

Current issues in Labour's economic policy

10. Big tech media

12 December 2024

[@ewanmg.bsky.social](https://bsky.social/@ewanmg) ~ ewan.mcgaughey@kcl.ac.uk

School of Law, KCL ~ CBR, Cambridge

**‘Nothing travels faster than the speed of light, with
the possible exception of bad news.’**

- Douglas Adams, *Hitch Hiker’s Guide to the Galaxy*
(1992) Book 5, ch 1

‘Children and young people face significant harm online, with inappropriate content too easily available at their fingertips on a smartphone. We have seen an increase in extreme misogynistic content online driving a culture of violence against women. Labour will **build on the Online Safety Act**, bringing forward provisions as quickly as possible, and explore **further measures to keep everyone safe online, particularly when using social media.**’

- Manifesto p. 103

‘And let me also say to large social media companies, and those who run them. **Violent disorder clearly whipped up online: that is also a crime.** It’s happening on your premises. And the law must be upheld everywhere...’

Keir Starmer (1 August 2024)

‘Journalism is the lifeblood of democracy... I am determined to show that **traditional democratic British values are the only way to deliver the change that working people need** – that is **my political project in a nutshell**. And there can be nothing more traditional, democratic or British than **a robust free press, fearlessly holding the powerful to account.**’

- Keir Starmer (28 October 2024) Guardian op-ed

(1) Pledges – in summary

- (a) Build on the Online Safety Act with '**further measures' especially for social media**
- (b) **Stop violent disorder** being whipped up online
- (c) **Protect democracy** through a robust free press, fearlessly holding the powerful to account

(2) Human rights (3) Legal background (4)
International rank, data (5) Reform models (6)
Benefits, costs

(2) Human rights

- **‘right to take part in the government’**, Universal Declaration of HRs 1948 art 21 and ICCPR 1966 art 25
- right to **‘receive and impart information and ideas through any media and regardless of frontiers’**, UDHR 1948 art 19 and ICCPR 1966 art 19
- ‘Everyone has the **right to freedom of expression**... This article shall not prevent States from requiring the **licensing of broadcasting**, television or cinema enterprises.’ ECHR art 10(1)
- ‘The freedom and **pluralism of the media** shall be respected.’ CFREU 2000 art 11

R (Animal Defenders Int) v SS for Culture, Media and Sport [2008] UKHL 15

• Ad blocked from being played for being about a political cause. House of Lords held there was no breach of free expression.

• Baroness Hale, [48] 'In the United Kingdom, and elsewhere in Europe, **we do not want our government or its policies to be decided by the highest spenders**. Our democracy is based upon **more than one person one vote**. It is based on the view that **each person has equal value**.... We want everyone to be able to make up their own minds on the important issues of the day. For this we need the **free exchange of information and ideas**. **We have to accept that some people have greater resources than others** with which to put their views across. But **we want to avoid the grosser distortions which unrestricted access to the broadcast media will bring**.'

(3) Legal background and gaps

- (a) Digital Services Act and Online Safety Act
 - (b) Ofcom's non-regulation online
 - (c) Media ownership and self-regulation
 - (d) Social media interoperability?

Digital Services Act Regulation 2022

- art 33, applies where a platform has **45m users** in the EU, and designated as a '**very large online platform**' by Commission.
- arts 8-9, no general fact monitoring duty, but **duty to act on order to remove illegal content**.
- art 14, terms with **algorithmic decision-making must be transparent** if they restrict use of the service
- art 16, hosts must have system for notifying and promptly taking down illegal content
- art 18, **notify authorities if suspicion of criminal offence**.
- arts 45-7, codes of conduct drawn up for best practice
- art 52, fines up to of 6% worldwide annual turnover

Designated very large online platforms

- Amazon Store
- Apple AppStore
- Facebook
- Instagram
- Google Play
- Google Maps
- Google Shopping
- Google Search
- YouTube
- Bing
- LinkedIn
- Alibaba AliExpress
- TikTok
- X (ex-Twitter)
- Wikipedia
- Booking.com
- Pinterest
- Snapchat
- Zalando
- PornHub (added Dec 2023)
- Stripchat (added Dec 2023)
- XVideos (added Dec 2023)

Online Safety Act 2023

- s 9, duty of user-to-user platforms to carry out **illegal content risk assessments**, including (5)(b) algorithms for content dissemination
- s 10(2)(a) duty to take **proportionate measures to prevent people encountering priority illegal content** (3)(b) **swiftly take down illegal content**
- s 59(5)(c) illegal content is something that is an **offence under an Act**, order or regulations, and (7) **priority illegal content involves terrorism, child sex offences, others listed in Sch 7.**
- Sch 3, para 4, £18m fine or 10% of annual turnover, whichever higher.

(b) Ofcom's non-regulation online

- **Holders of broadcast licences must be 'fit and proper'**, but **no standards online**, and no standards for journalist voice or autonomy in editorial control: Broadcasting Act 1990 s 3(3)
- **Ofcom requires television and radio content is accurate, balanced, protects under-18s, does not encourage disorder, and is not unduly offensive or harmful**: Communications Act 2003 ss 319-320
- **Ofcom does not exercise its jurisdiction to regulate online** television or radio, including social media channels and broadcasts such as on X, YouTube, Instagram or Telegram: CA 2003 s 232 ff
- Audiovisual Media Services Directive 2010 art 6, Member States ensure no AV media incites violence or hatred, art 9, no subliminal ads, no discrimination, art 28b, **video sharing platforms should protect (a) minors from videos harming physical, mental or moral development (b) public from hate + (c) stop criminal offences.**

(c) Media ownership, self-regulation

- Ofcom should maintain ‘**sufficient plurality** of providers of different television and radio services’: Communications Act 2003 s 3
- Ofcom regularly **reviews media ownership**, reports to Secretary of State: s 391
- **Ban** on owning **20% of national newspaper and ITV**: Sch 14
- Nothing online!



November 2024



All traffic



Rank ⓘ	Website ⓘ	Category ⓘ	Rank Change ⓘ	Avg. Visit Duration ⓘ	Pages / Visit ⓘ	Bounce Rate ⓘ
1	google.com	Computers Electronics and Technology > Search Engines	=	00:10:45	8.12	28.6%
2	youtube.com	Arts & Entertainment > Streaming & Online TV	=	00:20:19	10.91	23.52%
3	facebook.com	Computers Electronics and Technology > Social Media Networks	=	00:10:57	11.74	31.05%
4	instagram.com	Computers Electronics and Technology > Social Media Networks	=	00:08:37	11.52	35.75%
5	whatsapp.com	Computers Electronics and Technology > Social Media Networks	=	00:14:52	8.18	51.1%
6	x.com	Computers Electronics and Technology > Social Media Networks	=	00:12:01	12.26	35.09%
7	wikipedia.org	Reference Materials > Dictionaries and Encyclopedias	=	00:03:18	3.13	53.57%
8	chatgpt.com	Computers Electronics and Technology > Programming and Developer Software	=	00:06:14	3.66	37.86%
9	reddit.com	Computers Electronics and Technology > Social Media Networks	=	00:06:03	4.62	43.08%
10	yahoo.com	News & Media Publishers	=	00:08:01	5.18	36.52%
11	yahoo.co.jp	News & Media Publishers	=	00:08:59	7.39	31.7%
12	amazon.com	Ecommerce & Shopping > Marketplace	▲ 1	00:06:31	9.48	33.68%

Governance of Facebook, YouTube, X

- Meta (ie Facebook, Instagram, Whatsapp), Mark Zuckerberg has 16% of shares, but with multiple rights controls 60% of votes. Service-users had right to vote against changes to Data Use Policy until 2012 IPO, when it was revoked. Widespread data privacy violations including influence on the Brexit and Trump votes.
- HC, DCMS, *Fake News Report* (2019) code of ethics for tech, accuracy, impartiality, responsibility, no political ad subliminal techniques
- Alphabet Inc (i.e. YouTube, Google), YouTube, Terms of Service (9 Jun 2010). Larry Page and Sergey Brin control Class B stock with 10 votes a share, and total control. August 2018, banned Alex Jones.
- X (ex-Twitter), Banned Trump. Elon Musk took over for \$44bn, fired 80% of staff, allowed Trump back, along with Tommy Robinson, etc.

Governance of Wikipedia

- Wikimedia, Wikipedia, **\$180m** in 2023. Florida Corp, 10 person board:
- 3 directors are editor elected,
- 2 chapter elected,
- 1 founder,
- 4 existing board appointees.
- Removal by trustee majority.
- Standards for online interactions: WP:Administration. WP:Sock puppetry. WP:No personal attacks. WP:Neutral.
- Banned *The Daily Mail* as unreliable source (2017) for ‘poor fact checking, sensationalism, and flat-out fabrication’.
- Bluesky, set up by ex-Twitter staff, aims to be interoperable, and founded as a Public Benefit Corporation.

(d) Interoperability

- (1) Digital Markets Act Regulation 2022 art 7, Gatekeepers with number-independent interpersonal communication services ‘shall make the basic functionalities... **interoperable** with... another provider... by providing the necessary technical interfaces or similar **solutions that facilitate interoperability, upon request, and free of charge.**’
- (2) This includes:
 - (a) after listing decision: **end-to-end text messaging**, sharing **images, voice, videos, attached files**
 - (b) in **2 years**: **group chat** text, images, voice, video, attached
 - (c) in **4 years**: calls, video calls, group calls.
- (3) Must preserve level of security (5) anyone can request.

Can interoperability end monopoly?

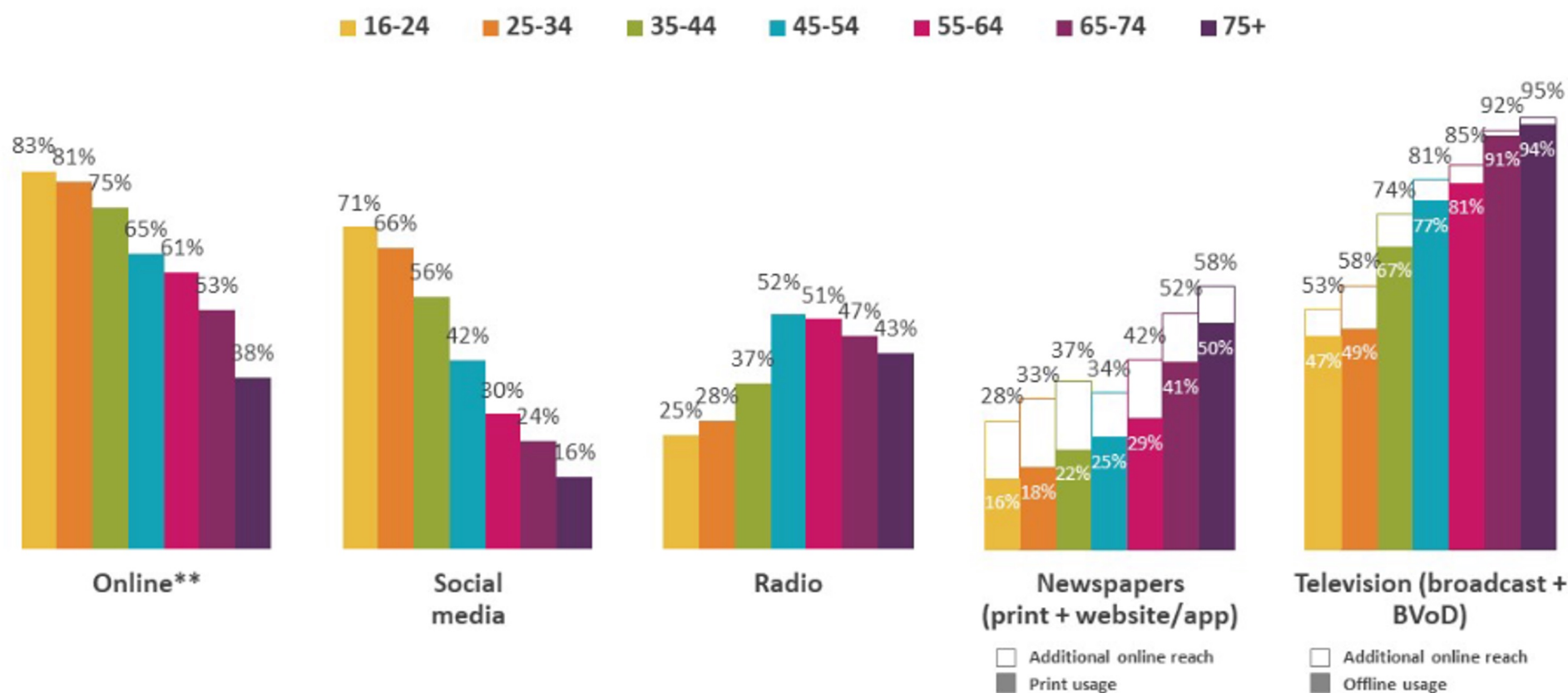
- Phone numbers, email, websites interoperate
- Musk paid \$44bn for Twitter, fired 90% of staff, changed algorithm so hate-speech resurged, let Trump back post 6 January.
- Bluesky mission, founded by Jack Dorsey of Twitter: to “develop and drive large-scale adoption of technologies for open and decentralized public conversation.”
- Interoperability or ‘federation’ of Bluesky, Threads, Mastadon to outcompete X?
- What about FB, Insta, LinkedIn? TikTok, YT shorts? Should the DMA require it?



(4) International rank and data

- Twitter dataset 2006-2017, 126,000 rumours spread by 3m people: 'the **top 1% of false news cascades diffused to between 1000 and 100,000 people, whereas the truth rarely diffused to more than 1000 people**. Falsehood also diffused faster than the truth. The degree of novelty and the emotional reactions of recipients may be responsible': S Vosoughi, 'The spread of true and false news online' (2018) 359 Science 1146
- Social media fosters widespread communities of conspiracy theorists, 1.2m users on Facebook, **higher engagement with conspiracies**: A Bessi et al, 'Science vs Conspiracy: Collective Narratives in the Age of Misinformation' (2015) 10(2) Plos One e0118093

Figure 2: Use of main platforms for news nowadays, by age



Ofcom News Consumption Survey 2023. Question: C1. Which of the following platforms do you use for news nowadays?

Base: All Adults 16+ 2023 – Aged 16-24=739, 25-34=665, 35-44=819, 45-54=724, 55-64=622, 65-74=562, 75+=423

***Internet figures include use of social media, podcasts and all other websites/apps accessed via any device*

Figure 3: Top 20 news sources

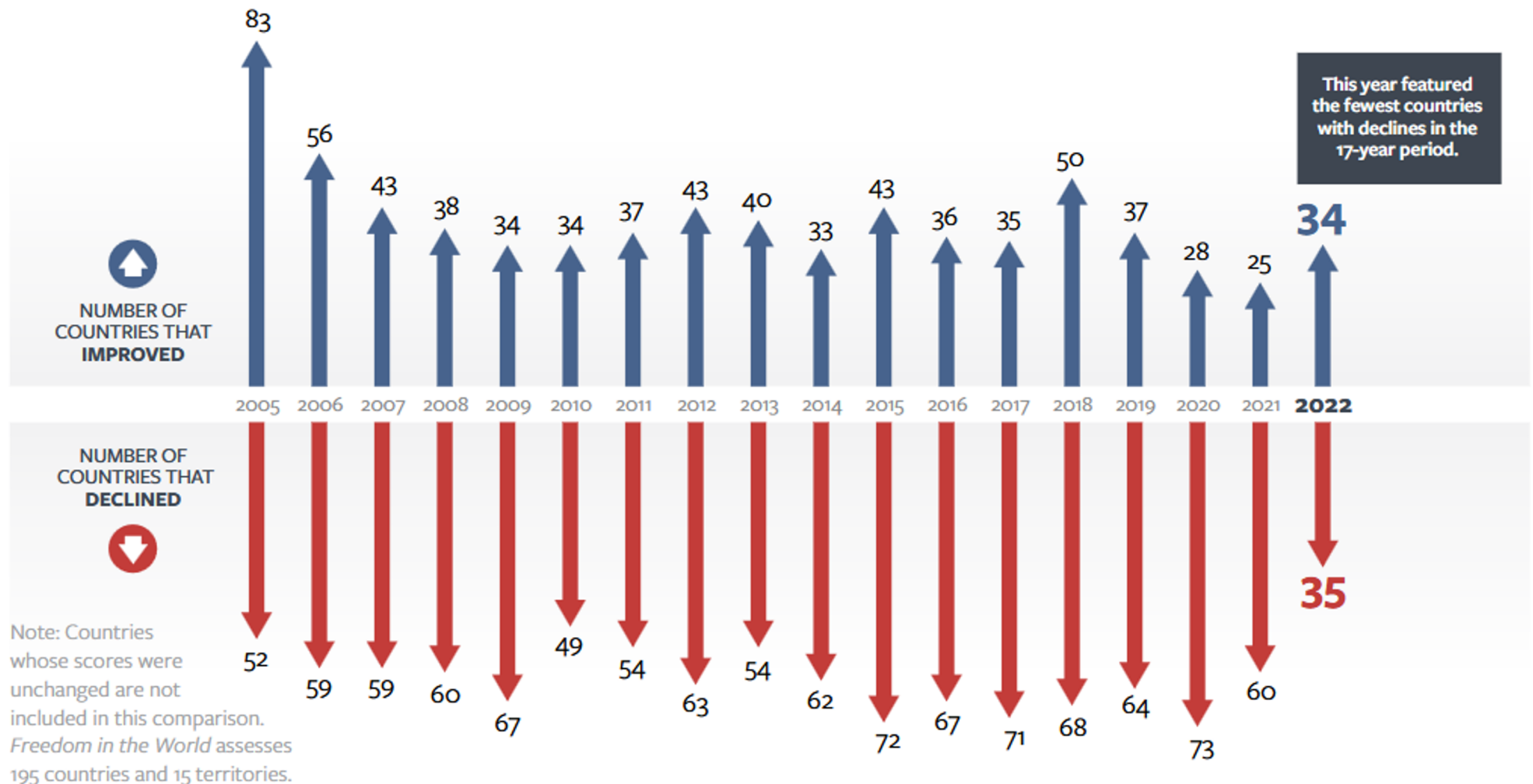
	2018	2019	2020	2022*	2023
BBC One	62%	58%	56%	53%	49%
ITV1/ITV WALES/UTV/STV	41%	40%	41%	35%	34%
Facebook	33%	35%	34%	32%	30%
BBC iPlayer**	-	-	-	-	24%
BBC News Channel	26%	23%	21%	24%	23%
BBC website/app***	23%	25%	23%	23%	22%
Sky News Channel	24%	23%	25%	23%	21%
Twitter	14%	16%	17%	17%	17%
Channel 4	18%	17%	18%	17%	16%
Instagram	9%	13%	14%	16%	16%
Daily Mail/Mail on Sunday	18%	18%	17%	15%	14%
WhatsApp	10%	14%	13%	14%	13%
Google (search engine)	17%	19%	15%	12%	13%
ITVX/ITVX Premium**	-	-	-	-	11%
BBC Two	14%	11%	11%	11%	11%
BBC Radio 2	12%	12%	12%	11%	11%
The Guardian/Observer	11%	11%	10%	10%	10%
TikTok**	-	-	1%	7%	10%
BBC Radio 1	9%	9%	9%	8%	8%
Channel 5	10%	10%	8%	8%	8%



Freedom House, *Freedom in the World* (2023) ranking

17 YEARS OF DEMOCRATIC DECLINE

Countries with aggregate score declines in *Freedom in the World* have outnumbered those with gains every year for the past 17 years. However, events in 2022 generated the smallest margin—and the smallest number of countries with declines—since the negative pattern began.



UK public has a high prevalence of anxiety and depression: OECD (2023) Fig 3.19-3.21

Figure 3.19. National estimates of prevalence of depression or symptoms of depression, 2019-22 (or nearest year)

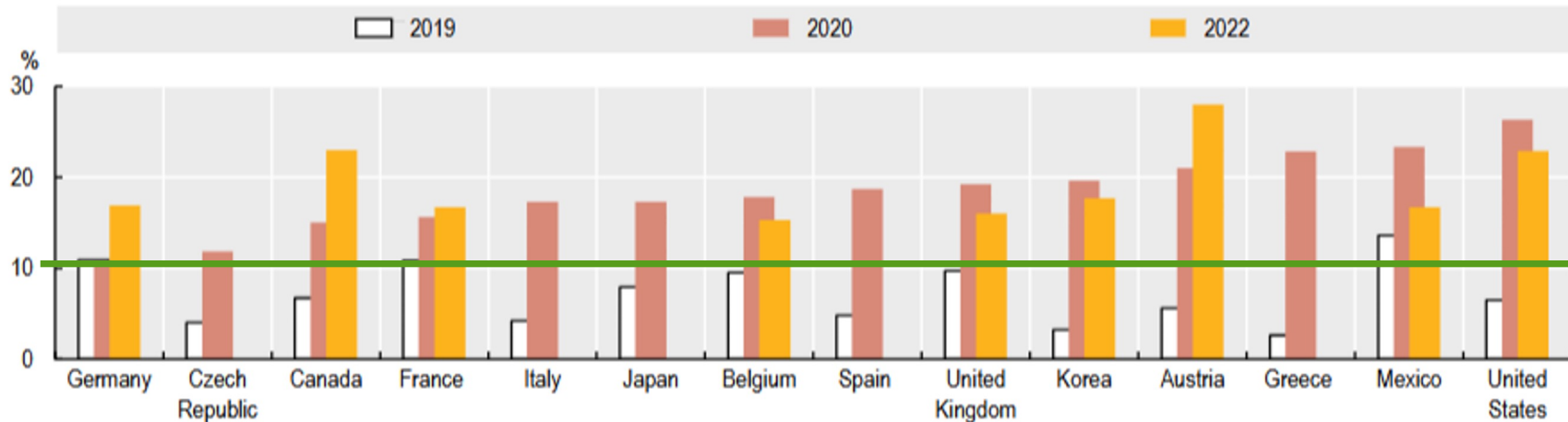
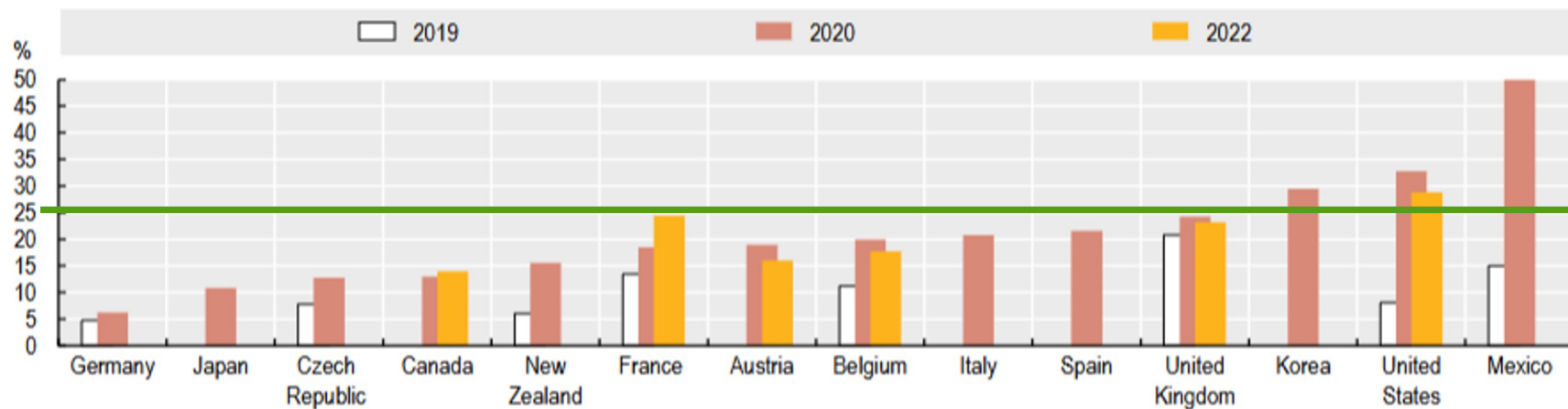


Figure 3.20. National estimates of prevalence of anxiety or symptoms of anxiety, 2019-22 (or nearest year)



(5) Models and options to meet goals

- Ofcom receives powers to adapt and apply standards for broadcast **accuracy, algorithm impartiality**, content safety to large online media platforms → CA 2003 ss 319-20
- Require persons in control of large online platforms to be **licensed as fit and proper**, and that algorithm technicians or journalists have editorial control, autonomous from owners/controllers → BA 1990 s 3(3)
- Large social media firms must enable **posts, links and videos to interoperate** with other platforms → DMA art 7
- Large social media firm boards must be at least **1/3 elected by service-users**, who approve changes to privacy terms → Wikimedia... would require domestic platforms structure, or international cooperation, or for the USA or states to act.

(6) Benefits and costs of reform

- (1) **Protecting democracy**. 'According to Freedom House, **every year since 2005 has seen a retreat in democracy** and an advance of authoritarianism. The year 2017, when the Internet reached more than half the world's population, was marked by Freedom House as particularly disastrous.' T Snyder, 'Fascism is back: blame the internet' (21 May 2018) Washington Post
- (2) **Protecting mental health**. J Lambert et al, 'Taking a One-Week Break from Social Media Improves Well-Being, Depression, and Anxiety: A Randomized Controlled Trial' (2022) 25(5) Cyberpsychology, Behavior, and Social Networking

Discussion questions

- (1) What regulation do we need (if any) for online media and its content?
- (2) What governance structures should social media companies have?
- (3) What can interoperability achieve and should it go further?
- (4) What other ways are there to deal with negative effects that social media has upon democracy and mental health?