

EN

P-004203/2025

Answer given by Executive Vice-President Virkkunen
on behalf of the European Commission
(3.12.2025)

The Commission does not comment on individual national legal proceedings.

The Commission stresses that the Digital Services Act¹ (DSA) is content-agnostic - it does not define what is illegal. The substantive rules determining the legality of content are not contained in the DSA, but in other pieces of national or, exceptionally, EU legislation.

The DSA explicitly protects freedom of expression online and protects users in the EU against over-removal of lawful content by ensuring transparency in the policies of intermediary services providers. The DSA created a set of redress mechanisms for users: when platforms remove or demote content, they must inform the user that posted the content, explain why they took the decision, and offer the opportunity to challenge it².

On 24 October 2025, the Commission communicated its preliminary findings in relation to the provision of TikTok, Facebook and Instagram in the EU. The Commission took the preliminary view that TikTok and Meta were in breach of their transparency obligations under Art. 40, 20 (1) and 20 (3) of the DSA³.

Under the DSA, trusted flaggers are entities with expertise in detecting certain categories of illegal content, which they flag to platforms for assessment. Trusted flaggers are appointed by the Digital Services Coordinators in each Member State. They must meet the eligibility criteria set out in Article 22(2) DSA, which include independence from online platforms, diligence, and objectivity. Their status can also be revoked in case of misuse. While notices by trusted flaggers must be processed with priority, the providers of online platforms remain fully responsible for assessing how legitimate notices are. The DSA has brought transparency and safeguards to this practice.

¹ <https://eur-lex.europa.eu/eli/reg/2022/2065/oj/eng>.

² See Articles 14 ‘Terms and Conditions’; Art. 17 ‘Statement of Reasons’; Art. 20 ‘Internal Complaint-Handling System’; and Art. 21 ‘Out-of-Court Dispute Settlement’ of the Digital Services Act: Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32022R2065>.

³ DSA - Commission preliminarily finds TikTok and Meta in breach of their transparency obligations https://ec.europa.eu/commission/presscorner/detail/en/ip_25_2503.