

## Access Now's proposal for amendments to the Digital Services Act



### May 2021

Access Now welcomes the Commission's Digital Services Act (DSA) proposal (hereinafter the future Regulation) which aims to establish a horizontal, human rights-based and user-centric regulation, providing clear responsibilities for very large online platforms with strong enforcement mechanisms that can hold them to account. We have taken an active role in the review of this important legal instrument, by providing comments to the EU Commission consultation of September 2020 and [policy recommendations](#) in October 2020. We have also published our [initial positioning on stricter regulation of online tracking](#) as well as [analysis](#) of currently pending national legislative proposals to regulate online platforms that can potentially endanger the harmonisation effort at the EU level that DSA represents.

Access Now supports the development of the proposed Digital Services Act, a central piece of legislation for the development of a digital single market that would provide Recipients of the service with a high standard of fundamental rights protection, help restore trust in online platforms' processes and operations, and promote the use of tools that empower Recipients of the service by tackling power asymmetries between them and especially Very Large Online Platforms. On that basis, we have analysed below the Commission's proposal and proposed amendments to improve the future Regulation.

### For More Information, Please Contact

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## Chapter III: Due diligence obligations for a transparent and safe online environment

### Section 3

#### Article 19 Trusted Flaggers

Original proposal	Access Now proposed amendments
<p>1. Online platforms shall take the necessary technical and organisational measures to ensure that notices submitted by trusted flaggers through the mechanisms referred to in Article 14, are processed and decided upon with priority and without delay.</p> <p>2. The status of trusted flaggers under this Regulation shall be awarded, upon application by any entities, by the Digital Services Coordinator of the Member State in which the applicant is established, where the applicant has demonstrated to meet all of the following conditions:</p> <p>(a) it has particular expertise and competence for the purposes of detecting, identifying and notifying illegal content;</p> <p>(b) it represents collective interests and is independent from any online platform;</p> <p>(c) it carries out its activities for the purposes of submitting notices in a timely, diligent and objective manner.</p>	<p>1. Online platforms shall take the necessary technical and organisational measures to ensure that notices submitted by trusted flaggers through the mechanisms referred to in Article 14, are processed and decided upon with priority and without delay. <b><i>In case of national emergencies, online platforms shall create direct and transparent cooperation mechanism with trusted flaggers that operate at grassroots level in Member States.</i></b></p> <p>2. The status of trusted flaggers under this Regulation shall be awarded, upon application by any entities, by the Digital Services Coordinator of the Member State in which the applicant is established, where the applicant has demonstrated to meet all of the following conditions:</p> <p>(a) it has particular expertise and competence for the purposes of detecting, identifying and notifying illegal content;</p> <p>(b) it represents <del>collective</del> <b><i>public</i></b> interests and is independent from any online platform and <b><i>public authority of the Member State</i></b>;</p> <p>(c) it carries out its activities for the purposes of submitting notices in a timely, diligent and objective manner.</p>

### Section 4

## Article 26 (1) Risk assessment

Original proposal	Access Now proposed amendments
<p>1. Very large online platforms shall identify, analyse and assess, from the date of application referred to in the second subparagraph of Article 25(4), at least once a year thereafter, any significant systemic risks stemming from the functioning and use made of their services in the Union. This risk assessment shall be specific to their services and shall include the following systemic risks:</p> <p>(a) the dissemination of illegal content through their services;</p> <p>(b) any negative effects for the exercise of the fundamental rights to respect for private and family life, freedom of expression and information, the prohibition of discrimination and the rights of the child, as enshrined in Articles 7, 11, 21 and 24 of the Charter respectively;</p> <p>(c) intentional manipulation of their service, including by means of inauthentic use or automated exploitation of the service, with an actual or foreseeable negative effect on the protection of public health, minors, civic discourse, or actual or foreseeable effects related to electoral processes and public security.</p>	<p>1. <del>Very large online platforms</del> <b>Online platforms that use algorithmic content moderation systems, content recommender systems, and systems for selecting and displaying advertisements shall conduct mandatory ex ante human rights impact assessment</b> identify, analyse and assess, from the date of application referred to in the second subparagraph of Article 25(4), at least once a year thereafter, any <b>to identify</b> significant systemic risks stemming from the functioning and use made of their services in the Union. <b>This ex ante human rights impact risk assessment</b> shall be specific to their services and shall include the following systemic risks:</p> <p>(a) the dissemination of illegal content through their services;</p> <p>(b) any <del>negative effects</del> <b>disproportionate and unjustified interference with</b> the exercise of the fundamental rights to respect for private and family life, freedom of expression and information, the prohibition of discrimination and the rights of the child, as enshrined in Articles 7, 11, 21 and 24 of the Charter respectively <b>as well as any other human right and freedom enshrined in the Charter that can be negatively affected by these systems now or in the future;</b></p> <p>(c) intentional manipulation of their service, including by means of inauthentic use or automated exploitation of the service, <b>in particular</b> with an actual or foreseeable negative effect on the protection of public health, minors, civic discourse, or actual or foreseeable effects related to electoral processes and public security.</p>

## Article 26 (2) Risk assessment

Original proposal	Access Now proposed amendments
<p>2. When conducting risk assessments, very large online platforms shall take into account, in particular, how their content moderation systems, recommender systems and systems for selecting and displaying advertisement influence any of the systemic risks referred to in paragraph 1, including the potentially rapid and wide dissemination of illegal content and of information that is incompatible with their terms and conditions.</p>	<p>2. When conducting <b><i>ex ante mandatory human rights impact risk</i></b> assessments, <del>very large</del> online platforms shall take into account, in particular, how their content moderation systems, recommender systems and systems for selecting and displaying advertisement influence any of the systemic risks referred to in paragraph 1, including the potentially rapid and wide dissemination of illegal content and of information that is incompatible with their terms and conditions.</p> <p><b><i>3. A summary or a redacted version of these mandatory ex ante fundamental rights impact assessments should be made publicly available and accessible. All information needs to be communicated to the Digital Service Coordinators and national authorities with relevant expertise. The summary shall be made equally accessible to any not-for-profit body, organisation or association which has been properly constituted in accordance with the law of a Member State, has statutory objectives which are in the public interest, and is active in the field of the protection of consumer rights or fundamental rights and freedoms with regard to the protection of their personal data, freedom of expression and opinion, access to information, consumer protection, right to equal treatment and prohibition of discrimination, for the purposes of independent audits as referred to in Article 28 of this Regulation. They shall be vetted by the independent enforcement and monitoring unit of the Commission and the list of vetted subjects should be administered and made publicly available by the Board.</i></b></p> <p><b><i>4. The not-for-profit body, organisation or association which has been properly constituted in accordance with the law of a Member State as described in Article 26 (3)</i></b></p>

	<p><i>shall have a right to challenge the outcome of ex ante mandatory fundamental rights impact assessment conducted by online platforms if there is sufficient evidence that there are prevailing significant systemic risks stemming from the functioning and use made of online platforms' services in the Union. An independent enforcement and monitoring unit of the Commission in cooperation with the Board should be able to receive, assess and act on this challenge on the basis of received evidence.</i></p>
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**Article 27 (1) Mitigation of risks**

Original proposal	Access Now proposed amendments
<p>1. Very large online platforms shall put in place reasonable, proportionate and effective mitigation measures, tailored to the specific systemic risks identified pursuant to Article 26. Such measures may include, where applicable:</p> <p>(a) adapting content moderation or recommender systems, their decision-making processes, the features or functioning of their services, or their terms and conditions;</p>	<p>1. <del>Very large online platforms</del> <b>Online platforms that use algorithmic content moderation systems, content recommender systems, and systems for selecting and displaying advertisements shall conduct mandatory ex ante fundamental rights impact assessments pursuant to Article 26 and consequently,</b> shall put in place reasonable, proportionate, <del>and</del> <b>and transparent</b> mitigation measures, tailored to the specific systemic risks <b>previously</b> identified pursuant to Article 26. Such measures may include, where applicable:</p> <p>(a) adapting content moderation or recommender systems, their decision-making processes, the features or functioning of their services, or their terms and conditions in <b>full compliance with the Charter, the United Nations Guiding Principles on Business and Human Rights and the Shadow EU Action Plan on the Implementation of the UN Guiding Principles on Business and Human Rights within the EU;</b></p> <p><b>(new aa) adapt content moderation policies and practices to not involve the monitoring or profiling of the</b></p>

<p>(b) targeted measures aimed at limiting the display of advertisements in association with the service they provide;</p> <p>(c) reinforcing the internal processes or supervision of any of their activities in particular as regards detection of systemic risk;</p> <p>(d) initiating or adjusting cooperation with trusted flaggers in accordance with Article 19;</p> <p>(e) initiating or adjusting cooperation with other online platforms through the codes of conduct and the crisis protocols referred to in Article 35 and 37 respectively.</p>	<p><b><i>behaviour of individuals, unless the online platforms can demonstrate, on the basis of mandatory ex ante human rights impact assessment, that such measures are strictly necessary to mitigate the categories of systemic risks identified in Article 26 and in accordance with Regulation (EU) 2016/679 and Directive 2002/58/EC.</i></b></p> <p>(b) targeted measures aimed at limiting the display of advertisements in association with the service they provide;</p> <p>(c) reinforcing the internal processes or supervision of any of their activities in particular as regards <b><i>conducting mandatory ex ante human rights impact assessment</i></b> detection of systemic risk;</p> <p>(d) <del>initiating or</del> adjusting cooperation with trusted flaggers in accordance with Article 19;</p> <p>(e) initiating or adjusting cooperation with other online platforms through the codes of conduct and the crisis protocols referred to in Article 35 and 37 respectively.</p>
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### Article 27 (3) Mitigation of risks

Original proposal	Access Now proposed amendments
<p>3. The Commission, in cooperation with the Digital Services Coordinators, may issue general guidelines on the application of paragraph 1 in relation to specific risks, in particular to present best practices and recommend possible measures, having due regard to the possible consequences of the measures on fundamental rights enshrined in the Charter of all parties involved. When preparing those guidelines the Commission</p>	<p>3. <del>The Commission</del>, <b><i>The Board</i></b>, in cooperation with the Digital Services Coordinators, may issue general guidelines on the application of paragraph 1 in relation to specific risks, in particular to present best practices and recommend possible measures, having due regard to the possible consequences of the measures on fundamental rights enshrined in the Charter of all parties involved. When preparing those guidelines <del>the Commission</del> <b><i>the</i></b></p>

shall organise public consultations.	<b>Board in cooperation with an independent enforcement and monitoring unit of the Commission</b> shall organise public consultations.
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### Article 28 (1) Independent audit

Original proposal	Access Now proposed amendments
<p>1. Very large online platforms shall be subject, at their own expense and at least once a year, to audits to assess compliance with the following:</p> <p>(a) the obligations set out in Chapter III;</p> <p>(b) any commitments undertaken pursuant to the codes of conduct referred to in Articles 35 and 36 and the crisis protocols referred to in Article 37.</p>	<p>1. Very large online platforms shall be subject, at their own expense and at least once a year, to <b>independent</b> audits to assess compliance with the following:</p> <p>(a) the obligations set out in Chapter III; these should include <b>auditing the processes and procedures enforced by very large online platforms</b></p> <p>(b) any commitments undertaken pursuant to the codes of conduct referred to in Articles 35 <del>and 36</del> and the crisis protocols referred to in Article 37.</p>

### Article 28 (2) Independent audit

Original proposal	Access Now proposed amendments
<p>2. Audits performed pursuant to paragraph 1 shall be performed by organisations which:</p> <p>(a) are independent from the very large online platform concerned;</p> <p>(b) have proven expertise in the area of risk management, technical competence and capabilities;</p> <p>(c) have proven objectivity and professional</p>	<p>2. Audits performed pursuant to paragraph 1 shall be performed by <b>the European Union Agency for Fundamental Rights in collaboration with a not-for-profit body, organisation or association which has been properly constituted in accordance with the law of a Member State</b> which:</p> <p>(a) are independent from the very large online platform concerned;</p> <p>(b) have proven expertise in the area of risk management, technical competence and capabilities;</p>

<p>ethics, based in particular on adherence to codes of practice or appropriate standards.</p>	<p>(c) have proven objectivity, <del>and</del> professional ethics <b>and transparent record of the compliance with international human rights framework</b>, based in particular on adherence to <b>the EU Charter of Fundamental Rights, the UN Guiding Principles and the Shadow EU Action Plan on the Implementation of the UN Guiding Principles on Business and Human Rights within the EU.</b> <del>codes of practice or appropriate standards.</del></p>
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**Article 28 (4) Independent audit**

Original proposal	Access Now proposed amendments
<p>4. Very large online platforms receiving an audit report that is not positive shall take due account of any operational recommendations addressed to them with a view to take the necessary measures to implement them. They shall, within one month from receiving those recommendations, adopt an audit implementation report setting out those measures. Where they do not implement the operational recommendations, they shall justify in the audit implementation report the reasons for not doing so and set out any alternative measures they may have taken to address any instances of non-compliance identified.</p>	<p>4. Very large online platforms receiving an audit report that <del>is not positive</del> <b>contains evidence of systemic risks stemming from the functioning and use made of their services in the Union</b> shall take due account of any operational recommendations addressed to them by <b>the European Union Agency for Fundamental Rights in collaboration with a not-for-profit body, organisation or association which has been properly constituted in accordance with the law of a Member State as described in paragraph 1 of this Article</b>, with a view to take the necessary measures to implement them. They shall, within one month from receiving those recommendations, adopt an audit implementation report setting out those measures <b>and submit the report to the independent enforcement and monitoring unit of the Commission and the European Union Agency for Fundamental Rights.</b> Where they do not implement the operational recommendations, they shall justify in the audit implementation report the reasons for not doing so and set out any alternative measures they may have taken to address any instances of non-compliance identified.</p>

**Article 29 (1) Recommender systems**

Original proposal	Access Now proposed amendments
<p>1. Very large online platforms that use recommender systems shall set out in their terms and conditions, in a clear, accessible and easily comprehensible manner, the main parameters used in their recommender systems, as well as any options for the recipients of the service to modify or influence those main parameters that they may have made available, including at least one option which is not based on profiling, within the meaning of Article 4 (4) of Regulation (EU) 2016/679.</p>	<p>1. <del>Very large online platforms</del> <b>Online platforms that use algorithmic content moderation systems, content recommender systems, and systems for selecting and displaying advertisements</b> that <del>use</del> <b>deploy</b> recommender systems shall set out in their terms and conditions, in a clear, accessible and easily comprehensible manner, the <del>main</del> parameters used in their recommender systems, as well as any options for the recipients of the service to modify or influence those main parameters that they may have made available, including at least one option which is not based on profiling, within the meaning of Article 4 (4) of Regulation (EU) 2016/679. <b>The parameters should include at minimum:</b></p> <ul style="list-style-type: none"> <li><b>(a) the criteria used by recommender systems, including family of models, input data, performance metrics, and how the model was tested</b></li> <li><b>(b) logs of recommended content and criteria used for such recommendations, including their mutual interactions</b></li> <li><b>(c) information to the Recipients of the service on where content comes from and reasoning about why it has been recommended in a clear, easily accessible and concise information summary format.</b></li> <li><b>(d) to enable Recipients of the service to view profile or profiles used to curate user-generated content for the recipient of the service. Based on such information, Recipients of the service should be able to rectify or request the deletion of profiles.</b></li> </ul>

## Article 29 (2) Recommender systems

Original proposal	Access Now proposed amendments
<p>2. Where several options are available pursuant to paragraph 1, very large online platforms shall provide an easily accessible functionality on their online interface allowing the recipient of the service to select and to modify at any time their preferred option for each of the recommender systems that determines the relative order of information presented to them.</p>	<p>2. Where several options are available pursuant to paragraph 1, very large online platforms shall provide an easily accessible functionality on their online interface allowing the recipient of the service to select and to modify at any time their preferred option for each of the recommender systems that determines the relative order of information presented to them.</p> <p><b>(a) Very large online platforms shall establish opt-in mechanisms to recommender systems by default as minimum safeguards of data protection by design and by default within the meaning Article 25 of Regulation (EU) 2016/679.</b></p> <p><b>3. Recipients of the service who decide to opt-in to recommender system shall be able to:</b></p> <p><b>(a) exclude certain content from their recommendations</b></p> <p><b>(b) exclude certain sources of content from their recommendations</b></p> <p><b>(c) Easily withdraw their choice to opt-in and no longer be a part of recommender system</b></p> <p><b>(d) ask for profiles to be deleted</b></p> <p><b>(e) access the service even when refusing to use content recommendations, to ensure the opt-in is meaningful. Recipients of the service shall be able to do so in an easy and free manner, and at any time.</b></p>

### Article 31 (1) Data access and scrutiny

Original proposal	Access Now proposed amendments
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<p>1. Very large online platforms shall provide the Digital Services Coordinator of establishment or the Commission, upon their reasoned request and within a reasonable period, specified in the request, access to data that are necessary to monitor and assess compliance with this Regulation. That Digital Services Coordinator and the Commission shall only use that data for those purposes.</p>	<p>1. Very large online platforms shall provide the Digital Services Coordinator of establishment or <b><i>an independent enforcement and monitoring unit of</i></b> the Commission, upon their reasoned request and within a reasonable period, specified in the request, access to data that are necessary to monitor and assess compliance with this Regulation. That Digital Services Coordinator and the Commission shall only use that data for those purposes.</p>
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**Article 31 (2) Data access and scrutiny**

Original proposal	Access Now proposed amendments
<p>2. Upon a reasoned request from the Digital Services Coordinator of establishment or the Commission, very large online platforms shall, within a reasonable period, as specified in the request, provide access to data to vetted researchers who meet the requirements in paragraphs 4 of this Article, for the sole purpose of conducting research that contributes to the identification and understanding of systemic risks as set out in Article 26(1).</p>	<p>2. Upon a reasoned request from the Digital Services Coordinator of establishment or <b><i>an independent enforcement and monitoring unit of</i></b> the Commission, very large online platforms shall, within a reasonable period, as specified in the request, provide access to data to vetted researchers who meet the requirements in paragraphs 4 of this Article <b><i>and to vetted not-for-profit body, organisation or association which has been properly constituted in accordance with the law of a Member State</i></b> for the sole purpose of conducting research that contributes to the identification and understanding of systemic risks as set out in Article 26(1).</p>

**Article 31 (4) Data access and scrutiny**

Original proposal	Access Now proposed amendments
<p>4. In order to be vetted, researchers shall be affiliated with academic institutions, be independent from commercial interests, have proven records of expertise in the fields related to the risks investigated or related research methodologies, and shall commit and be in a capacity to preserve the specific data security and confidentiality requirements corresponding</p>	<p>4. In order to be vetted, researchers shall be affiliated with academic institutions, be independent from commercial interests, have proven records of expertise in the fields related to the risks investigated or related research methodologies, and shall commit and be in a capacity to preserve the specific data security and confidentiality requirements corresponding</p>

to each request.	to each request.  <b><i>In order to be vetted, not-for-profit body, organisation or association which has to be properly constituted in accordance with the law of a Member State, has statutory objectives which are in the public interest, and is active in the field of the protection of consumer rights or fundamental rights and freedoms with regard to the protection of their personal data, freedom of expression and opinion, access to information, consumer protection, right to equal treatment and prohibition of discrimination.</i></b>
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## Chapter IV: Implementation, cooperation, sanctions and enforcement

### Section 1

#### Article 38 (2) Competent authorities and Digital Services Coordinators

Original proposal	Access Now proposed amendments
<p>2. Member States shall designate one of the competent authorities as their Digital Services Coordinator. The Digital Services Coordinator shall be responsible for all matters relating to application and enforcement of this Regulation in that Member State, unless the Member State concerned has assigned certain specific tasks or sectors to other competent authorities. The Digital Services Coordinator shall in any event be responsible for ensuring coordination at national level in respect of those matters and for contributing to the effective and consistent application and enforcement of this Regulation throughout the Union.</p>	<p>2. Member States shall designate one of the competent authorities <b><i>with relevant expertise in the field of data protection, consumer protection or regulation of user-generated content</i></b> as their Digital Services Coordinator. The Digital Services Coordinator shall be responsible for <b><i>the all-matters-relating-to</i></b> application and enforcement of this Regulation in that Member State, unless the Member State concerned has assigned certain specific tasks or sectors to other competent authorities. <b><i>In particular, supervisory authorities designated under Regulation (EU) 2016/679 shall be tasked with application and enforcement of measures related to data processing set forth under this Regulation.</i></b> The Digital Services Coordinator shall in any event be responsible for ensuring coordination at national level in respect of <b><i>those</i></b> matters <b><i>related to this Regulation</i></b> and for contributing to the effective and consistent application and enforcement of this Regulation throughout the</p>

<p>For that purpose, Digital Services Coordinators shall cooperate with each other, other national competent authorities, the Board and the Commission, without prejudice to the possibility for Member States to provide for regular exchanges of views with other authorities where relevant for the performance of the tasks of those other authorities and of the Digital Services Coordinator. Where a Member State designates more than one competent authority in addition to the Digital Services Coordinator, it shall ensure that the respective tasks of those authorities and of the Digital Services Coordinator are clearly defined and that they cooperate closely and effectively when performing their tasks. The Member State concerned shall communicate the name of the other competent authorities as well as their respective tasks to the Commission and the Board.</p>	<p>Union.</p> <p>For that purpose, Digital Services Coordinators shall cooperate with each other, other national competent authorities, the Board and the Commission, without prejudice to the possibility for Member States to provide for regular exchanges of views with other authorities where relevant for the performance of the tasks of those other authorities and of the Digital Services Coordinator. Where a Member State designates more than one competent authority in addition to the Digital Services Coordinator, it shall ensure that the respective tasks of those authorities <del>and</del> of the Digital Services Coordinator and <b>other national authorities with relevant expertise as described in this article are</b> clearly defined and that they cooperate closely and effectively when performing their tasks. The Member State concerned shall communicate the name of the other competent authorities as well as their respective tasks to the Commission and the Board. <b>The Board should create a publicly accessible list of all national Digital Coordinators and competent national authorities with the relevant expertise designated by Member States that will be regularly updated and monitored by the Board.</b></p>
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**Article 38 (3) Competent authorities and Digital Services Coordinators**

<b>Original proposal</b>	<b>Access Now proposed amendments</b>
<p>3. Member States shall designate the Digital Services Coordinators within two months from the date of entry into force of this Regulation. Member States shall make publicly available, and communicate to the Commission and the Board, the name of their competent authority designated as Digital Services Coordinator and information on how it can be contacted.</p>	<p>3. Member States shall designate the Digital Services Coordinators within two months from the date of entry into force of this Regulation. Member States shall make publicly available, and communicate to the Commission and the Board, the name of their competent authority designated as Digital Services Coordinator and information on how it can be contacted.</p> <p><b>4. Member States shall, via Digital Coordinator(s), provide for a clear legal basis for the cooperation between and among relevant national authorities, each</b></p>

	<p><i>acting within their respective areas of competence. The Digital Coordinator should publicly list all competent authorities that are involved in the cooperation and identify the circumstances in which cooperation should take place, and adopt guidelines for cooperation that include clear deadlines. Such competent authorities should be included in the publicly accessible list administered by the Board, as described in Article 38 (2).</i></p>
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### Article 39 (1) Requirements for Digital Services Coordinators

Original proposal	Access Now proposed amendments
<p>1. Member States shall ensure that their Digital Services Coordinators perform their tasks under this Regulation in an impartial, transparent and timely manner. Member States shall ensure that their Digital Services Coordinators have adequate technical, financial and human resources to carry out their tasks.</p>	<p>1. Member States shall ensure that their Digital Services Coordinators perform their tasks under this Regulation in an impartial, <b>independent</b>, transparent and timely manner. Member States shall ensure that their Digital Services Coordinators have adequate technical, financial and human resources, <b>including skills, competence building and infrastructure</b> to carry out their tasks.</p>

### Article 40 Jurisdiction

Original proposal	Access Now proposed amendments
<p>2. A provider of intermediary services which does not have an establishment in the Union but which offers services in the Union shall, for the purposes of Chapters III and IV, be deemed to be under the jurisdiction of the Member State where its legal representative resides or is established.</p>	<p>2. A provider of intermediary services which does not have an establishment in the Union but which offers services in the Union shall, for the purposes of Chapters III and IV, be deemed to be under the jurisdiction of the Member State where <b>a recipient of the service is located. Any complaint or request addressed to the relevant competent national authority of the same Member State should deliver a final decision not later than within three month</b> <del>its</del> legal representative resides or is established.</p>

### Article 41.2 (b) Powers of Digital Services Coordinator

Original proposal	Access Now proposed amendments
<p>2. Where needed for carrying out their tasks, Digital Services Coordinators shall have at least the following enforcement powers, in respect of providers of intermediary services under the jurisdiction of their Member State:</p> <p>b) the power to order the cessation of infringements and, where appropriate, to impose remedies proportionate to the infringement and necessary to bring the infringement effectively to an end;</p>	<p>2. Where needed for carrying out their tasks, Digital Services Coordinators shall have at least the following enforcement powers, in respect of providers of intermediary services under the jurisdiction of their Member State:</p> <p>b) the power to order the cessation of infringements and, where appropriate, to impose remedies proportionate to the infringement and necessary to bring the infringement effectively to an end;  <b><i>Digital Service coordinators and national authorities with relevant expertise to exercise oversight of this Regulation must have the power to order the prohibition on the deployment of recommender systems at least until compliance with fundamental rights is guaranteed and the consumer and fundamental rights of online users are sufficiently protected.</i></b></p>

### Article 43

Original proposal	Access Now proposed amendments
<p>Recipients of the service shall have the right to lodge a complaint against providers of intermediary services alleging an infringement of this Regulation with the Digital Services Coordinator of the Member State where the recipient resides or is established. The Digital Services Coordinator shall assess the complaint and, where appropriate, transmit it to the Digital Services Coordinator of establishment. Where the complaint falls under the responsibility of another competent authority in its Member State, the Digital Service Coordinator receiving the complaint shall transmit it to that authority.</p>	<p>Recipients of the service shall have the right to lodge a complaint against providers of intermediary services alleging an infringement of this Regulation with the Digital Services Coordinator of the Member State where the recipient resides or is established. The Digital Services Coordinator shall assess the complaint and, where appropriate, transmit it to the Digital Services Coordinator of establishment. Where the complaint falls under the responsibility of another competent authority in its Member State, the Digital Service Coordinator receiving the complaint shall transmit it to that authority.</p> <p><b><i>43 (1) Recipients of the service that lodged the complaint should have a right to be heard in the procedure conducted by the competent authority and should be informed</i></b></p>

	<p><i>about each stage of the procedure by the Digital Coordinator assessing their claim. They should obtain a response from the Digital Coordinator within three months since they lodged their complaint.</i></p> <p><i>43 (2) Recipients of services shall have the right to mandate a not-for-profit body, organisation or association which has been properly constituted in accordance with the law of a Member State, has statutory objectives which are in the public interest, and is active in the field of the protection of Recipients' consumer rights or fundamental rights and freedoms with regard to the protection of their personal data, freedom of expression and opinion, access to information, consumer protection, right to equal treatment and prohibition of discrimination to lodge the complaint on his or her behalf. Recipients of the service have the right to receive compensation and the right to an effective judicial remedy of all affected parties as referred to by Article 41 (6).</i></p>
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Section 2

**Article 48 (3)**

Original proposal	Access Now proposed amendments
<p>3. The Board shall be chaired by the Commission. The Commission shall convene the meetings and prepare the agenda in accordance with the tasks of the Board pursuant to this Regulation and with its rules of procedure.</p>	<p>3. The Board shall be chaired by <del>the Commission</del> <b>a president elected within its members on a rotating basis. The chair of the Board should not be allowed to lead any national regulatory office in their respective Member States at the same time. The length of the chair mandate should be limited to a maximum of three years, renewable once. The European Parliament Committee on Civil Liberties, Justice and Home Affairs should hear candidates and designate the chair by vote. <del>The Commission</del> <b>The chair of the Board</b> shall convene the meetings and prepare the agenda in accordance with the tasks of the Board pursuant to this Regulation</b></p>

	and with its rules of procedure.
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**Article 48 (4)**

Original proposal	Access Now proposed amendments
4. The Commission shall provide administrative and analytical support for the activities of the Board pursuant to this Regulation.	4. <del>The Commission</del> <b>An independent secretariat of the Board</b> shall provide administrative, analytical <b>and logistical</b> support for the activities of the Board pursuant to this Regulation.

**Article 49 (1) Tasks of the Board**

Original proposal	Access Now proposed amendments
<p>Where necessary to meet the objectives set out in Article 47(2), the Board shall in particular:</p> <ul style="list-style-type: none"> <li>(a) support the coordination of joint investigations;</li> <li>(b) support the competent authorities in the analysis of reports and results of audits of very large online platforms to be transmitted pursuant to this Regulation;</li> <li>(c) issue opinions, recommendations or advice to Digital Services Coordinators in accordance with this Regulation;</li> <li>(d) advise the Commission to take the measures referred to in Article 51 and, where requested by the Commission, adopt opinions on draft Commission measures concerning very large online platforms in accordance with this Regulation;</li> <li>(e) support and promote the development and implementation of European standards, guidelines, reports, templates and code of conducts as provided for in this Regulation, as well as the</li> </ul>	<p>Where necessary to meet the objectives set out in Article 47(2), the Board shall in particular:</p> <ul style="list-style-type: none"> <li>(f) support the coordination of joint investigations;</li> <li>(g) support the competent authorities in the analysis of reports and results of audits of very large online platforms to be transmitted pursuant to this Regulation;</li> <li>(h) issue opinions, recommendations or advice to Digital Services Coordinators in accordance with this Regulation;</li> <li>(i) advise the Commission to take the measures referred to in Article 51 and, where requested by the Commission, adopt opinions on draft Commission measures concerning very large online platforms in accordance with this Regulation;</li> <li>(j) support and promote the development and implementation of European standards, guidelines, reports, templates and code of conducts as provided for in this Regulation, as well as the</li> </ul>

<p>identification of emerging issues, with regard to matters covered by this Regulation.</p>	<p>identification of emerging issues, with regard to matters covered by this Regulation;</p> <p><b>(k) issue own-initiative opinions;</b></p> <p><b>(l) issue opinions on matters, other than the measures taken by the Commission, that contributes to the proper application of this Regulation.</b></p>
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### Section 3

#### Article 51 (1) Intervention by the Commission and opening of proceedings

Original proposal	Access Now proposed amendments
<p>The Commission, acting either upon the Board's recommendation or on its own initiative after consulting the Board, may initiate proceedings in view of the possible adoption of decisions pursuant to Articles 58 and 59 in respect of the relevant conduct by the very large online platform that:</p> <ul style="list-style-type: none"> <li>a) is suspected of having infringed any of the provisions of this Regulation and the Digital Services Coordinator of establishment did not take any investigatory or enforcement measures, pursuant to the request of the Commission referred to in Article 45(7), upon the expiry of the time period set in that request;</li> <li>b) is suspected of having infringed any of the provisions of this Regulation and the Digital Services Coordinator of establishment requested the Commission to intervene in accordance with Article 46(2), upon the reception of that request;</li> <li>c) has been found to have infringed any of the provisions of Section 4 of Chapter III,</li> </ul>	<p><b>An independent enforcement and monitoring unit of the Commission, acting <del>either</del> upon the Board's recommendation, <b>a recommendation of a not-for-profit body, organisation or association</b>, or on its own initiative after consulting the Board, may initiate proceedings in view of the possible adoption of decisions pursuant to Articles 58 and 59 in respect of the relevant conduct by the very large online platform that:</b></p> <ul style="list-style-type: none"> <li>a) is suspected of having infringed any of the provisions of this Regulation and the Digital Services Coordinator of establishment did not take any investigatory or enforcement measures, pursuant to the request of the Commission referred to in Article 45(7), upon the expiry of the time period set in that request;</li> <li>b) is suspected of having infringed any of the provisions of this Regulation and the Digital Services Coordinator of establishment requested the Commission to intervene in accordance with Article 46(2), upon the reception of that request;</li> <li>c) has been found to have infringed any of the provisions of Section 4 of Chapter III,</li> </ul>

upon the expiry of the relevant time period for the communication referred to in Article 50(4).	upon the expiry of the relevant time period for the communication referred to in Article 50(4).
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## Article 52 (1)

Original proposal	Access Now proposed amendments
<p>1. In order to carry out the tasks assigned to it under this Section, the Commission may by simple request or by decision require the very large online platforms concerned, as well as any other persons acting for purposes related to their trade, business, craft or profession that may be reasonably be aware of information relating to the suspected infringement or the infringement, as applicable, including organisations performing the audits referred to in Articles 28 and 50(3), to provide such information within a reasonable time period.</p>	<p>1. In order to carry out the tasks assigned to it under this Section, the <b><i>independent enforcement and monitoring unit of the</i></b> Commission may by simple request or by decision require the very large online platforms concerned, as well as any other persons acting for purposes related to their trade, business, craft or profession that may be reasonably be aware of information relating to the suspected infringement or the infringement, as applicable, including organisations performing the audits referred to in Articles 28 and 50(3), to provide such information within a reasonable time period. <b><i>A not-for-profit body, organisation or association which has been properly constituted in accordance with the law of a Member State, have statutory objectives which are in the public interest, and are active in the field of the protection of Recipients' fundamental rights and freedoms with regard to the protection of their personal data, freedom of expression and opinion, access to information, consumer protection, right to equal treatment and prohibition of discrimination, may assist in this process and the performance of audits.</i></b></p>