



## What Frances Haugen's revelations mean for the Digital Services Act

***"As long as Facebook is operating in the dark, accountable to no one, it will continue to make choices that go against the common good" Frances Haugen***

The recent revelations from Facebook whistleblower Frances Haugen confirm what civil society, journalists and researchers have been warning about for years - that the current models of the very large platforms are causing deep societal harm, and they have known this all along. What makes this even more relevant is the fact that they have emerged while the Digital Services Act (DSA) is being finalised, which is a unique, historic opportunity to address the very same harms caused by online social media platforms. We risk missing this opportunity unless MEPs ensure the following key elements are included;

### **How can the DSA address the issues raised by Frances Haugen?**

- **The DSA must regulate platform's harmful algorithms** - Frances has made it clear that we can't leave the platforms to deal with harms caused by VLOPs on a case by case assessment of "content", as the harms she reveals go beyond illegal content. The DSA must ensure platforms assess all the risks posed by their services, and take concrete, measurable and openly accountable steps to mitigate those risks -- or face sanctions.
- **The DSA must open up the platform's blackbox of data** - Frances tells us that "*no one outside of Facebook knows what happens inside Facebook, and that the company intentionally hides vital information from the public*". This is why the DSA must increase the transparency of platform design, requiring them to make detailed full public reports on the risks of their services and their measures to tackle them -- with independent auditing of the actions they take. It is also essential that they also need to give researchers, civic society and investigative journalists the right to access to data to validate their actions and their assessments.
- **The DSA must strengthen EU muscles to regulate the platforms** - France's message to EP is clear - "*The time for platforms to stop their self-regulatory practices is now*". The DSA must introduce democratic and accountable enforcement measures - including the adoption of Codes of Conduct to provide regulatory certainty in a form that can be updated to keep pace with innovation. But also clear power to regulators, such as the Commission, to demand change when VLOPs are not complying.

*"These problems are solvable. A safer, free-speech respecting, more enjoyable social media is possible. But there is one thing that I hope everyone takes away from these disclosures, it is that Facebook can change, but is clearly not going to do so on its own."* Frances Haugen

@USA\_Senate



## 1. The DSA must regulate Platform's Harmful Algorithms

*"We need to think about safety by design first... Facebook should have to demonstrate that they have assessed the risks, [and] we need to specify how good that risk assessments - because Facebook will give you a bad one if they can"*

**Frances Haugen, in front of the UK Parliament**

Algorithms lie at the heart of what all platforms have to offer - but they also are the underlying cause of so much that is going wrong. The DSA rules must bring about a culture change so that the platforms build, design and deploy their services based on the principle of 'Safety by Design'. This is exactly what some of the new articles introduced by the EU Parliament might do, for example, article 33a.

Amplification of content is caused when the content recommendation algorithms of VLOPs seek to retain the user's attention by prioritising emotive or divisive content cues. It is this effect of amplification that can push legal but harmful content - like so-called "thinspiration" or Covid misinformation and amplify it till it causes harm way beyond its initial posting. Social media platforms have known this for years but continue to allow it to happen. The DSA must make platforms accountable for the acceleration of this type of content.

As Haugen highlighted *"For example, COVID misinformation, that leads to people losing their lives. There are large, social, societal harmful consequences of this. I'm...concerned that if you don't cover legal but harmful content, you will have a much, much smaller impact on this bill, and especially on impacts to children, for example. A lot of the content that we're talking about here would be legal but harmful content"* @UK\_Parliament

Avaaz agrees with the DSA's design to balance free speech with the need to address systemic harms. The initial notice and takedown provisions for the removal of content only apply to illegal material - and **legal but harmful content is dealt with separately, as part of the assessment and mitigation of systemic risks in the procedural rules section that applies to VLOPs.**

### What can the European Parliament do?

- The **current compromise text adds a new restriction**, stating that the VLOPs duty to assess the risks of the amplification of content by their service only applies to **illegal content only**. This new text undermines the goal of Article 26 as a whole - Article 26.2 clearly states that *"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"*. If left in place, the current text of Article 26,1.c can only encourage platforms to ignore the design and deployment of their existing amplification services until they have proof that they spread illegal content. All of the harms we have seen described by Frances, the harm we know the platforms could take action against, will remain. **(art 26)**



- **MEPs should vigorously oppose** that change, which will **exempt the single most dangerous design feature of social media platforms from oversight. MEPs should press for the phrase “and amplification of illegal content” to be removed** in its entirety from 26.1.c or failing that clarifies that this is an additional category of assessment, not one intended to limit the wider societal impacts described in the rest of Article 26.1 - to achieve this the word “and” in the phrase above must be replaced with the word “or”. **(Art.26.1c)**
- MEPs should **support the Commission** to assess the impact of the algorithms and to require VLOPs **to take appropriate and adequate corrective measures**, as well as direct, efficient enforcement power over required changes. These should apply to the harms of the service - like its algorithms - and so assessment of the risks of the amplification of content by their service **must not be limited to illegal content only (art 33 and 33a)**
- MEPs should **work to close loopholes**, for example, the current text could let the tech companies decide -- without any external oversight -- to withhold information depending on their *“economic capacity and the need to avoid unnecessary restrictions on the use of their service”*. **MEPs should vigorously oppose these vaguely termed exemptions** - the idea that providing transparency could damage the economic capacity of the global giants is unfounded, and the text provides no right of appeal against decisions by the platforms. **Risk assessment and mitigation measures that are required to support fundamental rights must take priority over economic convenience. (Art. 27.1a new)**
- MEPs have offered amendments that would **give users more control over the algorithms**, letting users customize their feeds or even opt-out of recommendations entirely. MEPs should support the inclusion of the design of algorithms as a mitigation measure and request for **detailed reporting on the design, operation, and impact of the algorithms (Art. 26 to 29)**.
- The Parliamentary text offers an innovative and insightful system to **assess and regulate the design of algorithms in the new Article 33a - MEPs must support its vision**, and extend its application to all qualifying VLOPs at the point of the algorithm’s deployment, not only designing Where this would apply to existing services, the assessment should be conducted within 6 months of the commencement of the DSA. **(Article 33a)**

## 2. The DSA must open up Platform's Blackbox of Data

*"Almost no one outside of Facebook knows what happens inside Facebook. The company intentionally hides vital information from the public, the US government, and from governments around the world (...)."*

**Frances Haugen, October 5th - in front of the US Senate Commerce Committee**

In the opening statement of her Senate hearing, Haugen emphasized the crucial importance of transparency as a *"critical starting point for effective regulation"*. She demands *"full access to data for research not directed by Facebook. On this foundation, we can build sensible rules and standards to address consumer harms, illegal content, data protection, anticompetitive practices, algorithmic systems and more."*

Transparency is needed to enable regulators, civil society and users to put the platform's claims to be improving to the test. To hold platforms to account the DSA must require detailed public reports on the risks of their services and their measures to tackle them with specific targets where risks have been identified.

She has also told us *"Risk assessments that aren't just produced by the company, but need to also be the regulator gathering from the community and saying, "Are there other things we should be concerned about?" A tandem approach like that" @UKParliament*

### What can the European Parliament do?

- Disinformation and misinformation are global problems, and much of what we know about them has come from research conducted not by academic institutions but by civil society organizations and journalists all over the world. MEPs should ensure that when conducting risk assessments, VLOPs must consult **experts, vetted researchers and civil society, and provide, not in summary form, full access to data, (Art. 26 and 28) Further, the DSA should consistently reference all these categories of researchers in its access provisions.**
- **MEPs should support the call for a very large online platform to be obliged to explain the design, logic and functioning of the algorithms (Art 31).**
- Furthermore, in order to ensure compliance, **MEPs should push for strong and public available independent audits (Art 28)**
- **MEPs must support the clear measures to increase transparency - such as** including aggregate numbers for the total views and view rate of content prior to removal on the basis of orders issued in accordance with Article 8 or content moderation engaged in at the provider's own initiative and under its terms and conditions **(Art 33).**

## 3. Strengthen EU muscles to regulate the platforms

*“The time for platforms to stop their self-regulatory practices is now” - “Right now, Facebook is closing the door on us being able to act. We have a slight window of time to regain people’s control [...] There is no will at the top to make sure these systems are run in an adequately safe way. I think until we bring in a counterweight, things will be operated for the shareholders’ interest and not for the public interest”.*

**Frances Haugen, in front of the UK Parliament**

We need to end opaque self-regulation with the open publication of platform risks assessments and mitigation measures and support EU institutions’ powers for strong monitoring and enforcement measures.

What can the European Parliament do?

- MEPs should champion the amendments that grant powers **to the European Commission to impose sanctions, up to and including fines and suspension, VLOPs for failing systematically to take effective mitigating measures against harms identified under Arti 26.**
- The current text has removed all sanctions references from Article 27, and only allows the European Commission to make recommendations. **MEPs must ensure these are written back into the DSA here or in the sections concerning enforcement. (Art 27 1d.new).**
- MEPs should champion amendments that **ensure that Codes of Conduct are specific, detailed, and include effective KPIs and monitoring mechanisms.** If ensured, even if voluntary, SMEs will have a significant incentive to join, as they will know that compliance with such codes will be considered as part of any mitigation of the related risks **(Art 35)**