excluding research and industrial applications, illustrating China's balancing act between controlling information security risks and promoting technological development.[156]

China's vertical and iterative regulatory strategy for AI is further exemplified by plans to develop a comprehensive AI Law, which was added to the State Council's Legislative Plan in 2023.[157] This approach allows Chinese regulators to rapidly respond to emerging technologies while testing specific regulatory mechanisms before incorporating them into broader frameworks.[158] The Cyberspace Administration of China (CAC) remains the central regulatory authority, drawing expertise from various ministries to create bureaucratic buy-in that enhances enforcement.[159] Though criticized for potentially imposing excessive burdens on service providers, this regulatory model represents China's strategic choice to decelerate AI development in service of political stability while maintaining technological advancement—an approach that, while driven by domestic concerns, may inadvertently influence global AI governance by mitigating an international "race to the bottom" in AI development.[160]

[148]*See* Hulianwang xinxi fuwu shendu hecheng guanli guiding (互联网信息服务深度合成管理规定) [Provisions on the Administration of Deep Synthesis Internet Information Services] (promulgated by Cyberspace Admin. et al., Nov. 25, 2022, effective Jan. 10, 2023), *translated at* https://www.chinalawtranslate.com/en/deep-synthesis/ (China) [hereinafter Deep Synthesis Provisions]. *See also* Zou & Zhang, *supra* note 12.

[149]*See* Deep Synthesis Provisions, *supra* note 148; Zou & Zhang, *supra* note 12.

[150]*See* Deep Synthesis Provisions, *supra* note 148; Zou & Zhang, *supra* note 12.

[151]Zou & Zhang, *supra* note 12.

[152]Zou & Zhang, *supra* note 12.

[153]Shengchengshi rengong zhineng fuwu guanli zanxing banfa (生成式人工智能服务管理暂行办法) [Interim Measures for the Management of Generative Artificial Intelligence Services] (promulgated by Cyberspace Admin. et al., July 10, 2023, effective Aug. 15, 2023), Cyberspace Admin. et al., translated at https://www.chinalawtranslate.com/en/generative-ai-interim/ (China) [hereinafter Interim Measures].

[154]*See* Zou & Zhang, *supra* note 12. *See also* Abiri & Huang (2023), *supra* note 12.

[155]*See* Zhang, *supra* note 125. *See also* Zou & Zhang, *supra* note 12.

[156]*See* Interim Measures, *supra* note 153.

[157]*See* Zou & Zhang, *supra* note 12.

[158]*See* Zou & Zhang, *supra* note 12; Zhang, *supra* note 125.

[159]*See* Zou & Zhang, *supra* note 12; Zhang, *supra* note 125.

[160]Abiri & Huang, *supra* note 12.

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This vertical and iterative regulatory strategy allows China to refine its approach as technologies evolve. Unlike the EU's comprehensive framework, China targets specific applications and revises regulations when gaps emerge. While this creates compliance challenges, Chinese regulators view this as an acceptable trade-off in managing a rapidly changing technology.[161]

Interestingly, these targeted regulations now appear to be laying groundwork for broader legislation. In June 2023, China's State Council announced plans to draft a national Artificial Intelligence Law.[162] This suggests how targeted regulation might provide a foundation for more comprehensive frameworks, offering an alternative path to the EU's top-down approach.

I. Chinese AI Regulations and Media Harms

When we examine China's regulatory framework through the lens of platform governance, we see a strikingly different approach to addressing algorithmic harms in the public sphere. Unlike the EU's sweeping framework, China effectively separates the governance of media-specific harms from broader AI development.[163] This separation proves instructive, not because of China's particular goals for information control, but because it demonstrates how targeted platform regulation can address specific democratic challenges without requiring comprehensive governance of all AI applications.

China's tailored regulations directly confront the three public discourse challenges we identified earlier. First, regarding the bypass effect, China's framework explicitly addresses how algorithmic content dissemination circumvents traditional gatekeepers. The Algorithmic Recommendations provisions establish platforms as new, regulated gatekeepers by requiring intervention in content recommendations.[164] Similarly, the Deep Synthesis regulations impose specific content review obligations, treating AI service providers as content producers responsible for their algorithmic outputs.[165]

Second, China tackles echo chambers through concrete mechanisms rather than general principles. For example, the Recommendation Algorithms regulation grant users meaningful control over algorithmic recommendations, including the ability to disable them entirely.[166] These measures are complemented by the Deep Synthesis and Generative AI regulations, which require labeling of synthetic content and impose "content producer" responsibilities on AI providers.[167] While the specific content interventions mandated may serve information control ends—such as requiring adherence to "correct political direction"—the regulatory structure itself recognizes and addresses how algorithmic curation shapes public discourse.

Third, the framework confronts informational capitalism's challenges through targeted interventions. The Chinese regulatory approach addresses algorithmic governance problems by establishing public accountability mechanisms. Requirements for algorithm registration, training data standards, and content labeling create transparency obligations that make visible the previously hidden processes of algorithmic influence. These provisions directly counter surveillance capitalism by exposing the algorithmic systems that quietly extract behavioral data and predict user actions for profit.[168] The regulations treat algorithmic systems with 'public

[161]Zou & Zhang, *supra* note 12.

[162]Guowuyuan er ling er san niandu lifa gongzuo jihua (国务院2023年度立法工作计) [State Council Legislative Work Plan 2023] (promulgated by St. Council Gen. Office, June 6, 2023), St. Council Gaz., June 20, 2023, https://www.gov.cn/gongbao/2023/issue_10526/material/gwygb202317.pdf (China).

[163]*See* Zhang, *supra* note 125, at 7.

[164]Sheehan, *supra* note 128; Huang & Abiri, *supra* note 12.

[165]*See* Zou & Zhang, *supra* note 12, at 8.

[166]Recommendation Algorithm Regulation, *supra* note 144, at art. 17.

[167]Recommendation Algorithm Regulation, *supra* note 144, at art. 10; Deep Synthesis Provisions, *supra* note 148, at art. 17.

[168]Recommendation Algorithm Regulation, *supra* note 144, at art. 17.

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opinion properties' as digital infrastructure requiring oversight, rather than purely private technological tools.[169] Content security obligations shift responsibility onto platform operators, recognizing their role as intermediaries who shape the informational environment through their data collection practices and algorithmic curation decisions.[170] This accountability disrupts the surveillance capitalist model by making companies answerable for how they deploy personal data to influence user behavior. By prohibiting algorithmic price discrimination and anti-competitive practices,[171] the framework acknowledges how algorithmic systems can reinforce existing power asymmetries in the digital economy and limits how platforms can monetize behavioral prediction to manipulate consumers. These interventions represent an attempt at making algorithmic power subject to public oversight.

Crucially, while implementing these controls on public-facing content, China maintains regulatory agnosticism toward AI development in other domains. Non-public applications in industry, research, and education largely fall outside the scope of these measures.[172] The Measures specifically exclude research, enterprise, and industrial applications that don't directly serve the public from regulatory oversight.[173] This narrower regulatory scope aims to promote broader technology adoption and development in non-public sectors. This targeted approach avoids overburdening AI development broadly while focusing regulatory attention on documented platform harms primarily in areas where public interests and security face the greatest risks.

This separation proves effective because it aligns regulatory tools with specific challenges. The vertical and iterative approach allows for rapid adaptation as technologies evolve, while avoiding the inflexibility of comprehensive frameworks. By treating AI service providers as digital intermediaries with constitutional responsibilities, the regulations establish clear accountability for algorithmic harms in the public sphere. This bifurcated approach represents a conscious balancing act between the state's information control imperatives and its technological development strategy aimed at achieving global AI leadership.[174] The regulatory leniency toward non-public applications may provide Chinese AI companies with competitive advantages over their Western counterparts in industrial domains while still maintaining targeted control over public-facing applications that might influence democratic values or create societal risks.

D. Conclusion

The generative AI media harms case study offers a powerful lens through which to examine the broader challenges of AI governance in the algorithmic age. By tracing the ways in which AI-powered content generation and curation technologies are transforming the digital public sphere, this analysis illuminates the complex interplay of technical, economic, and political forces that are shaping the trajectory of AI development and deployment. At the same time, it underscores the urgent need for governance frameworks that can effectively address the distinctive risks and harms posed by these technologies to democratic discourse and public deliberation.

A comparative analysis of the European Union and China's divergent approaches to AI regulation yields critical insights for the path forward. The EU's experience with the AI Act demonstrates the limitations of broad, horizontal governance frameworks that seek to regulate all AI applications through a single, comprehensive risk-based scheme. While admirably ambitious in scope, the AI Act struggles to contend with the rapid pace of technological change and the contextual specificity of AI's societal impacts. Its reliance on rigid risk categorization and one-size-

[169]Recommendation Algorithm Regulation, *supra* note 144, at art. 17.
[170]*See* Deep Synthesis Provisions, *supra* note 148, at art. 7.
[171]*See* Deep Synthesis Provisions, *supra* note 148, at art. 13.
[172]*See* Interim Measures, *supra* note 153, at art. 2.3.
[173]*See* Interim Measures, *supra* note 153, at art. 2.3.
[174]*See* Interim Measures, *supra* note 153, at art. 3.

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fits-all rules render it ill-equipped to address the particular challenges that generative AI poses to public discourse, from the erosion of shared epistemic foundations to the entrenchment of echo chambers and the concentration of informational power.

China's regulatory approach, by contrast, offers a compelling model of targeted, domain-specific governance that prioritizes agility and iterative adaptation over exhaustive scope. By focusing narrowly on the concrete harms of algorithmic content generation and curation in the digital media context, China's regulatory interventions, from the Deep Synthesis Provisions to the Generative AI Services Measures, demonstrate the potential of a more surgical, dynamic approach to AI governance. Crucially, this strategy enables regulators to take decisive action against well-documented dangers to the public sphere while maintaining a stance of principled agnosticism toward the still-uncertain long-term trajectory of AI development in other domains.

The targeted intervention in the case study suggests that effective regulation of algorithmic harms in the public sphere need not depend on comprehensive AI governance frameworks. While China's specific objectives around information control and social stability may not align with democratic values, the structural features of its approach warrant careful attention. The separation between media regulation and general AI development offers several advantages.

First, this model enables regulators to address known platform harms without waiting for consensus on broader AI governance. China's targeted regulations tackle specific challenges like algorithmic content amplification and synthetic media while maintaining space for AI development in other domains. This avoids the paralysis that can result from attempting to create all-encompassing frameworks.

Second, the vertical approach matches regulatory tools to concrete problems rather than imposing uniform requirements across different contexts. Requirements for algorithm registration, content labeling, and user controls directly address how platforms shape public discourse. This specificity contrasts sharply with the EU's risk categorization system, which may miss the nuanced ways algorithmic systems influence democratic communication.

Third, maintaining regulatory agnosticism toward non-public AI applications prevents overburdening beneficial innovation while still addressing documented harms. This balance proves particularly important given the rapid evolution of AI capabilities. By focusing oversight on public-facing content and platform governance, regulators can better calibrate interventions to actual rather than hypothetical risks.

The effectiveness of this separation demonstrates that societies can address algorithmic challenges to democratic discourse without adopting comprehensive AI governance frameworks prematurely. While China deploys these regulatory tools to bolster information control, the structural features of its approach-targeted platform regulation, concrete obligations for algorithmic systems shaping public discourse, and regulatory agnosticism toward other applications—offer important lessons for democratic societies grappling with these same challenges.

Taken together, the insights from the case study suggest that the path forward for AI governance is one of principled pragmatism, a middle course that balances targeted interventions to mitigate AI's known harms with a healthy humility about the technology's long-term societal implications. Policymakers should resist the temptation of premature or overly broad regulation, focusing instead on developing domain-specific governance frameworks through participatory, multistakeholder processes. This approach would enable more effective tailoring of regulatory interventions to the distinctive affordances and risks of AI systems in particular social contexts, from the public sphere to healthcare, criminal justice, and beyond.

At the same time, a domain-specific approach must remain grounded in a set of overarching democratic principles and values. These include a commitment to human rights and fundamental freedoms, an emphasis on transparency and accountability, and a recognition of the vital importance of public participation and deliberation in shaping the development and deployment of transformative technologies. By anchoring AI governance in these core values, we can work to

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ensure that the algorithmic revolution ultimately serves to empower rather than undermine democratic self-determination.

As the generative AI revolution accelerates, the case study examined in this article offers a stark reminder of both the stakes and the urgency of this governance challenge. The decisions we make in the coming years about how to regulate these technologies will shape the future of the digital public sphere—and with it, the very possibility of democratic self-governance in the algorithmic age. We must rise to this challenge with both boldness and humility, coupling decisive action to defend democracy against the dangers of unaccountable algorithmic power with a spirit of open-minded agnosticism about the transformative potential of artificial intelligence. Only by striking this balance can we hope to chart a course toward an AI-enabled future that remains accountable to the will of the people and resilient in the face of technological disruption. The road ahead is uncertain, but the destination is clear: an algorithmic society in which the power of artificial intelligence is harnessed not for domination or control, but for the flourishing of the human spirit and the vitality of democratic life.

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