



Subject: Article 7 and 27 of the Digital Services Act

Dear Member of the Negotiation Team of the Digital Services Act,

We are writing to you in view of finding a compromise for the regulation of automated filters, so-called 'upload filters,' in the Digital Services Act (DSA).

During the different legislative processes, we have been advocating to avoid any legal obligations on platforms to use upload filters. The undersigned digital rights, human rights, and knowledge rights network organizations, representing more than 100 organizations, call on your leadership to ensure that upload filters are not used to hinder access to information and people's fundamental rights to express their views.

Upload filters are [inaccurate](#). They lack understanding of linguistic or cultural nuances and are unable to assess context accurately. In light of the war in Ukraine, we want to call to your attention that upload filters even takedown evidence of war crimes archived on very large online platforms, such as YouTube. It happened in 2018 when automated tools removed thousands of YouTube videos that could have served as evidence of atrocities committed against civilians in [Syria](#). Therefore, because of upload filters' contextual blindness, they often remove completely legitimate content. Thus, we must reiterate our concerns raised during the debates on the [Directive on Copyright in the Digital Single Market](#) and the [Terrorist Content Online Regulation](#). Journalists, activists, artists, and individuals should be able to share their opinions without being censored simply because online platforms are relying on these poorly working tools.

Article 7 of the DSA should continue to uphold fundamental rights and the prohibition of general monitoring obligations and hence neither impose nor imply mandatory upload filters. Similarly, the risk mitigation requirements in Article 27 of the DSA should not be interpreted as requiring the mandatory use of upload filters. Under no circumstances should the co-regulatory measures such as the Code of Practice on disinformation impose direct or indirect pressure on online platforms to swiftly remove content that would result in the intensified deployment of automated tools.

Therefore, the DSA Article 7.1a prohibiting mandatory upload filters proposed by the European Parliament should remain in the final text of the DSA.

EU legislators have to provide sufficient safeguards to minimize the risk to fundamental rights stemming from the opaque automated decision-making.

To achieve this goal, the DSA must ensure that upload filters are not imposed on online platforms. As the [LIBE Committee, in its draft opinion 2020/0361 \(COD\)](#), put it rightly, "algorithms cannot reliably identify illegal content and currently routinely result in the suppression of legal content, including media content. ... Human review of automated reports by service providers or their contractors does fully not solve this problem, especially if it is outsourced to private staff that lacks sufficient independence, qualification, and accountability."

We believe that the participants of the trilogue meeting should uphold the fundamental rights of EU citizens and ensure that they are not up for compromise. This means **abstaining from:**

- short deadlines for content removals;
- extending the ban on both automated and non-automated mandatory monitoring;
- including de jure and de facto monitoring obligations.

These points are crucial for safeguarding that nothing in the DSA shall be interpreted as requiring upload filters.

We therefore call on you to enable a compromise for the DSA and protect Europeans by supporting the European Parliament's approach in Articles 7 and 27 of the DSA.

Berlin, 29 March 2022

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Civil Liberties Union for Europe

Access Now
Civil Liberties Union for Europe (Liberties)
Coalition for Creativity (C4C)
Electronic Frontier Foundation (EFF)
European Digital Rights (EDRi)
International Communia Association (Communia)
Ligue des Droits Humains (LDH)
Xnet