

# EU DIGITAL SERVICES ACT

## An Opportunity for Platform Regulation Done Right

The upcoming European Commission proposal for a Digital Services Act (DSA) is an opportunity for the EU to regulate the hyper-centralised, engagement-driven online platform economy that occupies big parts of the internet today. Europe can support people to enjoy meaningful choice of services, control of their data and access to justice online.

European Digital Rights (EDRI) is an association of 42 human rights organisations from across Europe. We defend rights and freedoms in the digital age. EDRI recommends the following measures to improve the functioning of platforms as public space in our democratic societies, to uphold people's rights and freedoms, and to shape the internet as an open, safe and accountable infrastructure for everybody. When drafting and negotiating the DSA, EU institutions should:

### 1. PROTECT THE LIMITED LIABILITY REGIME OF THE E-COMMERCE DIRECTIVE.

Platforms should only be held liable for user-uploaded content if they refuse to remove content that has been declared illegal by a valid court decision. Otherwise, companies would have no choice but to scan all content during upload, assess its legality under 27 different national laws, and preemptively remove it if there is any doubt. As a result, legitimate critical voices in the public debate risk being silenced.

### 2. REQUIRE LARGE COMMERCIAL PLATFORMS TO PROVIDE A WAY FOR USERS TO REPORT POTENTIALLY ILLEGAL ONLINE CONTENT.

Platforms should introduce robust and transparent notice-and-action mechanisms that enable both providers and users to assess how to deal with a specific piece of content that is potentially illegal in line with the due process principle.

### 3. GIVE USERS MORE CHOICE BY MAKING DOMINANT PLATFORMS INTEROPERABLE.

The DSA should require certain types of platforms such as social networks or messaging services to open their 'walled gardens' and allow users of comparable services to connect and interact with their own.

### 4. IMPOSE STRICT TRANSPARENCY STANDARDS ON LARGE COMMERCIAL PLATFORMS.

Platforms should publish reports that inform policymakers, regulators and users about how they curate, moderate and remove online content and how they allow their customers to target online advertisement.

### 5. REQUIRE EU MEMBER STATES TO SET UP INDEPENDENT CONTENT MODERATION DISPUTE SETTLEMENT MECHANISMS.

Beyond the notice-and-action system, people should be able to have easy access to justice in the form of independent tribunals that settle content moderation disputes between users and platforms. These mechanisms must be financially sustained through an independent EU fund to which dominant platform providers should be required to contribute.

### 6. ENSURE THAT THE TERMS OF SERVICE OF ONLINE PLATFORMS ARE TRANSPARENT AND UNDERSTANDABLE FOR USERS AND FAIR IN THEIR APPLICATION.

All content moderation decisions, rules and sanctions should be clear, specific, and predictable for users. Sanctions imposed on users for violating any terms of service should be proportionate and weighed up against user rights.

### 7. ESTABLISH A STRONG AND INDEPENDENT EUROPEAN REGULATOR THAT OVERSEES AND ENFORCES COMPLIANCE WITH THE DSA.

The regulator should be equipped with sufficient resources to fulfill its mission and have proven experience in the field of internet regulation, the platform economy and fundamental rights. It should have the power to issue dissuasive fines in cases of non-compliance.