

## Support Letter for Bits of Freedom’s Summary Proceeding Against Meta Platforms

The Electronic Frontier Foundation ([EFF](https://www.eff.org)) is a leading non-profit legal and policy organization that safeguards freedom of expression and privacy in the digital world. EFF regularly files amicus curiae or intervener briefs in court cases of consequence regarding freedom of expression and user privacy. EFF is a member of European Digital Rights (EDRi), a collective of NGOs, experts, advocates and academics that have for two decades worked to advance digital rights throughout Europe.

With this letter, we write to express our support for the summary proceeding<sup>1</sup> filed by Bits of Freedom concerning Meta Platforms (Meta)’s potential violation of the EU’s Digital Services Act (DSA).

### Meta’s current interface design relies on harmful design patterns

The case brought by Bits of Freedom highlights how Meta, in its UX design for Facebook and Instagram, uses tactics such as misleading labelling, non-sticky settings, and obstructive design that creates unnecessary friction and could undermine user choice, preventing them from selecting or retaining non-profiling feeds. **In our opinion, this case raises questions about how Meta shapes user choice options, casting doubt on the compatibility of their design practices with the DSA.**

In detail, Bits of Freedom identifies these practices as harmful ‘dark patterns’, as defined under the DSA, which prohibits design choices that “distort or impair, either on purpose or in effect, the ability of recipients of the service to make autonomous and informed choices or decisions” (Recital 67 of the DSA<sup>2</sup>). The DSA expressly prohibits the design practice of repeatedly requesting that a user make a choice that has already been made (Art 25). As Bits of Freedom argues, Meta’s design goes further by actively ignoring the user’s selection and automatically reverting to a profiling-based feed, a violation of Art 27(3).

The consequences of such dark patterns are serious.<sup>3</sup> They compromise user privacy by steering individuals toward surrendering personal data that they otherwise would not have agreed to share. For example, the dark patterns can result in the nonconsensual collection of personal data that are used in recommender systems. Such tactics also undermine user agency by overriding user choices and placing disproportionate barriers in the way of alternatives.

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<sup>1</sup> For the initial complaint, see <https://www.bitsoffreedom.nl/wp-content/uploads/2025/04/20250414-meta-complaint.pdf> (last accessed 5 Sept 2025).

<sup>2</sup> <https://eur-lex.europa.eu/eli/reg/2022/2065/oj>

<sup>3</sup> <https://www.eff.org/deeplinks/2021/05/help-bring-dark-patterns-light>;  
<https://www.eff.org/deeplinks/2019/02/designing-welcome-mats-invite-user-privacy-0>;  
<https://www.eff.org/deeplinks/2021/03/additional-regulations-approved-california-consumer-privacy-act?language=fa>.

The cumulative effect is to weaken the principle of informed choice and control that underpin the relevant sections of the DSA.

**Bits of Freedom Support**

Bits of Freedom is well-placed to lead this case. As one of Europe's most respected digital rights organisations, it combines legal expertise with a strong track record of public-interest advocacy on digital rights, including user rights to privacy.

For these reasons, it is essential to give serious consideration to the case and to the pressing importance of addressing the harmful design practices employed by Meta.

Yours sincerely,

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