



## DSA:

### THE PROPOSED AMENDMENTS TO ARTICLE 12 AND RECITAL 38 SHOULD BE REJECTED

Amendments 511 and 513 to Recital 38 and. Article 12 will cause disinformation to explode. As disinformation experts, we urge you to vote against.

Rules introduced in the DSA already give considerable new protections for victims of unfair removals, so the amendments seek to solve problems that are already largely solved. Instead, it creates new problems, by making it very difficult for platforms to remove disinformation spread by media, poorly-defined “media” or self-proclaimed media, and by giving the big tech giants an excuse to protect, promote and profit from this content.

### The DSA already offers new protections against unfair removal

The DSA – unlike the pre-DSA era – already offers a strong possibility of redress for the victims of unfair restrictions, such as an unfair closing of a social media account for instance.

- According to Article 15, **platforms already have to justify why they would want to moderate a specific piece of content or close an account;**
- Using article 17, **any individual or organisation can appeal a decision by a platform;**
- Using article 18, any individual or organisation can further challenge a decision made by a platform in an out-of-court dispute settlement.

In other words, **the DSA era already and definitely creates a strong incentive for platforms to be far more cautious** than they may have been in the past. Any moderation decision they will take will be opened to being challenged. Not once, but twice (article 17 and 18).

### A huge new bureaucracy protecting media giants and big tech

The suggested amendments to article 12 and recital 38 would create an additional burden and an **unacceptable procedural confusion**. In practice, a platform willing to, for instance, remove a COVID-19 disinformation article posted by a media or online media (vaguely defined) would have to go through the following steps:

- Inform the media or online media of its intention to remove the post and justify why it breaches its T&Cs;
- Wait for the media to challenge this pre-decision without any obligation to respond within a certain timeframe (it could be weeks or months), giving the disinformation the virality it gets in the first hours after posting;
- Justify once again why it removed the post according to article 15 of the DSA (“Statement of reasons”);
- Then, the media could challenge once again the decision using article 17;
- And then again, the media could challenge once more the decision using article 18.

With such a complicated and long procedure, this is what will happen:

- **Platforms will not remove any post by a media, poorly-defined “media” or self-proclaimed “media”,** fearing the length of the process and the associated cost, thus offering a motorway for any “media”, including state-influenced media, to disinform without any form of supervision;
- **Platforms would at the same time comply** with the DSA’s new article 12 and recital 38 **BUT would be breaching** articles 26, 27 and 35 on Risk Assessments, Mitigation of risks and Codes of Conduct, **requiring them to moderate the very same content;**
- **Meanwhile, platforms will increase their revenue derived from the monetisation** of disinformation, while reducing their content moderation costs, thus overall maximising their profits – with the legal backing of the EU.