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Denmark's written response to the draft of The Delegated Regulation on data access provided for in the Digital Services Act

General remarks

The Danish Government welcomes the draft of the Delegated Regulation supplementing Regulation (EU) 2022/2065 (Digital Services Act) laying down the technical conditions and procedures under which providers of very large platforms and of very large search engines are to share data pursuant to Article 40.

The Danish Government appreciates the opportunity to comment on the act and fully supports the aim of the Digital Services Act to create a more responsible digital economy, where the biggest online platforms and online search engines will have to take more responsibility in creating a safer online environment.

The DSA imposes several obligations for providers of very large online platforms and very large online search engines proportionate to their particular role and societal impact in the Union. In that connection, Article 40 – which requires such providers to provide researchers access to data – is a corner stone.

Researchers' access to data and scrutiny are thus an essential contribution to the detection, identification and understanding of systemic risks in the Union and to the assessment of the adequacy, efficiency and impacts of the risk mitigation measures that the very large online platforms and the very large online search engines have to put in place.

Very large online platforms and very large online search engines can be used in a way that strongly influences e.g. safety online, the shaping of public opinion and discourse.

One of the categories of risks concerns the actual or foreseeable negative effects on democratic processes, civic discourse and electoral processes, as well as public security. It is therefore a democratic problem if the regulation is not implemented effectively and sufficiently. Another important category of risk includes negative effect on minors. Protection minors online is a central priority to the Danish Government to which strong enforcement and effective implementation of the DSA is pivotal.

The Danish Government thus considers it particularly important that the delegated act to the greatest extent possible within the limits of the legal basis of Article 40(13) supports and ensures access to data. It is of course important that rules on transparency respect the protection of the rights and legitimate interests of the very large online platform and the very large online search engine.



It is important that the administrative burdens associated with the submission of applications for data access are minimised since this can become a barrier for applying, especially for smaller research projects or projects with limited funding.

Further, it is important that access to data is given in a timely and effective manner without undue delay and that the data itself should be based on recognized technical standards and equipment, software and services in general. Finally, a general review of the delegated act should be considered when the rules have been in effect for two years.

Need for clarity

Overall, the delegated act should set up a proportional, practical and clear process for data access which is crucial to protect the rights and interests for those involved - while containing adequate safeguards against any form of abuse. Unfortunately, the draft delegated act is not clear when it comes to the role of the Digital Services Coordinator of the Member State of the research organization.

In this regard, the Danish Government highlights that:

- The procedures for the management of the data access process should be described - starting from the submission of the data access application - to underpin the different steps in the process.
- The draft act should clarify the interactions between the Digital Service Coordinator of establishment and the providers of very large online platforms and of very large online search engines in the processing of the reasoned request for access to data.

Please see the annex to the written response with more detailed comments.