



International Panel on the Information Environment

IPIE Submission to the European Commission

Delegated Regulation on Data Access
Provided for in the Digital Services Act

Technical Report 2024.4

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SUMMARY

This submission by the International Panel on the Information Environment (IPIE), made in December 2024, sets out recommendations for amendments to the Draft Delegated Regulation (DDR) on data access provided for in the Digital Services Act (DSA).

Based on the IPIE's own consultations with its growing scientific network, and particularly members based in the EU, the IPIE's recommendations are summarized as follows:

Researchers' Requirements

Article 15 of the DDR should be amended to give researchers more opportunity to amend their applications and should not be subjected to disproportionate documentation or technical requirements.

The wording of Article 15 of the DDR, concerning the implementation of Article 40(12) of the DSA, should lead to a standardization of the process to ensure that data providers do not erect undue barriers to access data. The broad definition of "systemic risks" should be reiterated in Article 2 of the DDR.

Strengthening Researchers' Access

Digital Services Coordinators (DSCs) should be responsible for ensuring that researchers are granted access to high-quality data and that the access matches the requests.

The DDR should include a fast-track process for access to time-sensitive data and Articles 7(3) and 13(8) should be clarified in relation to reasonable time periods

which should be determined through a consultation with the research community and subjected to independent review of the DSCs.

Article 2 of the DDR should include definitions of “other sources” and “public data” in relation to Article 8(3)(6) of the DDR to ensure that platforms are not able to use these categories to deny access to data in ways that counters the intention of the DSA.

Participation in Dispute Resolution and Right to Challenge DSC Decisions

Article 13(5) of the DDR should be amended to ensure mandatory participation by the principal researchers in any dispute settlement procedure.

Article 12 of the DDR should include a mechanism whereby the principal researcher can challenge and appeal a decision by a DSC.

The independence of the DSCs should be strengthened with oversight by the Commission.

Bolstered Transparency and Coordination

Article 6(4) of the DDR should be amended to require platforms to provide more information on the data they collect, and their internal processes in relation to the handling of harmful content and the enforcement of their policies.

DSCs should be obliged to communicate in more than one European Union language, with English as a mandatory option.

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INTRODUCTION

The IPIE welcomes the opportunity to provide this submission to the public consultation on the Draft Delegated Regulation (DDR) for the Digital Services Act (DSA).¹ The DDR concerns vetted researchers' access to data from very large online platforms (VLOPs) and very large online search engines (VLOSEs) as mandated by the DSA.

The IPIE is an independent and global science organization providing scientific knowledge about the health of the world's information environment. The IPIE offers policymakers, industry, and civil society actionable scientific assessments about threats to the information environment, including AI bias, algorithmic manipulation, and disinformation. The IPIE is the only scientific body systematically organizing, evaluating, and elevating research with the broad aim of improving the global information environment. Hundreds of researchers across Europe contribute to the IPIE's activities.

The IPIE supports the objectives of the DSA as the Commission explains:

With the Digital Services Act, researchers will for the first time have access to data to study systemic risks and to assess online platforms' risk mitigation measures in the EU. It will allow the research community to play a vital role in scrutinizing and safeguarding the online environment. The draft delegated act clarifies the procedures

¹ Proposed Commission Delegated Regulation (EU) of supplementing Regulation (EU) 2022/2065 of the European Parliament and of the Council by laying down the technical conditions and procedures under which providers of very large online platforms and of very large online search engines are to share data pursuant to Article 40 of Regulation (EU) 2022/2065.

on how researchers can access Very Large Operating Platforms’ and Search Engines’ data. It also sets out rules on data formats and data documentation requirements. Lastly, it establishes the DSA Data Access Portal, a one-stop-shop for researchers, data providers, and DSCs to exchange information on data access requests.²

The submission draws on the IPIE’s multiple scientific assessments, technical papers, and two global expert surveys and previous policy submissions. This includes the Expert Survey of the Global Information Environment 2024 which surveyed 412 researchers from 66 countries about the global information environment.³ In preparing this submission, the IPIE consulted with both its Science and Methodology Committee and its broader scientific affiliate network, from which came nineteen responses. While not meant as an exhaustive survey, this rapid consultation allowed additional supplementary insight into the real-world challenges and concerns of Europe’s scientific community under the tight timeline of the DSA’s consultative process.

² European Commission, “Delegated Regulation on data access provided for in the Digital Services Act”, https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13817-Delegated-Regulation-on-data-access-provided-for-in-the-Digital-Services-Act_en accessed 09 December 2024.

³ International Panel on the Information Environment. 2024. *Expert Survey on the Global Information Environment 2024: Searching for Solutions*. SFP2024.1. Zurich, Switzerland: IPIE.

SUMMARY OF IPIE SURVEY FINDINGS

In preparing this submission, the IPIE polled its scientific affiliates in November 2024. Responses exposed the need for data access to study topics including the societal impact of digitalization; disinformation in elections on social media; technology, climate impact and adaptation in Germany; systemic risk including AI-driven disinformation and its impact on digital political communication and societal resilience; automated analysis of social media; sociopolitical uses of online platforms; opinion dynamics, spread of misinformation, and conspiracy talk; and political influencers.

While only one scientist had attempted to request access to data through their DSC, the majority reported that they were likely, of which nine were very likely, to make such a request in the future. The consultation confirmed the importance of the mechanisms covered by the DDR to Europe's research community.

The survey findings also highlighted researchers' concerns regarding barriers to data access. These included closed APIs, which were associated with low data quality and only partial access in instances where access was granted; lack of transparency; lack of consistency in data access policies; access requests being denied without explanation or justification; technical restrictions; cumbersome and slow bureaucratic processes; lack of independent oversight; difficulties accessing large datasets; and legal and privacy concerns. The scientific affiliates also raised questions regarding the limitation of access to the study of systemic risk only.

The survey also revealed potential problems with the implementation of the DSA. These included complexity of the process of vetting researchers, which may be

overly bureaucratic and slow for time-sensitive data; resistance by platforms and heavy reliance on privacy and proprietary data arguments; receiving incomplete data in unusable formats; constraints on resources, especially for small research teams; and lack of institutional legal support, especially in relation to international data flows. The scientific affiliates also identified a concern that DSCs in different Member States would apply the DDR differently and could potentially be subjected to political capture, which could threaten their independence.

IPIE RECOMMENDATIONS

The recommendations in this submission have been designed to address the concerns expressed by the IPIE scientific community.

1. Researcher Requirements

Researchers should be able to amend their applications for data access to reflect the evolving nature of research projects, which may include shifting timelines or a change of researchers in the research teams.

Asking researchers to provide funding documentation before access is granted may be unreasonable and may place a disproportionate burden on smaller research teams who are not affiliated with large research institutions.

There is a need for standardization of the process for implementing Article 40(12) of the DSA to be specified in Article 15 of the DDR. Furthermore, Article 40(12) of the DSA must be interpreted according to the wording of Article 15(3) of the DDR in that data providers cannot impose “archiving, storage, refresh, and deletion requirements that hinder the research referred to in the reasoned request in any way.”

It could be helpful to reiterate the wide definition of “systemic risks” by including a definition in Article 2 of the DDR to cover the full range of social problems that can be exacerbated by VLOPs, both time-sensitive and long-duration.

2. Strengthening Researcher Access

Researchers have expressed concern that requests for data access are delayed, only partially met, met with low-quality data, or do not match the actual requests. DSCs should be responsible for adopting methods to verify the quality of data and ensuring that access granted corresponds to the actual request.

The DDR should include a fast-track process to ensure that researchers are given access to time-sensitive data. This is critical for unfolding situations which can rapidly escalate into systemic risk scenarios. This is particularly relevant for cases where access to data can provide insights into political events in real time. Reasonable time periods under Articles 7(3) and 13(8) of the DDR should be clarified.

Researchers express concerns that platforms may erect barriers from the wording of Article 8(3)(6) of the DDR which imposes an obligation on the DSCs to verify whether the research project “cannot be carried out with alternative existing means such as using data available through other sources”.

Specifically, researchers worry that “other sources” are not defined. It is commonly understood that these include publicly available data, but the uncertainty regarding the definition means that researchers may be asked to use data which theoretically may be public, but which in reality is not practically accessible. Some VLOPs have terms of service agreements that appear to prohibit the use of data or force the researcher to choose between accepting the risk of being denied API access as a user and participating in the data access request. Article 2 of the DDR should be amended to clarify the definition of “other sources” and “public data”.

There should be a safeguard to ensure that platforms are not able to identify “other sources” as data held by other platforms.

3. Participation in Dispute Resolution and Right to Challenge DSC Decisions

Researchers are concerned that the DDR prioritizes the rights and interests of platforms. To ensure a fair and balanced regime, the IPIE recommends that the participation of the principal researchers is made mandatory (rather than by invitation) in the dispute settlement procedure under Article 13(5) of the DDR.

Researchers should have a mechanism under Article 12 of the DDR by which to challenge a DSC's decision not to formulate a reasoned request, and a DSC's decision not to submit a reasoned request should be justified. Specifically, the DSC should only be allowed to refuse to formulate a reasoned request under Article 7(2)(b) of the DDR if the principal researcher fails to comply with the formal requirements in Article 8 of the DDR.

Principal researchers should be able to challenge a decision by a DSC in addition to judicial proceedings. Researchers should be able to appeal decisions to a cross-national appeals panel of three DSCs and two active researchers to help ensure that standards and shared definitions evolve consistently across the EU. Thus, Articles 7 and 12 of the DDR should be amended accordingly.

The mechanisms to ensure the independence of the DSC should be strengthened. This is important to ensure that DSCs are not inadvertently subjected to industry and political capture. There should also be oversight to ensure that the DSCs act independently, with their actions overseen by the Commission.

4. Bolstered Transparency and Coordination

Pursuant to the objective of transparency, Article 6(4) of the DDR should be amended to require platforms to provide more detail beyond mere overviews of their data inventories.

Article 40(4) of the DSA should be interpreted in Article 15 of the DDR to require platforms to provide information about their internal processes and enforcement of their policies regarding harmful content.

Standardized operational language is critical for productive and informative engineering, technical, and scientific investigations. Multiple examples from other areas of EU oversight illustrate how language choice is critical for successful research. For example, the European Organization for Nuclear Research (CERN)

designates English and French as official languages, with English serving as the operational language of the research community.

Researchers are concerned that DSCs will insist on only communicating in their own language, thereby erecting access barriers for researchers from other Member States, for other DSCs seeking to learn from shared experience, and for the VLOPs that must respond to requests.

The DDR should be amended to include a requirement that DSCs communicate in more than one European Union language, of which English should be a mandatory option. The vast majority of researcher outputs in scholarly publications are in English; the VLOP datasets and metadata are in English; the technical vocabulary across the expert community in English; the VLOP administrative centers that engage with DSCs and researchers operate in English; and the VLOP engineering teams responding to requests operate in English. This approach would also be commensurate with the approach taken by the EU in relation to technical standards by the European Standards Bodies (the European Committee for Standardization (CEN), the European Committee for Electrotechnical Standardization (CENELEC), and the European Telecommunications Standards Institute (ETSI), who publish their standards in English, French, and German.

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