The new rules of the game.
Internet and public debate

Concluding chapter

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rmo

5 A launch pad for discussion

The analysis contained in this report makes clear that the Internet has come to play an important and autonomous role in public debates within a short space of time. The influence of the new digital media operates in two ways. On the one hand, the Internet has enormous potential for fostering free public opinion formation. The range of media to which people have access has become greater and more diverse than ever thanks to the Internet. Everyone can have their say, and in theory, everyone has access to an audience of millions. New media make it easier for citizens to collaborate and organise themselves, outside the traditional formal and hierarchical organisational structures. For a long time, the public debate in the Netherlands was channelled along the traditional sociocultural and religious dividing lines of a 'pillarised' society, and later via the institutional vehicles for joint decision-making, participation, representative bodies and letters sent by members of the public. The Internet offers a bottom-up framework, which gives people access to a variety of means for making known their opinion or displeasure or voicing their support. The speed and scale of this development is unprecedented. There are innumerable examples today which illustrate the potential of the Internet for achieving a more open and pluralistic public debate, such as the use of social media during the protests in the Arab world in 2010 and 2011, as well as numerous online initiatives by Dutch citizens, including online petitions (petities.nl), neighbourhood improvement initiatives (verbeterdebuurt.nl), initiatives aimed at increasing political involvement by young people (hetnieuwestemmen.nl) and community initiatives (overvecht.nu).[1]

However, the plurality and accessibility of public debates on the Internet do not happen automatically. The vast amount of information available online can create the erroneous impression that Internet users have immediate and free access to it. In reality, people need to actively seek out alternative voices and opinions. In doing so, they are confronted with the controlling power of algorithms and search engines and the network structures of social media, which means they are only able to see the tip of the iceberg. In addition, uncivil behaviour on discussion forums or limitations to privacy on the Internet can pose an obstacle to participation in public debates. It is often those with the loudest voices who are heard most, and freedom of expression sometimes degenerates into threats and insults.

A pluralistic public debate is the lifeline of a democracy
The Dutch Council for Social Development (RMO) believes that a democratic society benefits from open and pluralistic public debates which allow a free exchange of values and opinions on shared or conflicting interests. This implies that minority views or opinions are not excluded in advance. It does not mean that everyone must participate in debates, but it does mean that individuals or groups that do not feel they are represented in those debates are able to make their voices heard. The essence of a democracy lies in acknowledging and creating a forum for different minority views. The Internet offers new opportunities and perspectives for this, but at present these operate in two directions. The Internet is still developing, both socially and technologically, and the consequences of its use have not yet become totally clear.

It doesn't happen by itself
Which way the balance will tip will depend partly on the choices that individuals, organisations, businesses and governments now make regarding the way we as a society engage in discussion with each other, both online and offline. These choices relate to things such as legislation, formal and informal codes of conduct, the degree of transparency and accountability and the use and design of technology. They are choices, which together determine the

new rules of the game. The RMO believes it is important not to avoid questions about what the (institutional) conditions are for open and pluralistic public debates in the age of the Internet; rather, those questions should be put openly on the table.

The purpose of this report is to stimulate and fuel the debate about those conditions. An open and accessible Internet where everyone can obtain or post information at their own discretion, within the limits of the law, is the starting point. But what does this mean in practice? What is its demand of the various players in the field? This chapter offers a number of pointers in this regard and throws up a number of dilemmas and challenges, which serve as a starting point for further discussion. Based on our analysis, we identify three themes, which together offer a framework for this discussion:

1   Norms, good manners and codes of conduct;
2   Limits to plurality and openness;
3   New interpretation of democratic values.

5.1 Norms, good manners and codes of conduct

The multiple logics of the new media are blurring the boundaries between the personal, public and political domains. As a result, the codes of conduct, professional codes and good manners which are appropriate in physical contexts, are not directly applicable in online environments. Norms and codes of conduct develop in a more open process in those online environments, in turn, giving rise to new forms of interaction and regulatory mechanisms. Internet users are collectively developing new rules in online communities, while the government, politicians, journalists, businesses and civil-society organisations are repositioning themselves and experimenting with new communication strategies and codes of conduct.

This process of developing new norms can sometimes give rise to concerns. Those with the loudest voices and most uncivil forms of social interaction often dominate the debate and receive a disproportionate amount of attention. On some discussion forums, participants appear to be interested mainly in loudly proclaiming their own opinions without listening to the views of others. While these forms of interaction are not necessarily harmful in themselves, if they degenerate into insults or threats or structural exclusion of minority views, this can stand in the way of proper public debate. In addition, the reliability of information online is often difficult to establish. It is difficult to identify interests on weblogs, discussion forums and social networking sites, and for many people it is hard to distinguish between what is commercial, scientific and journalistic information. The question then is how much counterweight can be applied to the harmful aspects of the developing norms and good manners.

Self-regulation as the starting point
The RMO believes it is not desirable to impose diktats from above. The Internet offers many opportunities for self-regulation and self-organisation, and extensive implicit and explicit discussion rules are emerging on various platforms. Both moderators and visitors supervise compliance with those rules. Discussions on the Internet are in any event difficult to organise 'from above', because Internet users themselves choose the conditions under which they take part and do not readily allow themselves to be told how they should behave. If they do not care for the rules, they can always find somewhere else to express their opinion; that is one of the major plus points of the Internet.

This demands media wisdom ...
If people wish to (continue to) participate in public debates, and also to influence the formation of the new rules of the game, they need specific skills and knowledge. For those who are rapidly able to master the continual flood of new technologies and the changing rules of the game, the Internet offers opportunities for gathering information easily and exerting a (far-reaching) influence on public opinion formation. However, by no means everyone possesses that knowledge or those skills. Like the Dutch Council for Culture (Raad voor Cultuur, 2005), the RMO therefore advocates the promotion of the acquisition of ICT and information skills by both younger and older generations. Ensuring balance in the public debate demands resilience and media wisdom on the part of Internet users, so that they are able to assess the value of the vast array of information and information providers and determine their own role in the debate.

...and a new approach to journalism
An independent journalistic profession, which provides a pluralistic stream of news and information, remains an essential condition for a democracy. Independence here means that governments cannot control or supervise the content of reporting in advance, and that this reporting is independent of the interests of business or pressure groups. This does not mean that journalists or editors cannot align themselves with a particular view of society – on the contrary, this can actually benefit plurality. Independence does, however, mean that journalists maintain a critical distance from people and organisations that have come to the same view of society (RMO 2003).

Independent, professional journalists and news organisations have made an important contribution to the development of the availability of high-quality news and information. However, independent journalism takes on a new meaning in the digital era. More than in the past, journalists and editors are exposed to pressure from commercial interests, with potential consequences for their public/societal orientation and independence. The rise of the Internet can increase that pressure, but also offers opportunities to give new form and content to journalism. It has become clear that the traditional function of journalism in supplying news and information is no longer the sole preserve of large, professional organisations; amateur reporters, dedicated bloggers and civil-society organisations can fulfil this role just as well. The norms they apply are still undergoing development, however, and they are relatively unorganised. Large, established news organisations have the scope to specialise further, on the one hand by establishing creative links with the 'reporters from the street', and on the other by devoting much more attention to marshalling the enormous flood of (online) information. They can find new ways of reporting and weighing competing observations of events. This will raise news above the ephemerality of the newspaper headline or short website blog and enable it to play a role in generating media wisdom and in offering surprising perspectives for the political and social agenda.

Other intermediaries also have a responsibility
Intermediary players, such as interest groups, social movements, scientists, political parties, and today also bloggers, moderators and Internet service and content providers, play an important and special role in the development of new norms, codes of conduct and manners. They select and filter opinions, bring them together and make an active contribution to the articulation of shared norms and values. They often play a pioneering role and act as gatekeepers for a larger public. As a result, they are able to influence the process of norm development and intervene if good manners are not observed (issuing warnings, taking corrective action and in some cases denying access to a platform). That influence is accompanied by a responsibility to fulfil their role as gatekeeper in a well-considered and transparent way.

Modest role for the government as a network player
The government can play only a modest role in processes of norm development. Only if those processes go beyond the bounds of the law can the government step in. We will discuss the dilemmas that stem from this in the final section of this chapter. The government can on the other hand facilitate the development of norms and promote media wisdom on the part of citizens through incentive and subsidy policies.

Despite its modest role, the government is itself both part of and a participant in public debates. The study on which this report is based, makes clear that, at present, the government largely organises its own debates and plays little part in ongoing online discussions. As long as it does not stand in the way of free public opinion formation, the government could do much more than it does at present in monitoring and possibly responding to the many discussions that can flare up like wildfire on small Internet forums. This would have several benefits for the government. By forming a picture of the debates that take place outside the corridors of political power, the government would face fewer surprises when such a discussion suddenly flares up. In addition, civil servants could use the knowledge on the Internet in their day-to-day work. They could increase public support for policy by engaging in the debate in various (online and offline) forums at an early stage of the policy formation process, gaining an impression of any dilemmas and ethical objections and where possible putting forward solutions to them in an open discussion with others. It would also provide people with an insight into the decision-making and implementation process, whilst enabling the government to take advantage of the innovative and creative strengths that are present in society.

Such a government role is not without obligation: transparency and reciprocity are key principles. It is crucial that civil servants make clear in what capacity they are taking part in discussions (on a personal basis or in their role as civil servants) and what can be expected of them. Participants must realise that political decision-making ultimately takes place in the parliamentary arena (Van Berlo 2010). Given the rapid development of the new media, it is recommended that the code of conduct and guidelines for civil servants be regularly adapted and tightened up on these points. Reciprocity also requires more open government, which makes information and data more accessible to the public. The government has greater access to all kinds of information via the Internet, but is itself still very reluctant to place information and data in the public domain. More openness could increase the trust in and legitimacy of the government, depending among the other things on how the government conducts the conversation with citizens and the degree to which information is accessible to all. On the other hand, it could also lead to a fixation on scandals or paralyse decision-making (TNO 2011). The question to be addressed here is how the government can fulfil its duty of making government information public in the Internet age.

Development of norms and codes of conduct: a continuous process
Given that society today is confronted with a new and open process of norm development in a dynamic online landscape, it is worth bearing in mind that the rules of the game from the offline world are also based on shared experiences, values and views about how we engage with each other in discussions about our common interests. Traditional media have developed codes of conduct over the years in which professionalism and independence were central values, based on the idea that an independent flow of news would give citizens the information they need to form opinions. These norms were developed in order to foster free formation of opinions and to ensure the quality of news and information. In political circles, too, the new media can add something to existing procedures and protocols, but could also tip the power relations enshrined within those procedures and protocols out of balance. Currently, politicians use social media mainly as a tool for garnering attention. There is

nothing wrong with that, but it does further reinforce the process of extra-parliamentary accountability. It is wise to think through the implications of this. Where do the limits and responsibilities lie for politicians when using Twitter? Should they be able – and permitted – to use Twitter in Parliament and council chambers? Every society needs to ask itself to what extent the existing rules, professional codes or protocols are still legitimate, or whether they require new interpretation.

Dilemmas and challenges
– Online statements can sometimes have unexpected consequences. For example, in 2011 a 17 year-old Dutch girl and a 16 year-old Dutch boy were engaged in an exchange on Twitter in which they jokingly threatened to blow up their respective schools. They were unaware of the fact that other users could see what they were writing, and had no idea of the consequences of their tweets. How should the police and judicial authorities, but also parents and schools, deal with such ostensibly innocent pranks?
– The journalistic profession has various professional codes, as well as bodies which supervise compliance with them, such as the Netherlands Press Council (*Raad voor de Journalistiek*). Is there a place for a similar code of conduct for bloggers, moderators and service providers? If so, who should develop these codes and who should ensure that the rules are observed?
– Politicians using Twitter is a reality. Not everyone is happy with that, because it could potentially disrupt the existing decision-making processes. Are codes of conduct needed for politicians who are in direct contact with their constituents via the new media?
– Civil servants are there to serve, and their actions fall under ministerial responsibility. To what extent does this prevent them from playing an active part in Internet discussions?
– The government is keen to embrace e-participation and consultation via the Internet. How can it ensure that everyone has an equal opportunity to be heard? Should the government itself create participation platforms, or should it participate in those created by others? What qualities do civil servants need to have if they engage in this activity?

5.2 Limitations

New media offer (groups of) individuals more opportunities to make their voices heard, but those opportunities are not unlimited. The limiting factors are the result of the interaction between social mechanisms and infrastructural constraints. People engage in inclusive and exclusive processes, on the Internet as in the physical world. They are inclined to seek out people they know and people who share their views and to exclude other opinions. The algorithms of search engines and the network structures of most social media exploit and reinforce these mechanisms. The commercial choices made by search engines, social media and Internet service and content providers in controlling information flows, just as the way in which individuals use the Internet, mean that it is sometimes impossible for users to find certain content (the proverbial 'echo chamber') and make it difficult for some people to have their voices heard.

There are inevitably limitations in the public debate; there always are. Every debate, including the public debate, is subject to a certain amount of organisation and regulation, even when the aim is plurality. In the view of the RMO, responsibility for ensuring the plurality and accessibility of the public debate lies primarily with society. The idea that the national government possesses sufficient independent control mechanisms in its present media policy to take a directional and controlling stance is not tenable. Setting boundaries and limits is

mainly the result of self-regulation, but there are a number of conditions. First, self-regulation must not lead to certain minority views being excluded in advance from participation in the public debate; it is undesirable that a few major players or loud voices should dominate public opinion formation. Second, self-regulation is only successful if it results in platforms which bring together the wide variety of views. Inclusion and exclusion on certain platforms is not a problem in itself, as long as there are enough open and accessible places where information and views are weighed critically. There has to be room for a diversity of intermediary players, who bring together their differing views from the basis of their social responsibility.

Civil-society organisations fuel diversity

Civil-society organisations with a public object, such as interest organisations, social movements and support groups, are important contributors to the public debate. They can offer social interest platforms for deliberation and alternative perspectives. Precisely in view of the limited number of leading players in the provision of news, civil-society organisations can provide balance and normative frameworks (Witschge et al. 2010). They ensure diversity in the public debate and have the ability to mobilise people and their members to identify problems, discuss them and formulate solutions. They can give a voice to those who have become marginalised, and can adopt a role as gatekeepers and network players. Publicly funded bodies, such as public broadcasting organisations, libraries and advisory bodies, can also reposition themselves by offering online platforms to bring together different views and helping Internet users find their way through the mass of digital information.

Internet service and content providers must realise their social responsibility

Now that public debates have largely moved to digital environments, the social responsibility of Internet service and content providers is coming into the picture very vividly. Access to and control of the public online debate is largely in the hands of these private-sector enterprises; they make their own judgments, which are sometimes based more on commercial and public interests. There is a need for a countervailing power here. This requires Internet service and content providers to develop their own professional context with norms and codes, in which values such as transparency and accountability are accorded a central role. Internet service and content providers could be more open about their working practices and about how accessible their services are. Search engine providers and social networking site operators could provide more insight into the commercial choices that lie behind search algorithms and privacy settings. They could also exploit the interactive and collaborative opportunities offered by new media to actively engage their users, for example through crowd-sourcing and online participation. Information providers would then be contributing to plurality and open public debate, while at the same time reinforcing their social legitimacy (cf. RMO 2010).

The government watches over the playing field

Where self-regulation falls short, governments (at national, European and international level) have a task through their incentive and competition policies in safeguarding plurality and combating the rise of excessive power clusters within the media landscape. Too much centralisation and homogenisation of public information – for example, because of giant media concerns that are able to hog the attention of media users – is undesirable. While mergers between media concerns need not necessarily reduce plurality, they may contribute to the creation of 'echo chambers' which limit the visible diversity of opinions for individual users. To prevent this, it is key to ensure that the diversity in the number of large media concerns does not fall below a certain threshold. That was true before the arrival of the Internet and it is still true today (RMO 2003). The government has a clear role to play here. However, it will have

to re-establish where the lower threshold lies and how it can monitor it. Current press and media policy in the Netherlands is the result of a lengthy process, and is specifically designed for the characteristics of newspapers, television and radio. These mass media still reach a large public, but have now been joined by many other relevant players, including multinational Internet service and content providers. Moreover, the dividing lines between the different media are becoming blurred, making it increasingly difficult to draw a sharp distinction between them. On top of this, national governments have less scope to intervene in the international media landscape. All this calls for new instruments to safeguard accessibility and create the necessary conditions for a pluralistic media landscape.

As a network provider in the public debate, the government itself also has a responsibility as regards the diversity of interests and values. It could serve as a countervailing power to strengthen the position of citizens and civil-society organisations by making government information more readily accessible. The Internet offers many new opportunities for this. However, not everyone is willing or able to make use of these digital opportunities; in order not to exclude any groups and to encourage plurality in debates, the government will accordingly have to actively seek out those with less loud voices in its communication and information activities

Dilemmas and challenges
– Adequately managing data traffic requires time and money. At the moment, both are provided by Internet service providers, but in the future they may wish to pass on these costs to websites that make use of their networks. To what extent is this possible and desirable? Will it mean more expensive access to the Internet for consumers? Will this create problems for small websites which cannot afford the necessary investments?
– In the UK, there is a strong lobby for a two-speed Internet: a fast, more expensive option and a cheaper but slower version. This could work to the disadvantage of less wealthy sites if Internet users avoid them because of slower data download speeds. Does that matter? Is the (new) media landscape already sufficiently diverse? Should small players be protected or not?
– Public broadcasting associations in the Netherlands are funded from the public purse. Their online activities could therefore be seen as distorting competition. Should they therefore restrict themselves to television and radio? Or would this gradually undermine the social function of public service broadcasting? What does this say about the future for a publicly funded broadcasting system?
– Civil-society organisations and private initiatives add diversity and creativity into the debate. However, there is often a lack of time and financial resources. Should the government provide financial support for these initiatives so that they are able to stand up against the Internet giants and multinational media concerns? Or will initiatives that are good enough rise to the top on their own merits, and are alternative sources of funding available?

5.3 Values of a law-based democracy

The Internet is giving rise to new discussions about democratic values as a means of protecting personal privacy and freedom of expression and newsgathering. Individuals are assuming the role of journalists, but it is now almost impossible to determine whether someone is saying something in the context of public information provision or in a more personal capacity. How far does press freedom extend to statements by bloggers, online

activist groups or an Internet user who posts an occasional report of an event? Aside from these questions, Internet users generally have little idea of what happens to their personal information or statements, let alone having any influence over this. Whether they are aware of it or not, anyone who takes part in public debates on the Internet gives out a great deal of personal information – about their age, where they live, their friends, their preferences, and so on. Genuine anonymity is virtually impossible to achieve on the Internet. Moreover, digital traces are almost impossible to remove: service providers keep close track of the activities of their users, and governments also possess more and more instruments for monitoring citizens. At the same time, those service providers and governments are themselves still very reticent in making information public.

A new interpretation of democratic values
Precisely what the rise of new media means for democratic values is not yet clear. New legislation is currently being developed at national and European level, while technological developments follow on from each other in rapid succession. At the same time, notions such as privacy, freedom of expression and openness of information are acquiring new meanings and their importance is being reweighed. In the view of the RMO, important principles here are that citizens should have maximum access to their own information, and that the government does not interfere with the content and independence of information and news provision, but assesses retrospectively whether statements fall within the limits of the law. The government does however have a role in protecting against censorship, threats, insults and discrimination.

Potential for tension between enforcement and free public debate
At first sight, the range of instruments available to the government under current legislation seems no longer appropriate. The transnational nature of the Internet makes tackling abuses in the medium a complex matter. On the other hand, the options open to the government should not be underestimated. A site, which systematically allows incitement of hatred, or continually infringes copyright or personal privacy, can most definitely be tackled. It is more a question of investigative and prosecution capacity than of legal impediments in respect of parties who commit offences on the Internet. The government needs to take criminal offences on the Internet seriously, in the same way that it has a duty to protect victims outside the online world. Creating a safe online environment will moreover foster participation by citizens by boosting access to the public debate. The government can also hold organisations accountable for the information posted on their sites and can force Internet service providers to take down sites containing content that constitutes an offence. In practice, therefore, the government has ample scope to take enforcement action in the event of actual infringements on the Internet, and governments at national and international level are currently developing legislation and policy to expand this scope further.

Nonetheless, the nature of the Internet and the high turnover rate of the sometimes heated debates will always create tensions between a government bent on enforcement on the one hand, and freedom of expression and protection of personal privacy on the other. This means that countervailing powers are indispensable, especially given that regulation of digital information flows is largely carried out in public-private partnerships. Without a clear system of checks and balances, there is an increased risk of censorship by the government or of uncontrolled infringements of personal privacy.

Dilemmas and challenges
– Many online services can only exist thanks to the submission of personal information by users. Those users do not always realise that their personal information can be viewed by third parties, let alone that they have the ability to influence or remove that information. Is there a need for 'right to forget' or 'right to remove' legislation?
– The difference between undesirable and forbidden websites is not clear in the Netherlands. Some sites are filtered or banned. But who decides what is undesirable? And where does the boundary lie as regards censorship?
– The Dutch anti-piracy foundation Brein recently became the target of a Distributed Denial of Service (DDoS) attack. Is this an example of taking the law into one's own hands, a form of digital mischief-making, or a sign that relations in society are changing?

Note
1 See the eParticipatie Dashboard for examples of digital private initiatives in the Netherlands: http://www.eparticipatiedashboard.burgerlink.nl/ or Bende Burgers at www.bendeburgers.nl.