



Bits of Freedom,
Prinseneiland 97h, 1013 LN Amsterdam
North Holland
The Netherlands

Amsterdam, 28 August 2025

Statement of support for summary proceedings against Meta by Bits of Freedom regarding violations of Art. 38, 27(3), 25 of the Digital Services Act

Dear Evelyn Austin (on behalf of Bits of Freedom),

ARTICLE 19 wishes to express its strong support for the case brought by Bits of Freedom against the platforms Instagram and Facebook, both operated by Meta Platforms.

We understand that Bits of Freedom argues that Meta has violated Articles 38, 27(3) and 25 of the Digital Services Act (DSA) by making the option to choose a non-algorithmic feed counter-intuitive and by preventing it from being set as the default on its platforms, thereby depriving its end users of a directly and easily accessible alternative to an algorithmically curated feed.

ARTICLE 19 is an international human rights organisation which defends and promotes the right to freedom of expression all over the world. We have extensive expertise in platform regulation and have issued several policy briefs on the topic.¹ ARTICLE 19 actively engaged in the legislative process leading to the adoption of the DSA and has continued to contribute expert analysis following its adoption and entry into force.

As a freedom of expression organisation, we have long voiced concerns about the business model of social media companies. While their platforms provide a vital space for people to connect, share, and access information, they are often designed to capture users' attention and sell it to advertisers. Indeed, the business model of very large online platforms (VLOPs) such as Meta is based on massive data gathering which is used to profile users and offer them personalised

¹ See in particular ARTICLE 19, Internet intermediaries: Dilemma of liability, 2013, available at https://www.article19.org/wp-content/uploads/2018/02/Intermediaries_ENGLISH.pdf; Regulating content moderation: Who watches the watchmen?, 8 December 2021, available at: <https://www.article19.org/resources/international-regulating-content-moderation-who-watches-thewatchmen/>; and Taming Big Tech: Protecting freedom of expression through the unbundling of services, open markets, competition, and users' empowerment, 8 December 2021, available at: <https://www.article19.org/resources/international-a-new-policy-to-tame-bigtech-and-protectexpression/>

content. This can have a damaging effect on users' exposure to diverse content and access to information and can interfere with individual agency to seek and share ideas and opinions across ideological, political, and societal divisions.

We find that the substance of the case strikes at the core of key design decisions and the deliberate de-prioritisation of any ability of users to control the recommender systems on which social media platforms are so reliant. The 'non profiling' recommender system as mandated by Article 38 of the DSA must be made accessible in a user-friendly manner to be meaningful. The evidence put forward by Bits of Freedom indicates that Meta has failed to do so. What is more, using deceptive design patterns, access to the non-personalised feed appears to be intentionally obscured and rendered difficult to use. This interferes with users' autonomy and appears to be a clear breach of the DSA.

We hope the Dutch court will use its power to act against Meta. We remain available to provide any further support that may be required in the context of this complaint.

For ARTICLE 19



JUDr. Barbora Bukovska
Senior Director for Law and Policy
ARTICLE 19