THE IMPACT OF VERY LARGE ONLINE PLATFORMS ON FUNDAMENTAL RIGHTS

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ABSTRACT

Since the early 2010s, online platforms have generated most internet traffic, embedding themselves in daily life while shaping political, cultural, and economic processes. Yet profit-driven platforms, powered by opaque algorithms and advertiser-oriented business models, pose serious challenges to the protection of fundamental rights—especially freedom of expression, access to information, and privacy.

This paper analyses the impact of Very Large Online Platforms (VLOPs) on fundamental rights and examines the European Union's regulatory responses, with particular emphasis on the Digital Services Act (DSA) and proceedings under Article 66 before the European Commission. The study draws on EU legislation, public documentation of ongoing cases, and selected international and Hungarian scholarship.

Focusing on the relationship between VLOPs and freedom of expression under Article 11 of the Charter of Fundamental Rights of the European Union, the paper argues that the DSA establishes an ex ante framework for rights protection. However, in the absence of developed case law, the effectiveness of this regime remains uncertain.

KEYWORDS

VLOP, DSA, Fundamental rights, Freedom of expression.

ARTICLE HISTORY

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I. Introduction

Since the early 2010s, the overwhelming share of internet traffic has been generated by online platforms. By now it has become almost a truism that these technological innovations—simultaneously simplifying and paradoxically complicating various aspects of our lives—permeate the everyday existence of the average individual and constitute an integral part of political, cultural, and economic processes alike. The functioning of profit-oriented platforms, driven by encrypted algorithms and primarily serving advertisers, often raises serious ethical concerns and poses significant challenges to the effective enforcement of human rights. Particularly exposed in this regard are the freedoms of expression and access to information, as well as the right to privacy.

The purpose of this study is to offer a concise, though not exhaustive, examination of the operation of Very Large Online Platforms (VLOPs), whose activities risk undermining fundamental rights, and of the EU regulatory responses intended to mitigate such risks—most notably the relevant provisions of the Digital Services Act (DSA). Special attention is devoted to ongoing procedures before the European Commission under Article 66 DSA, which directly relate to the subject of this paper.

The analysis proceeds by first identifying the economic, social, and human rights-related challenges posed by online platforms, before outlining the pertinent articles of the DSA that respond to—or, in certain respects, fail to address—these issues. Within the necessarily limited scope of this paper, the focus is placed on the interplay between VLOPs and the right to freedom of expression enshrined in Article 11 of the Charter of Fundamental Rights of the European Union, together with the derivative freedom to receive information. Other highly relevant domains, such as competition law aspects addressed by the Digital Markets Act (DMA), the regulation of widely used search engines, and further fundamental rights beyond those expressly highlighted, remain outside the purview of this study.

The research draws on EU legislation—particularly the DSA—on publicly available documentation of the ongoing proceedings before the European Commission, and on a selective review of relevant foreign and Hungarian academic literature. Given that no substantial body of case law has yet developed—either before the Court of Justice of the European Union (CJEU) or within national enforcement authorities—since the entry into force of the DSA on 16 November 2022, it would be premature at this stage to draw definitive conclusions regarding the effectiveness of this ex ante fundamental rights protection regime.

II. Conceptual Clarifications

1. The Relevant Regulatory Framework: The DSA

The Digital Services Act (DSA) is a directly applicable EU regulation adopted by the European Commission, binding in all Member States. One of its defining features is the gradual application structure, under which obligations are phased in over time for the service providers concerned. Within this framework, in April 2023 the Commission for the first time designated those providers qualifying as Very Large Online Platforms (VLOPs) or Very Large Online Search Engines (VLOSEs) under the Regulation.[1] This category comprised 17 platforms and 2 search engines, to which the relevant provisions of the DSA became binding as of August 2023. From 17 February 2024, however, the Regulation has extended to all online service providers, thereby ensuring a uniform regulatory framework across the EU's digital space. The choice of a regulation—as opposed to a directive—was motivated by the aim of ensuring harmonised and coherent application of the law without Member State divergences. The DSA's primary objective is the protection of EU citizens' rights in the digital environment. Its preamble sets out guiding principles such as the establishment of a safe, predictable, and reliable online environment, the tackling of illegal content and phenomena posing societal risks, the promotion of innovation, and the effective enforcement of the Charter of Fundamental Rights.[2]

The gradual approach is reflected not only in the temporal sequencing of obligations but also in their proportionality to the size, reach, and market significance of service providers. Larger actors with broader societal impact are subject to stricter requirements, while smaller providers face lighter burdens. This is apparent in the tiered system: the mildest obligations apply to intermediary service providers, whereas the most stringent provisions—set out in Section 5, entitled "*Additional obligations for providers of very large online platforms and of very large online search engines to manage systemic risks*" [3] — apply exclusively to VLOPs and VLOSEs. Among these, of particular significance, though not examined in detail here, are the proactive, preventive (ex ante) obligations of risk assessment[4] and risk mitigation[5]. The former requires VLOPs and VLOSEs to identify, analyse, and evaluate systemic risks stemming from the design, functioning, or use of their services and related systems, at least annually, and in all cases where new functionalities or significant

[1]Digital Services Act: *Commission designates first set of Very Large Online Platforms and Search Engines* https://digital-strategy.ec.europa.eu/en/news/digital-services-act-commission-designates-first-set-very-large-online-platforms-and-search-engines accessed 15 August 2025

[2]Tamás Klein, 'Platform Regulation and the Protection of Fundamental Rights' (2024) 25(2) *Symbolon* 18–20. https://doi.org/10.46522/S.2024.02.1

Regulation (EU) 2022/2065 on a Single Market for Digital Services (Digital Services Act), recital (9)

[3] DSA art 5

[4] DSA art 34

[5] DSA art 35

modifications are introduced.[6] The latter imposes an obligation to implement reasonable, proportionate, and effective measures, which may involve adjustments to operational systems such as content moderation, recommender and advertising systems, and their underlying algorithms; user-awareness initiatives; or enhanced safeguards for children's rights, including parental control tools. [7]

2. Very large online platform

According to Article 33(4) of the DSA, Very Large Online Platforms (VLOPs) and Very Large Online Search Engines (VLOSEs) are defined as platforms "which reach an average of at least 45 million monthly active recipients of the service in the territory of the European Union." [8] From this provision it follows that these online platforms, which exceed the specified threshold of 45 million active recipients of the service, have acquired particular prominence and scale. To understand their role, however, a more detailed examination of the concept of the online platform itself is indispensable. The term "online platform" encompasses a wide range of service types and variations, which differ both in their functionalities and in the ways they are used.[9] "*Websites that connect people with other people or with resources through algorithmically driven data streams, and that have attracted a sufficiently large number of users for their societal impact to be measurable.*"[10]

This category includes platforms of various forms and sizes,[11] such as search engines (Google, Bing), social media networks (Facebook, X), marketplaces (Amazon, eBay, Alibaba), creative content providers (TikTok), app stores, blogs, and many other types of online interfaces. [12]

Despite their diversity of forms and functions, online platforms share several core features: they rely on hardware-based infrastructures; their operation is primarily

[6] Niklas Eder, 'Making systemic risk assessments work: how the DSA creates a virtuous loop to address the societal harms of content moderation' (2023) 25(7) *German Law Journal* 1–22 https://doi.org/10.1017/glj.2024.24

[7] DSA art 35(1)

[8] DSA art 33(1)

[9] Balázs Hohmann, 'A Digital Services Act és a Digital Markets Act termékekre és digitális szolgáltatásokra irányuló fogyasztói jogviszonyokat érintő rendelkezései' (2023) 12(2) In Medias Res 70. https://doi.org/10.59851/imr.12.2.4

[10] Zsolt Ződi, *Platformok, robotok és a jog* (Gondolat Kiadó 2018) 103.

[11] European Commission, 'Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Online Platforms and the Digital Single Market Opportunities and Challenges for Europe' COM (2016) 288 final, para 2

[12] OECD, *What is an "online platform"? An Introduction to Online Platforms and Their Role in the Digital Transformation* (OECD Publishing 2019) https://doi.org/10.1787/19e6a0f0-en

Patrik Zsolt Joó, 'Korkép az Online Óriásplatformok és Keresőprogramok problematikájáról' [Diagnostic Perspective on the Challenges Associated with Very Large Online Platforms and Search Engines] (2024) 5(3) Közigazgatási és Infokommunikációs Jogi PhD Tanulmányok 33–43 https://doi.org/10.47272/KIKPhD.2024.3.3

fuelled by the vast amounts of user-generated data;[13] their ownership structures are formalised according to business models; and their governance is mediated through user agreements.[14] The processes and services unfolding on a given platform are driven by code and algorithms within its operational scope—for instance, those generating Facebook's news feed, powering product recommendations in online marketplaces, or matching supply and demand.[15]

II. The Emergence and Societal Impact of Very Large Online Platforms

1. A "Springboard"

The Big Tech "titans" that fall within the VLOP–VLOSE category—Google (Alphabet), Apple, Facebook (Meta), Amazon, and Microsoft—owe much of their rise to the aftermath of the dot-com bubble of the early 2000s. Among generally informed users, it has become commonplace to assume that the dominance of these companies stems from their efficiency, technological advantage, and competence. This is true only in part. Market success is not necessarily secured by those who offer the better technology or product, but rather by those who can mobilise greater financial resources and effectively advance their interests with political decision-makers. Research by Jonathan Tepper has demonstrated that companies investing the most in lobbying activities have in certain years outperformed the S&P 500 index by as much as five percentage points annually.[16] A portion of the profits derived from the business advantages gained through lobbying is reinvested by these companies into the very same activity, thereby sustaining a self-reinforcing cycle that significantly restricts the room for manoeuvre of new or smaller market entrants.[17] The initial prime driver of their growth was often financing provided by venture capital firms. Once a critical mass had been reached, however, these companies became characterised by market-distorting and frequently unethical practices such as aggressive pricing, systematic elimination of competitors, and large-scale acquisitions. A telling example is that Alphabet has acquired 258 companies, Meta Platforms 100, and Amazon 114 to date. [18]

2. Reign

"*One of the defining characteristics of global neo-capitalism is that geopolitics, geo-economic relations, and especially their transformations exert a significant impact on the internal power*

[13] José van Dijck, Thomas Poell and Martijn de Waal, *The Platform Society: Public Values in a Connective World* (Oxford University Press 2018) 9 https://doi.org/10.1093/oso/9780190889760.001.0001
[14] Ibid.
[15] Ződi (n 10) 63
[16] Jonathan Tepper and Denise Hearn, *The Myth of Capitalism: Monopolies and the Death of Competition* (Wiley 2018) 189
[17] Joó (n 12) 39
[18] European Commission, *'List of acquisitions' https://digital-markets-act-cases.ec.europa.eu/acquisitions accessed 15 August 2025*

structures and social relations of individual nation-states."[19] This is particularly true for "digital capitalism," where the development of Big Data, algorithms, and cloud computing has enabled platform owners and their corporations—referred to in the terminology of the Digital Markets Act (DMA), [20] as "gatekeepers"—to wield unavoidable economic and political influence. [21]

According to Article 3 of the DMA, gatekeepers are „*providers of core platform services that act as an important gateway for business users to reach end users. This position enables them to leverage their competitive advantages—such as extensive access to data—across multiple areas of activity.*"[22] In the words of János Papp, they have become the "*governors of the online world*".[23]

2.1. Oligopolies

"*The majority of founders and CEOs (chief executive officers, i.e. the highest-ranking operational executives of companies) of corporations such as Amazon, Etsy, Google, or Salesforce openly espouse libertarian views. They reject taxation, which they often characterise as 'confiscatory' in nature, frequently transfer their wealth to offshore jurisdictions, and exhibit little faith either in politics or in democracy itself*"[24] "*Contemporary capitalism is characterised by oligopolies and by a state captured by the oligarchs who own them*".[25] This phenomenon is particularly visible in the United States, the world's leading economic and military power, where in many industries only one or two corporations exercise decisive influence. For instance, the soft drinks market is dominated by Coca-Cola and PepsiCo; in parcel delivery services, UPS and FedEx operate as virtually exclusive providers; and a similar level of concentration can be observed in the credit card market, where Visa and Mastercard constitute almost the sole alternatives.[26] The financial background underpinning the real economy is similarly concentrated.[27] Evidence of this is that roughly 80% of the shares of companies listed on the S&P 500 index are owned by five major institutional investors: BlackRock, Vanguard, State Street, Fidelity, and

[19] Erzsébet Szalai, *Lélek és Profitráta [Soul and Profit Rate]* (Napvilág Kiadó 2022) 72

[20] Regulation (EU) 2022/1925 of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act)

[21]Digital Markets Act: *Commission designates six gatekeepers* https://ec.europa.eu/commission/presscorner/detail/en/ip_23_4328 accessed 15 August 2025

[22] DMA para (3)

[23] János Tamás Papp, *A közösségi média platformok szabályozása a demokratikus nyilvánosság védelmében* [Regulation of social media platforms to protect the democratic public](PhD thesis, Pázmány Péter Catholic University 2021) 17

[24] Eduart Pignot, 'Who is pulling the strings in the platform economy? Accounting for the dark and unexpected sides of algorithmic control' (2023) 30 Organization 140–167. https://doi.org/10.1177/1350508420974523

[25] Zoltán Pogátsa, *A Globális elit* [The Global Elite](Kossuth Kiadó 2022) 39

[26] Pogátsa (n 25) 36

[27] Ibid. 37

JP Morgan.[28] The digital era has not brought any substantial shift towards a more balanced distribution of market power either. Global technological dominance is currently characterised by a bipolar structure: on the one hand, the so-called GAFAM corporations (Google, Amazon, Facebook, Apple, Microsoft) in the United States; and on the other, the Chinese technology giants such as Tencent, Alibaba, Baidu, and JD.com.[29] At present, the United States enjoys a significant advantage in this competition, as demonstrated by the fact that four of the world's most popular social media platforms—Facebook, Instagram, WhatsApp, and Messenger—are all owned by the American company Meta.[30] These are complemented by YouTube (owned by Google) and TikTok, the latter being the only platform under Chinese ownership. [31] The situation is further aggravated by the fact that for these corporations *"tax avoidance is not a marginal manoeuvre, but a mainstream practice."*[32] During the 2020 pandemic, when the overwhelming majority of consumers were forced into the online sphere, Amazon achieved its best financial results to date, while its CEO, Jeff Bezos, temporarily regained the position of the world's richest individual. This occurred despite the company reporting no profit—since it is officially incorporated in Ireland—and therefore incurring no corporate tax liability. According to estimates by the Tax Justice Network in 2020, large corporations and their owners avoid approximately USD 427 billion in taxes annually through tax havens and offshore structures. These practices contribute, at least in part, to *"higher prices, fewer start-up businesses, lower productivity and wages, greater income inequality, reduced investment, and the decline of small towns".* [33]

3. The Other Side of the Equation

Among the definitions set out in Article 3 of the DSA, the concept of the consumer is defined as follows: a consumer is *"any natural person who is acting for purposes which are outside his or her trade, business, craft or profession."* [34] This represents a narrow interpretation of the notion of the consumer, [35] which does not extend to entrepreneurs or companies. It should be noted that determining the scope of application of a given legal instrument is of fundamental importance, particularly in the case of complex and novel regulatory frameworks such as the DSA and the

[28] Tepper & Hearn (n 16) 202
[29] Ződi (n 10) 20
[30] Ankit Vora, '*The 20 Most Popular Social Media Platforms*' https://backlinko.com/social-media-platforms accessed 15 August 2025
[31] Joó (n 12) 37-39
[32] Pogátsa (n 25) 31
[33] Tepper & Hearn (n 16) 37
[34] DSA art 3 c)
[35] Thomas Lovolsi, 'Scope of the e-Commerce Directive 2000/31/EC of June 8, 2000' (2001) 7(3) *Columbia Journal of European Law* 473
Pierre Bourdieu, 'The Force of Law: Toward a Sociology of the Juridical Field' (1987) 38(5) *Hastings Law Journal* 814–818

DMA. This has significant implications for consumer protection, as one of its core principles is that consumers are entitled to heightened protection. The rationale is that in certain legal relationships—whether due to the nature of the service, the actual balance of power between the contracting parties, or the particular vulnerability of the consumer—the principle of equality between private parties is distorted.[36] In such an unequal relationship, the business frequently enjoys a significantly more advantageous position in asserting its interests and may unilaterally shape the legal relationship, disregarding the legitimate interests and expectations of the other party—the consumer. This problem is particularly acute in the context of digital platform services, where the operator—especially so-called gatekeepers falling within the scope of the DMA—occupies a dominant market position that enables it to determine the framework of the service without meaningful influence from either consumers or competitors. In this environment, consumers often become aware of the unfavourable nature of the terms of service only once they have already suffered disadvantages—for instance, when their rights are infringed or they incur harm as a result of the application of such terms.[37] Consider, for example, the phenomenon that more than half of the global population is compelled to use digital platforms that appear unavoidable and are deliberately structured to foster dependency. In this unequal relationship, the position of private corporations is particularly advantageous. The vulnerability of users also stems from the fact that the general terms and conditions—which define the framework of accessing the service—are often extremely lengthy and require specialised legal knowledge. As a consequence, the majority of users either do not read them, or, even if they do, they are unable to exert any meaningful influence over their content. This problem is further exacerbated by the fact that user activities on platforms—such as clicks, searches, or time spent on a page—are processed into profiles by complex and often encrypted algorithms whose operation requires a high level of technical expertise to comprehend. From the perspective of the user, therefore, the decision-making processes based on their data occur within a *"black box"*—that is, it is not clear to them why certain content appears on their screen or why other content disappears. Such opacity further deepens the asymmetry between service providers and users.[38] It must not be overlooked that Google and Facebook are fundamentally profit-oriented private corporations, operating according to their own internal rules, and deriving the overwhelming majority of their revenue from

[36] Daniel R Fischel and Stanford J Grossmann, 'Customer Protection in Futures and Securities Markets' (1984) 4(3*) Journal of Futures Markets* 273–275. https://doi.org/10.1002/fut.3990040303
Nikolett Zoványi, 'A fogyasztóvédelem történeti fejlődése és szabályozási elvei' [Historical development and regulatory principles of consumer protection] (2011) 3 *Debreceni Jogi Műhely* 71–78 https://doi.org/10.24169/DJM/2011/3/6
[37] See DSA és DMA recital (1)–(2)
Hohmann (n 9) 5
[38] Joó (n 12) 33-43

the sale of advertising.[39] At the core of their business model is not the quality of content, but rather ensuring that users spend as much time as possible on the platform and generate as many interactions (e.g. clicks) as possible. These data traces of user behaviour constitute an extremely valuable source of information for the algorithms, which process them to build precise profiles of us, thereby enabling even more targeted advertising. In essence, through the extraction of data from our activities, these companies accumulate ever deeper knowledge of our personal preferences, behavioural patterns, and the probability of our future decisions—serving the interests of advertisers and market actors, rather than our own.[40] As early as 2018, Shoshana Zuboff warned that the classical saying—*"if a service is free, then you are the product"*—no longer fully captures the reality of the digital age. In her view, users have by now ceased to be merely *"products"*; rather, they have become carriers of raw data, from which technology companies extract the essential resource—namely, personal information. These data are then processed by predictive algorithms in order to forecast how we are likely to behave, and it is this prediction that is subsequently sold.[41] Thus, the *"real product"* is no longer the user, but the predictive model built about them, which anticipates their future decisions and reactions.

III. Endangering and Protecting Fundamental Rights

1. The Fundamental Rights Protection Policy of the European Union

In the philosophy and *policy* of the European Union, the protection of fundamental rights is not merely a principle but constitutes the very foundation of the Union's functioning and identity.[42] The EU's objective is to establish a space built upon the pillars of human dignity, freedom, equality, democracy, and the rule of law, where the enforcement of fundamental rights forms an inherent component of every Union policy.[43] The primacy accorded to fundamental rights is evident in the TFEU, the TEU, and the Charter of Fundamental Rights of the European Union.

[39] Nick Srnicek, *Platform Capitalism* (Polity Press 2017) 61

[40] Shoshana Zuboff, *The Age of Surveillance Capitalism: The Fight for a Human Future at the New Frontier of Power* (Public Affairs 2019) 16. https://doi.org/10.1177/0049085719872928

[41] Szabolcs Diósi and Tamás Barcsi, 'The Legacy of Disciplinary Society – How Relevant is Foucault's Theory Today?' (2021) 16(1) *Évkönyv – Újvidéki Egyetem Magyar Tannyelvű Tanítóképző Folyóirata* 11–33. https://doi.org/10.18485/uns_evkonyv.2021.1

[42] Tobias Lock, 'Rights and Principles in the EU Charter of Fundamental Rights' (2019) 56(5) *Common Market Law Review* https://doi.org/10.54648/COLA2019100

[43] Divin de Buffalo Irakiza, 'The Charter of Fundamental Rights, the Aims of EU Competition Law and Data Protection: Time to Level the Playing Field' (2021) *Singapore Journal of Legal Studies* 39–55

The latter provides the primary reference point for the human rights dimension of the DSA.[44] Article 34 of the DSA enumerates acts of systemic risk of particular significance, together with their actual and potential negative impacts. Providers' risk assessments must cover, inter alia, the dissemination of illegal content through their services, the actual or foreseeable negative effects on civic discourse, democratic electoral processes, and public security, as well as serious adverse consequences for physical and mental well-being.[45]

In addition, systemic risks also encompass, as expressly highlighted in Article 34(b) DSA, the potential impairment of fundamental rights enshrined in the Charter: *"the actual or foreseeable negative effects on the exercise of fundamental rights, with particular regard to the fundamental right to human dignity, as enshrined in Article 1 of the Charter; the fundamental right to respect for private and family life, as enshrined in Article 7 of the Charter; the fundamental right to the protection of personal data, as enshrined in Article 8 of the Charter; the fundamental right to freedom of expression and of information, as enshrined in Article 11 of the Charter—including the freedom and pluralism of the media; the fundamental right to non-discrimination, as enshrined in Article 21 of the Charter; the fundamental right to the protection of the rights of the child, as enshrined in Article 24 of the Charter; and the fundamental right to a high level of consumer protection, as enshrined in Article 38 of the Charter."*[46]

Among these, the freedom of expression and information, as a fundamental right, will be the focus of the subsequent analysis.

2. Freedom of Expression

Freedom of expression, as a *mother right*, is enshrined in Article 11 of the Charter of Fundamental Rights of the European Union, under Title II on Freedoms:
(1) *"Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers."*
(2) *"The freedom and pluralism of the media shall be respected".*[47]
This fundamental right guarantees access to, collection, creation, dissemination, and sharing of information of public interest. Its core function lies in enabling the scrutiny of public power, the transparency of public institutions,[48] and the public

[44] Tamás Klein, 'A DSA alapjogvédelmi mechanizmusa, mint alkotmányjogi nóvum' in András Koltay, Tamás Szikora and András Lapsánszky (eds), *A vadnyugat vége? Tanulmányok az Európai Unió platformszabályozásáról* (ORAC 2024) 275. https://doi.org/10.59851/9789632586328_13
[45] DSA art 34 a)-d)
[46] DSA art 34. b)
[47] Charter of Fundamental Rights of the European Union [2016] OJ C202/2)
[48] Balázs Hohmann, 'The Interpretation of Transparency from the Legal Point of View' in Tamás Haffner (ed), *IV. Fiatalok Európában Konferencia – Tanulmánykötet* [IV Youth in Europe Conference - Proceedings](Sopianae Kulturális Egyesület 2018) 155–158.

confrontation of opinions, thereby ensuring that individuals can form well-founded views, remain adequately informed, and participate in democratic processes.[49] Essential to this is the possibility of diverse and multifaceted approaches to any issue,[50] as well as the cultivation and preservation of a culture of tolerance and constructive debate among individuals of different worldviews, political orientations, and economic interests.[51]

The effective realization of the guarantees contained in Article 11 of the Charter, however, is impeded by several phenomena. The subsequent subsections provide a concise, thought-provoking overview—leaving detailed elaboration to a future study—of three such challenges: entrapment within personalized publicity spheres, the opacity of overwhelming information flows, and the hidden deletion mechanisms employed by online content providers (commonly referred to as *shadowbanning*), with references to the relevant provisions of the DSA.

2.1. „Echo Chambers"

Cass Sunstein warned more than a decade ago about the phenomenon of so-called *"echo chambers"*, which significantly undermine the diversity of public discourse and the very foundations of a constructive culture of debate. In such a structure, users—often without being aware of it—are predominantly exposed to content and individuals who share similar worldviews. The resulting homogeneous informational environment, over time, erodes meaningful dialogue between communities with differing opinions, leading to the fragmentation of the online sphere along ideological and interest-based lines, a process commonly referred to as *"cyber-balkanization"*.[52]

This dynamic deepens ideological divides and increasingly subjects public debate to polarization and targeted propaganda. In response, and in the spirit of promoting greater transparency and accountability in digital services, certain provisions of the DSA seek to mitigate this trend. Article 25 explicitly prohibits the deception and manipulation of users, mandating that digital environments must support free and informed decision-making.[53] Article 38, moreover, obliges platforms to provide at least one recommender system option that does not rely on profiling.[54] This measure may serve as an important step toward exposing users to a plurality of

[49] Mihály Gálik and Gábor Polyák, *Médiaszabályozás* [Media Regulation] (Libri 2005) 58
[50] Charter of Fundamental Rights of the European Union art 11 (2)
[51] Kinga Sorbán, & Koltay András, 'Az új média és a szólásszabadság - A nyilvánosság alkotmányos alapjainak újragondolása' (2019) 8(2) *In Medias Res* 381-384.
[52] Cass Sunstein, *Republic.com 2.0* (Princeton University Press 2009) 11; Cass Sunstein, *#Republic: Divided Democracy in the Age of Social Media* (Princeton University Press 2017)
[53] DSA art 25
[54] DSA art 38

perspectives, thereby reducing the distorting effects of algorithmically amplified opinion bubbles and echo chambers.

2.2. Too Much Noise

According to 2024 data, 62.3% of the world's population uses social media, with an average daily usage of 2 hours and 23 minutes.[55] The ownership of such platforms entails not only enormous social responsibility but also significant difficulties, particularly regarding the issue of under- or over-regulation. This dilemma is often framed as the near-intractable conflict between *free reach* and *free speech*. The problem with under-regulation is that unlawful content can reach mass audiences, while *over-filtering* may result in the removal of lawful yet sensitive or controversial content, thereby tipping the balance of public discourse.[56] As has been asked, *"What is the quality and quantity of news to which users of social media platforms are actually exposed?".* [57]

It is one thing to ensure free access to information, but the average user is not primarily affected by constructive, cultural, or informational content—such as official reports or corporate filings—that would promote a foundation for reasoned debate. Rather, the decisive influence comes from the personalized feeds through which most users encounter political, economic, and ideological content. The *quality* of what appears in these feeds thus acquires a society-shaping significance. Yet, much of the content available on social media is comparable to junk food: watching or reading it is akin to the consumption of chips or other empty-calorie products. As some observers have bluntly put it, *"the overwhelming majority of the internet is garbage",*[58] — or, more politely, *noise* — that pollutes the mind and consciousness of its consumers. If one accepts the hypothesis that all forms of input—food, conversation, as well as the content we read or watch—constitute a kind of "nourishment," then the uncontrolled consumption of unfiltered, stimulus-driven content without awareness or reflection may itself be considered a systemic risk. Indeed, under Article 34(1)(d) DSA, this could reasonably fall within the category of *public health* risks. One of the most persistent and troubling social developments of the past decade in the Western world has been the rise of enduring dissatisfaction, the weakening of social cohesion, alienation, attention disorders, and distorted self-perception. At the same time, there has been a significant increase in stress-related

[55] Dave Chaffey, '*Global Social Media Statistics Research Summary*' https://www.smartinsights.com/social-media-marketing/social-media-strategy/new-global-social-media-research/ accessed 15 August 2025

[56] Heather Tillewein, Keely Mohon-Doyle and Destiny Cox, 'A Critical Discourse Analysis of Sexual Violence Survivors and Censorship on the Social Media Platform TikTok' (2024) *Archives of Sexual Behavior* 1–10. https://doi.org/10.1007/s10508-024-02987-2

[57] Csenge Halász, 'Alapjogok a közösségi médiában, avagy a véleménynyilvánítási szabadság és a tovatűnő magánélet nyomában' [Fundamental rights in social media, or in the wake of freedom of expression and privacy] (2021) 2(1) *Közigazgatástudomány* 6 https://doi.org/10.54200/kt.v1i2.20

[58] Ződi Zsolt, '*Közösségi média és manipuláció*' [Social media and manipulation] https://www.youtube.com/watch?v=grHo5vyc51s&t=963s accessed 15 August 2025

psychological and physical illnesses such as burnout and depression.[59] Although several provisions of the DSA undoubtedly mark progress in the regulation of the digital sphere, the legislation—likely in its attempt to strike a balance between under- and over-regulation—appears to have thus far overlooked the crucial issue of how the *quality* of platform content impacts users' mental health.

2.3. „Shadowbanning"

Restrictions on freedom of expression—even when justified in certain cases, such as in relation to hate speech, the promotion of terrorism, or the protection of minors—raise serious concerns, particularly when digital platform operators can unilaterally filter out opinions that deviate from the *mainstream*. Such censorship may not only occur in overt forms but also through covert mechanisms—such as *shadow banning*—whereby the reach of a user's content is reduced without their knowledge.[60] Prior to the entry into force of Article 17 DSA, for example, Facebook was under no obligation to notify users either in advance or retrospectively about the removal of their content or the suspension of their accounts. As a result, the platform could take decisions not only without justification but also without offering affected users any possibility of redress—even before such measures were enforced. This practice is particularly problematic given that an ever-growing share of both public and private communication takes place in digital spaces, meaning that such interventions may in practice restrict the fundamental right to freedom of expression.[61] The DSA, however, has introduced significant changes in this regard. Under Article 17, hosting providers are required to provide clear and detailed reasoning for any measure—such as the restriction of visibility, removal of content, down-ranking, suspension or termination of accounts, services, or payments—that affects users.[62]. Such reasoning must specify why the relevant content is considered unlawful or in what way it violates the platform's terms of service. Furthermore, Article 20 requires providers to offer easily accessible, free, and electronic complaint-handling and redress mechanisms that do not rely on automated decision-making—a particularly important step forward compared to previous practices.[63] In addition, Article 13 stipulates that providers established outside the

[59] Fazida Karim and others, 'Social Media Use and Its Connection to Mental Health: A Systematic Review' (2020) 12(6) Cureus 3 https://doi.org/10.7759/cureus.8627

[60] Geoffrey A Fowler, '*Shadowbanning is Real: Here's How You End Up Muted by Social Media*' *Washington Post* (27 December 2022) https://www.washingtonpost.com/technology/2022/12/27/shadowban/ accessed 15 August 2025

[61] Halász (n 57) 6

[62] DSA art 17

[63] DSA art 20

EU must appoint legal representatives within the Union, thereby ensuring that users residing in Member States have access to effective and enforceable remedies.[64]

IV. Implementation and Enforcement

1. Proceedings of the European Commission

In the context of ex-ante obligations, the European Commission and the national authorities—particularly the Digital Services Coordinators—play a pivotal role. Ensuring compliance with the rules depends on the effectiveness of supervisory mechanisms over platform providers, as well as on the comprehensiveness of monitoring and assessing safeguards for the protection of fundamental rights.[65] Articles 51 and 56 of the DSA define the allocation of competences in this regard. Pursuant to these provisions, the powers of the Digital Services Coordinators do not extend to the oversight of risk management and crisis response measures of very large online platforms and very large online search engines—these fall exclusively within the supervisory remit of the Commission.[66] The Commission thus occupies a central role in ensuring that these providers fully comply with their obligations under the DSA to carry out prior risk assessments and risk mitigation measures.

Article 66 empowers the Commission to initiate proceedings where there are reasonable grounds to suspect a breach of the rules. Such proceedings may also be triggered by national coordinators if they uncover evidence of a systemic infringement. In the course of these proceedings, the Commission may directly examine the adequacy of providers' risk assessments and, under Article 67, request information concerning, inter alia, algorithms, risk analyses, and internal processes. These data are essential for assessing compliance.[67] Pursuant to Article 69, the Commission is further entitled to carry out on-site inspections, including with the involvement of national coordinators. During such inspections, the Commission may request access to business operations, technical systems, algorithms, and databases, thereby supporting compliance monitoring and the detection of potential infringements.[68]

In urgent cases, Article 70 allows the Commission to adopt interim measures designed to prevent further harm and ensure immediate protection of fundamental rights.[69] Providers may also submit voluntary commitments to achieve compliance,

[64] DSA art 13

[65] Joris van Hoboken, João Pedro Quintais, Natalie Appelman, Ronan Fahy, Ivana Buri and Mathias Straub, *Putting the DSA into Practice: Enforcement, Access to Justice and Global Implications* (Amsterdam Law School Research Paper 2023/13, 17 February 2023) https://doi.org/10.17176/20230208-093135-0

[66] DSA art 51–56

[67] DSA art 67

[68] DSA art 69

[69] DSA art 70

which the Commission may render binding if deemed suitable to guarantee adherence to the rules. Should such commitments not be fulfilled, or if circumstances change, new proceedings may be launched. This mechanism incentivises providers to react proactively to regulatory expectations and to develop their own compliance solutions, thereby strengthening cooperation with the Commission.

Under Article 72, the Commission may continuously monitor the implementation of the Regulation, requesting access to algorithms and databases, and relying on external experts where necessary. If a provider persistently breaches its obligations,[70] Article 75 provides for enhanced supervision, under which the Commission exercises approval powers over remedial action plans and closely monitors their implementation.[71] Article 73 enables the Commission to formally determine that a provider has violated its obligations, thereby obliging it to take further compliance steps.[72] Where such steps are not taken, Article 74 permits the imposition of fines of up to 6% of the provider's annual global turnover.[73] Moreover, Article 76 equips the Commission with an additional tool in the form of daily penalty payments, particularly where providers fail to meet their risk assessment and mitigation obligations.[74]

Beyond these supervisory mechanisms under the DSA, nothing in principle prevents affected individuals from pursuing independent judicial remedies in cases involving fundamental rights violations.[75] In such proceedings, they may invoke that the provider was subject to ex ante fundamental rights protection obligations under the DSA framework.

2. Cases Pending under Article 66 DSA

From August 2023 onward, providers classified as Very Large Online Platforms (VLOPs) and Very Large Online Search Engines (VLOSEs) have been required to fully comply with relevant DSA obligations. Since then, the European Commission has exercised its right under *Article 67* to request information from multiple platform providers—cases that have almost invariably involved their **ex-ante risk obligations**. Moreover, the Commission has initiated formal proceedings under *Article 66*. According to the Commission's publicly available communications and press releases, four particularly relevant cases—initiated after the DSA took effect—stand out:

[70] DSA art 72
[71] DSA art 75
[72] DSA art 73
[73] DSA art 74
[74] DSA art 76
[75] Fruzsina Gárdos-Orosz and Renáta Bedő, 'Az alapvető jogok érvényesítése a magánjogi jogviták során' (2018) 2 *Alkotmánybírósági Szemle* 3–10
Klein (n 2) 270.

2.1 X

On 13 October 2023, the European Commission submitted a request for information to the platform X (formerly Twitter), as suspicions arose that it might have played a role in the dissemination of illegal content—particularly material containing terrorism, violence, and hate speech—as well as disinformation.[76] Subsequently, on 18 December 2023, the Commission initiated proceedings under Article 66 of the DSA in connection with the unlawful content disseminated on X following Hamas' terrorist attacks against Israel. The proceedings focused on X's risk assessment and risk mitigation practices, as well as on the functioning of the Union's notice-and-action mechanisms regarding illegal content. The investigation also examined the extent and nature of the resources the platform devotes to content moderation. On 8 May 2024, the Commission issued a further request for information, seeking additional details concerning X's moderation activities, its capacities, as well as the Union-level risk assessment related to the use of generative artificial intelligence,[77] and other issues connected to the proceedings.

Finally, in July 2024, the Commission published its preliminary assessment, according to which X had violated the provisions of the DSA in several respects, including the prohibition of dark patterns, the transparency of advertising, and researchers' access to data. Although the preliminary investigation did not establish a violation of fundamental rights, the Commission considered that the ex ante obligations—particularly the measures aimed at identifying and mitigating risks—did not comply with the requirements of the DSA in the areas under review.

2.2 TikTok

On 19 October 2023, the European Commission submitted a formal request for information to the provider of TikTok, in light of suspicions that the platform was being used for the dissemination of illegal content and disinformation. The request particularly concerned content of a terrorist or violent nature, as well as material qualifying as hate speech.[78] Following this request, on 19 February 2024, the Commission initiated proceedings pursuant to Article 66 of the DSA.

[76] European Commission, *'Commission sends request for information to X under the Digital Services Act'* https://ec.europa.eu/commission/presscorner/detail/hu/ip_23_4953 accessed 15 August 2025

[77] Balázs Hohmann, 'A mesterséges intelligencia közigazgatási hatósági eljárásban való alkalmazhatósága a tisztességes eljáráshoz való jog tükrében [The Applicability of Artificial Intelligence in Administrative Authority Proceedings in Light of the Right to a Fair Trial]' in Bernát Török and Zsolt Ződi (eds), A mesterséges intelligencia szabályozási kihívásai: Tanulmányok a mesterséges intelligencia és a jog határterületeiről [Regulatory Challenges of Artificial Intelligence: Studies on the Borderlands of AI and Law] (Ludovika Egyetemi Kiadó 2021) 403.

[78] European Commission, *'Commission sends request for information to TikTok under the Digital Services Act'* https://digital-strategy.ec.europa.eu/en/news/commission-sends-request-information-tiktok-under-digital-services-act accessed 15 August 2025

The proceedings focused on several key areas. First, the protection of minors was of particular importance in the case of TikTok, given that a significant proportion of its user base consists of underage individuals. In addition, the Commission is examining compliance with the requirements on advertising transparency, as well as the extent to which the platform ensures researchers' access to data—an essential condition for monitoring and scientifically analysing the societal impact of the service.

Further issues under investigation include the addictive, attention-optimised design features of the platform, and the related identification and adequate mitigation of risks posed by harmful content. The Commission is assessing to what extent TikTok complies with its ex ante obligations under the DSA in these respects, with particular regard to the functioning of its risk assessment and risk mitigation mechanisms.[79]

2.3. Meta és Snapchat

On 10 November 2023, the European Commission submitted a request for information to Meta and Snapchat, seeking clarification on the risk assessment procedures and risk mitigation measures they apply to protect underage users, who are particularly vulnerable in the online environment. The request focused primarily on risks to mental and physical health, especially those arising from the use of these platforms by minors. The Commission examined the extent to which the providers—particularly Meta—comply with their ex ante obligations under the Digital Services Act (DSA).

A key consideration was the assessment of whether the business models, operational mechanisms, and content recommender systems of these platforms contribute to the emergence of risks, and what protective measures have been implemented to safeguard young users.[80] Following this request, on 10 May 2024, the Commission formally initiated proceedings under Article 66 of the DSA against Meta. The proceedings centre on the company's measures targeting, or indirectly affecting, minors, as well as its business model, which, according to the Commission's preliminary findings, may have a potentially negative impact on the well-being of young users. [81]

[79] European Commission, '*Commission opens formal proceedings against TikTok under the Digital Services Act*' https://digital-strategy.ec.europa.eu/en/news/commission-opens-formal-proceedings-against-tiktok-under-digital-services-act accessed 15 August 2025

[80] European Commission, '*Commission sends request for information to Meta and Snap under the Digital Services Act*' https://digital-strategy.ec.europa.eu/en/news/commission-sends-requests-information-meta-and-snap-under-digital-services-act accessed 15 August 2025

[81] European Commission, '*Commission opens formal proceedings against Meta under the Digital Services Act related to the protection of minors on Facebook and Instagram*' https://digital-strategy.ec.europa.eu/en/news/commission-opens-formal-proceedings-against-meta-under-digital-services-act-related-protection accessed 15 August 2025

2.4 TikTok, Snapchat, Youtube

On 2 October 2024, the European Commission submitted a request for information to TikTok, Snapchat, and YouTube concerning the design and functioning of their recommender systems. The request covered, inter alia, the impact of such systems on users' mental health and the measures implemented to curb the dissemination of harmful content.[82] Subsequently, on 29 November 2024, the Commission issued a further request for information to TikTok, inquiring into the platform's handling of risks related to the manipulation of user-generated content. This follow-up request focused in particular on the detection of systemic abuses, risks stemming from recommender systems, and structural threats to electoral processes.[83]

V. Conclusion

In addition to distorting free economic competition in the online sphere, the dominant platforms pose significant risks to consumer vulnerability and mental health, as well as to the fundamental rights underpinning the entire European Union. In partial response to these challenges, the DSA introduced, among its most important innovations, two new categories of platforms subject to enhanced obligations: the Very Large Online Platform (VLOP) and the Very Large Online Search Engine (VLOSE).[84] Moreover, one of the key advantages of the ex ante regulatory mechanisms introduced by the DSA—such as risk assessment and risk mitigation—is that they aim to address problems proactively, before they materialize. This is particularly important in the online environment, where the speed and scale of the dissemination of infringements far exceed those of traditional offline problems. Providers of very large online platforms and very large online search engines, as designated by the European Commission on the basis of their size and popularity, are obliged to conduct regular risk assessments in order to identify systemic risks to fundamental rights. They are further required to review such assessments periodically, including whenever they intend to introduce a new feature or service element that could significantly affect such risks on the European market.

[82] European Commission, '*Commission sends requests for information to YouTube, Snapchat, and TikTok on recommender systems under the Digital Services Act*' https://digital-strategy.ec.europa.eu/en/news/commission-sends-requests-information-youtube-snapchat-and-tiktok-recommender-systems-under-digital accessed 15 August 2025

[83] European Commission, '*Commission sends additional request for information to TikTok under the Digital Services Act*' https://digital-strategy.ec.europa.eu/en/news/commission-sends-additional-request-information-tiktok-under-digital-services-act accessed 15 August 2025

[84] Kelemen Bence Kis and others, 'Is There Anything New Under the Sun? A Glance at the Digital Services Act and the Digital Markets Act from the Perspective of Digitalisation in the EU' (2023) 19(1) *Croatian Yearbook of European Law and Policy* 225–248 https://doi.org/10.3935/cyelp.19.2023.542

The Regulation also provides a partial solution to profiling—though it remains to be seen to what extent users will exercise these rights—and renders previously inaccessible overseas tech giants more accountable to the European legal framework. At the same time, through consistent and predictable enforcement, the European Commission can incentivize providers to comply voluntarily with the Regulation, even in the absence of direct supervisory measures. This is due to the credible prospect that non-compliance may result in formal requests for information and, ultimately, proceedings under Article 66 DSA.

In the long term, this process may ensure that European fundamental rights protection principles are structurally embedded into providers' operations, including the algorithms and service mechanisms they deploy. Nevertheless, one must acknowledge the limitations of this framework: it cannot provide solutions for every scenario, due to both the particular characteristics of fundamental rights infringements and the inherent unpredictability of the future. In my view, while the Regulation clearly recognises many of the core challenges, it has yet to offer an adequate response to the torrent of online content that intoxicates awareness, fuels polarization, and undermines common ground—problems that spread virally across digital platforms. The actual effectiveness of the cited provisions and regulatory instruments will only become clear in practice. Several proceedings are currently pending before the Commission, the outcomes of which will provide further lessons; however, these will be the subject of a separate study.