European Commission - Press release





Commission opens formal proceedings against Facebook and Instagram under the Digital Services Act

Brussels, 30 April 2024

Today, the European Commission has opened formal proceedings to assess whether Meta, the provider of Facebook and Instagram, may have breached the <u>Digital Services Act (DSA)</u>.

Commission President Ursula **von der Leyen** said: "This Commission has created means to protect European citizens from targeted disinformation and manipulation by third countries. If we suspect a violation of the rules, we act. This is true at all times, but especially in times of democratic elections. Big digital platforms must live up to their obligations to put enough resources into this and today's decision shows that we are serious about compliance. Protecting our democracies is a common fight with our Member States. Today in Prague I want to thank Prime Minister Fiala for his active role in raising the issue at European level, along with the triggering by Belgium of the emergency mechanism for exchange of information between Member States."

The suspected infringements cover Meta's policies and practices relating to deceptive advertising and political content on its services. They also concern the non-availability of an effective third-party real-time civic discourse and election-monitoring tool ahead of the elections to the European Parliament, against the background of Meta's deprecation of its real-time public insights tool CrowdTangle without an adequate replacement.

Further, the Commission suspects that the mechanism for flagging illegal content on the services ("Notice-and-Action") as well as the user redress and internal complaint-mechanisms are not compliant with the requirements of the Digital Services Act and that there are shortcomings in Meta's provision of access to publicly available data to researchers. The opening of proceedings is based on a preliminary analysis of the risk assessment report sent by Meta in September 2023, Meta's replies to the Commission's formal Requests for Information (on illegal content and disinformation, data access, subscription for no-ads policy and generative AI), publicly available reports and the Commission's own analysis.

The current proceedings will focus on the following areas:

- **Deceptive advertisements and disinformation**. The Commission suspects that Meta does not comply with DSA obligations related to addressing the dissemination of deceptive advertisements, disinformation campaigns and coordinated inauthentic behaviour in the EU. The proliferation of such content may present a risk to civic discourse, electoral processes and fundamental rights, as well as consumer protection.
- **Visibility of political content**. The Commission suspects that Meta's policy linked to the 'political content approach', that demotes political content in the recommender systems of Instagram and Facebook, including their feeds, is not compliant with DSA obligations. The investigation will focus on the compatibility of this policy with the transparency and user redress obligations, as well as the requirements to assess and mitigate risks to civic discourse and electoral processes.
- The non-availability of an effective third-party real-time civic discourse and election-monitoring tool ahead of the upcoming elections to the European Parliament and other elections in various Member States. Meta is in the process of deprecating "CrowdTangle", a public insights tool that enables real-time election-monitoring by researchers, journalists and civil society, including through live visual dashboards, without an adequate replacement. However, as reflected in the Commission's recent Guidelines for providers of Very Large Online Platforms on systemic risks for electoral processes, in times of elections, access to such tools should instead be expanded. The Commission therefore suspects that, taking into account Meta's deprecation and planned discontinuation of CrowdTangle, Meta has failed to diligently assess and adequately mitigate risks related to Facebook's and Instagram's effects on civic discourse and electoral processes and other systemic risks. Given the reach of Meta's platforms in the EU (accounting for over 250 million monthly active users), and in the wake of the European elections that will take place on 6-9

June 2024 and a series of other elections to take place in various Member States, such deprecation could result in damage to civic discourse and electoral processes in relation to the mis- and disinformation tracking capabilities, identification of voter interference and suppression, and the overall real-time transparency provided to fact-checkers, journalists and other relevant electoral stakeholders. The Commission reserves its assessment of the nature and imminence of the damage and expects that Meta will cooperate with the Commission by submitting without delay the necessary information to perform such an assessment. The Commission also expects that Meta will take swiftly all the necessary action to ensure effective real-time public scrutiny of its service by providing adequate access to researchers, journalists and election officials to real-time monitoring tools of content hosted on its services. Meta is also asked by request for information to communicate within 5 working days which remedial actions have been taken to this effect. The Commission has reserved the right to take measures in case those actions are deemed insufficient.

• The mechanism to flag illegal content. The Commission suspects that Meta's notice and action mechanism, that allows users to notify the presence of illegal content on its services, is not compliant with DSA obligations. This includes the suspicion that the requirements, by which this mechanism must be easy to access and user-friendly, are not met. At the same time, the Commission suspects that Meta has not put in place an effective internal complaint-handling system to lodge complaints against content moderation decisions taken.

If proven, these failures would constitute infringements of Articles 14(1), 16(1), 16(5), 16(6), 17(1), 20(1), 20(3), 24(5), 25(1), 34(1), 34(2), 35(1) and 40(12) of the DSA. The Commission will now carry out an in-depth investigation as a matter of priority. The opening of formal proceedings does not prejudge its outcome.

The current opening of proceedings is without prejudice to any other proceeding that the Commission may decide to initiate on any other conduct that may constitute an infringement under the DSA.

Next Steps

After the formal opening of proceedings, the Commission will continue to gather evidence, for example by sending additional requests for information, conducting interviews or inspections.

The opening of formal proceedings empowers the Commission to take further enforcement steps, such as interim measures, and non-compliance decisions. The Commission is also empowered to accept commitments made by Meta to remedy the issues raised in the proceedings. The DSA does not set any legal deadline for bringing formal proceedings to an end. The duration of an in-depth investigation depends on several factors, including the complexity of the case, the extent to which the company concerned cooperates with the Commission and the exercise of the rights of defence.

The opening of formal proceedings relieves Digital Services Coordinators, or any other competent authority of EU Member States, of their powers to supervise and enforce the DSA in relation to the suspected infringements of Articles 14(1), 16(1), 16(5), 16(6), 17(1), 20(1), 20(3), 24(5), 25(1) and 40(12).

Background

Facebook and Instagram were <u>designated as Very Large Online Platforms</u> (VLOPs) on 25 April 2023 under the EU's Digital Services Act, as they both have more than 45 million monthly active users in the EU. As VLOPs, four months from their designation, i.e. at the end of August 2023, Facebook and Instagram had to start complying with a series of obligations set out in the DSA.

Since 17 February, the Digital Services Act applies to all online intermediaries in the EU.

For More Information

EU Official Journal text on the DSA

Very large online platforms and search engines under the DSA

DSA general entry into application

The enforcement framework under the Digital Services Act

<u>Digital Services Act - Questions and Answers</u>

IP/24/2373

"This Commission has created means to protect European citizens from targeted disinformation and manipulation by third countries. If we suspect a violation of the rules, we act. This is true at all times, but especially in times of democratic elections. Big digital platforms must live up to their obligations to put enough resources into this and today's decision shows that we are serious about compliance. Protecting our democracies is a common fight with our Member States. Today in Prague I want to thank Prime Minister Fiala for his active role in raising the issue at European level, along with the triggering by Belgium of the emergency mechanism for exchange of information between Member States."

Ursula von der Leyen, President of the European Commission - 30/04/2024

"If we cannot be sure that we can trust content that we see online there's a risk that we end up not believing anything at all. Deceptive advertising is a risk to our online debate and ultimately to our rights as both consumers and citizens. We suspect that Meta's moderation is insufficient, that it lacks transparency of advertisements and content moderation procedures. So today, we have opened proceedings against Meta to assess their compliance with the Digital Services Act."

Margrethe Vestager, Executive Vice-President for a Europe Fit for the Digital Age - 30/04/2024

"The fast and wide-spread dissemination of opinions and information on social media like Instagram and Facebook provides great opportunities. But online platforms are also vulnerable to the spread of disinformation and foreign interference, in particular in the run-up to elections. We are launching formal infringement proceedings against Meta because we suspect them to be in breach of DSA obligations regarding deceptive advertising and political content, and to fail to provide researchers, journalists and election stakeholders with real-time monitoring tools and effective mechanisms to flag illegal content."

Thierry Breton, Commissioner for Internal Market - 30/04/2024

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