



CONCLUSION OF THE BOARD

Subject: The recognition of the Code of Practice on Disinformation as a code of conduct pursuant to Article 45 of Regulation 2022/2065 (Digital Services Act or “DSA”)

The fight against disinformation is a priority area in the European Union, and various important initiatives address the challenges posed by the dissemination of disinformation. This includes the European Commission’s Communication on the European Democracy Action Plan ⁽¹⁾, the European Commission’s Communication ‘Tackling online disinformation: a European approach’ ⁽²⁾ and the Council Conclusions of 28 June 2018. ⁽³⁾ One of the most important initiatives is the Code of Practice on Disinformation, which was originally agreed in 2018. Following the European Commission Guidance on Strengthening the Code of Practice on Disinformation ⁽⁴⁾ it was revised in 2022 to be a more effective instrument in tackling disinformation. ⁽⁵⁾ It counts 40 signatories to date. ⁽⁶⁾

The EU regulatory framework on combating disinformation has further advanced with the entry into force of the Digital Services Act (hereafter: “the DSA”), which requires designated Very Large Online Platforms and Very Large Online Search Engines (hereinafter “VLOPs” and “VLOSEs”) to put in place reasonable, proportionate and

⁽¹⁾ COM(2020)790 final <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2020%3A790%3AFIN&qid=1607079662423>

⁽²⁾ COM(2018)236 final http://ec.europa.eu/newsroom/dae/document.cfm?doc_id=51804

⁽³⁾ <http://www.consilium.europa.eu/media/35936/28-euco-final-conclusions-en.pdf>

⁽⁴⁾ COM(2021)262final (<https://digital-strategy.ec.europa.eu/en/library/guidance-strengthening-code-practice-disinformation>)

⁽⁵⁾ Under the Code, the term ‘disinformation’ is considered to include misinformation, disinformation, information influence operations and foreign interference in the information space.

⁽⁶⁾ At the time of adopting this document, four of the signatories are providers of designated very large online platforms and Very Large Online Search Engines (VLOPs and VLOSEs) under the DSA: Google (YouTube and Google Search), Meta (Facebook and Instagram), Microsoft (LinkedIn and Bing), and TikTok.

effective mitigation measures to address systemic risks stemming from the design or functioning of their services, including those related to disinformation. ⁽⁷⁾

In order to ensure continued added value and complementarity with legal obligations under the DSA, the signatories to the Code of Practice on Disinformation (hereafter: “the Code”) have proposed in October 2024 to the Commission a revised Preamble to the Code and requested the Code’s assessment under Article 45 of the DSA. The DSA also mentions the Code in Recital 106 as one of the existing self-regulatory instruments that could become a code of conduct in accordance with the aforementioned legal base.

In January 2025, the VLOPs and VLOSEs signatories presented to the Permanent Taskforce of the Code, and subsequently published, their updated subscription documents, indicating the Code’s commitments and measures they intended to adhere to.

Pursuant to Article 45(4) of the DSA “[t]he Commission and the Board shall assess whether the codes of conduct meet the aims specified in [Article 45] paragraphs 1 and 3”. This document summarises the Board’s assessment. It is to be published alongside the ‘Commission Opinion on the assessment of the Code of Practice on Disinformation within the meaning of Article 45 of Regulation 2022/2065’. This document does not prejudice any future actions the European Commission, the Board, the Digital Services Coordinators and other competent authorities, as applicable, may undertake in the enforcement of the DSA.

Views expressed by the Board

The Board notes positively that the Preamble of the Code has been revised to take into account the new regulatory framework established by the DSA and the Regulation on Transparency and Targeting of Political Advertising. Disinformation is one of the most serious concerns related to the current digital environment and our societies. It can lead to actual or foreseeable negative effects on civic discourse and electoral processes, and public security; it may also impact a number of internationally recognised fundamental rights, such as the freedom of expression and information, the right to freedom of thought and the right to hold opinions without interference. ⁽⁸⁾ It is therefore positively noted that the Code

⁽⁷⁾ Regulation (EU) 2022/2065 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act), OJ L 277, 27.10.2022, Articles 34 and 35 and Recitals 9 and 104.

⁽⁸⁾ Carme Colomina, Héctor Sanchez Margalef, and Richard Youngs, ‘The impact of disinformation on democratic processes and human rights in the world’, Study for the European Parliament, [https://www.europarl.europa.eu/RegData/etudes/STUD/2021/653635/EXPO_STU\(2021\)653635_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2021/653635/EXPO_STU(2021)653635_EN.pdf).

aims to prevent and combat disinformation in the online environment through voluntary commitments across multiple sub-topics. This includes scrutinising ad placements to demonetise disinformation actors; ensuring the integrity of services, by providing safeguards for users against disinformation; and more.

Pursuant to Articles 45(1) and 45(3) of Regulation (EU) 2022/2065, the Board's assessment is based on four criteria: a code of conduct should (i) contribute to the proper application of the Regulation; (ii) clearly set out its specific objectives; (iii) contain key performance indicators (hereafter: KPIs) to measure the achievement of those objectives; (iv) take due account of the needs and interests of all interested parties, and in particular citizens.

Thereby, the Code engages with some types of systemic risks outlined in Article 34 of the DSA and hence can be a suitable instrument to successfully contribute to the proper application of the DSA. Further, the Code clearly sets out its specific objectives, contains KPIs to measure the achievement of those objectives, and takes due account of the needs and interests of all parties concerned.

The Board is therefore of the view that the Code of Practice on Disinformation meets the four criteria specified in Article 45(1) and (3) of the DSA for codes of conduct.

However, the Board would like to stress the importance of ensuring complementarity between the Code and the DSA in the sense that the former lays out more detailed - industry-led - commitments in relation to disinformation, without prejudice to the legal obligations laid down in the DSA. To this end, section 1 of this document clarifies the interplay between the two instruments in practical terms, in full recognition of the fact that the Code must not impede effective enforcement and is without prejudice to any action taken by the Commission, the Board, Digital Services Coordinators and other competent authorities, as applicable, to that regard. At the same time the Board also notes and supports that the Code – once converted – becomes a significant benchmark for DSA compliance when it comes to the risks related to disinformation, including in the context of electoral processes. The Board would further like to highlight a number of points to be taken into account in the implementation of the Code. These are set out in section 2.

1. Interplay between the Code and the Digital Services Act

1.1 Contribution to regulatory objectives

The Board first recalls that there is a clear hierarchy between the DSA as a binding regulatory instrument directly applicable in all Member States to intermediary services and

the present Code, which sets out voluntary commitments by signatories when it comes to handling the systemic risks that disinformation may generate. In this regard, as set out in the Preamble to the Code, it is without prejudice to the obligations imposed on signatories under the DSA, which will always take precedence for signatories falling under its scope. The Preamble also clarifies that the Code is without prejudice to other EU law instruments, including in particular the Regulation on the Transparency and Targeting of Political Advertising ⁽⁹⁾.

Second, the Board acknowledges that the Code addresses major systemic risks identified in Article 34 of the DSA. It contributes to combatting disinformation and foreign information manipulation and interference (FIMI), carried out by malicious actors through coordinated campaigns while it also foresees a number of measures to protect the integrity of the electoral process, notably through its Rapid Response System (hereafter: “the RRS”). By aiming to counter disinformation, the Code subsequently seeks to address actual or foreseeable negative effects for the exercise of fundamental rights (with a specific focus on the freedom of expression and information, including the freedom and pluralism of the media) under Article 34(1)(b) of the DSA. It also seeks to address actual or foreseeable negative effects on civic discourse and electoral processes, and public security under Article 34(1)(c) of the DSA. The Code’s targeted focus on combating disinformation, including in the context of safeguarding the integrity of electoral processes, is therefore in line with the objectives of the DSA, which chiefly aims at achieving a safe, predictable and trustworthy online environment.

Third, the Board recognises that the Code aims to be a complementary tool to the DSA, and notes that the Code adds a complementary, operational and more granular and detailed layer on top of existing obligations pursuant to the DSA regarding the aforementioned relevant systemic risks. The Code’s commitments aim to give flesh to the DSA’s obligations regarding content moderation, transparency, risk assessment, empowerment of users and the research and fact-checking communities, and more.

This is demonstrated, for example, by the system of reporting under the Code: each signatory commits to providing detailed reports on the measures their services are implementing in accordance with the Code. As foreseen in Article 42(1) of the DSA, providers of VLOPs and VLOSEs are mandated to report twice a year, in structured six-month reporting periods. Signatories to the Code are to publish their reports via the

⁽⁹⁾ Regulation (EU) 2024/900 of the European Parliament and of the Council of 13 March 2024

Transparency Centre website ⁽¹⁰⁾ making it accessible to the general public and allowing stakeholders to download and review the information. Reports enable interested parties such as civil society organisations, researchers and others to conduct individual assessments based on reported data (e.g. European Fact-Checking Standards Network (hereafter: EFCSN) conducts such as an assessment on the Code’s Chapter VII: Empowering Fact-Checkers) ⁽¹¹⁾. Signatories provide feedback within the Permanent Task-force of the Code on reports and measures taken by VLOPs and VLOSEs, fostering accountability within the online safety and transparency framework outlined by the DSA.

1.2 Engagement with stakeholders

A major element of the interplay between the Code and the DSA’s regulatory regime is that the Code’s framework stimulates close cooperation among platform and non-platform signatories to address disinformation. This is thanks to the Code’s Permanent Task-force, which fosters discussion in an open, safe and collaborative environment.

The structures established by the Code allow continuous exchanges between platform and non-platform signatories on disinformation trends and responses to global and regional crises. Examples where regular or ad hoc exchanges took place include collective responses to disinformation related to COVID-19, the war in Ukraine, the Hamas-Israel conflict, and various elections. The RSS operated by the signatories during the 2024 European Parliament Elections and during national elections – including the elections in France and Romania – also proved to be very useful in enabling swift reactions to time sensitive content posing risks to electoral integrity.

Signatories of the Code organised several online events, further fostering the transparency of the activities under the Code and actively stimulating public engagement. For example, there have been annual meetings with relevant stakeholder groups and experts to discuss the Code ⁽¹²⁾ and events discussing the progress made on the Structural Indicators. ⁽¹³⁾

⁽¹⁰⁾ <https://disinfocode.eu/>.

⁽¹¹⁾ European Fact-Checking Standards Network, ‘Fact-checking and related Risk-Mitigation Measures for Disinformation in the Very Large Online Platform’, January 2024, <https://efcsn.com/wp-content/uploads/2024/03/EFCSN-%E2%80%93-Fact-checking-and-related-Risk-Mitigation-Measures-for-Disinformation-in-the-Very-Large-Online-Platforms.pdf>.

⁽¹²⁾ <https://digital-strategy.ec.europa.eu/en/events/code-practice-disinformation-stakeholder-online-event>.

⁽¹³⁾ <https://digital-strategy.ec.europa.eu/en/events/stakeholders-event-structural-indicators-code-practice-disinformation>.

1.3 Appropriate risk mitigation measures

In accordance with Article 35 of the DSA, signatories that are providers of VLOPs or VLOSEs shall put in place reasonable, proportionate and effective mitigation measures. Adherence to and compliance with codes of conduct may be considered as part of appropriate risk mitigation measures (Recital 104 of the DSA).

The Code consists of a detailed system of commitments and measures that contribute to tackling disinformation across multiple sub-topics. Their particular value also lies in the fact that they have been discussed among and agreed across a broad spectrum of actors as being effective in countering disinformation in the online environment, including both platform signatories as well as civil society and fact-checking organisations. The Code's commitments therefore notably reflect a broad consensus among industry and non-industry players in the EU.

The Board acknowledges that the Code may therefore be taken into account in the context of the compliance assessments pursuant to Articles 34 and 35 of the DSA, following its conversion into a code of conduct under Article 45 of the DSA. The Code can notably – subject to its implementation in practice - become a significant benchmark for DSA compliance regarding mitigating systemic risks related to disinformation. The higher the level of compliance with the Code, the more positive the impact on the assessment of risk mitigation under Article 35 of the DSA. However, the Board notes that the mere fact of participating in and implementing a given code of conduct should not in itself presume compliance with the DSA (Recital 104 of the DSA).

Additionally, the evaluation of the Code as a tool to address systemic risks related to disinformation must be distinguished from the evaluation of the level of commitments taken by signatories (see also section 2.4 below).

2. Recommendations

2.1 Monitoring

2.1.A Internal monitoring

In view of ensuring the appropriate monitoring of the Code as a code of conduct, the Board recommends the establishment of a monitoring structure established within the Code that allows for a meaningful assessment of its performance. In order to effectively protect the integrity of the information space, it is recommended to place such a monitoring structure

within the existing tasks of the Permanent Task-force⁽¹⁴⁾ and to build on the work that has been done within the Code's subgroup on monitoring. The Board recommends that the Permanent Task-force of the Code cooperates closely with the Commission and the Board in the context of the latter two organisations' role according to Article 45(4) of the DSA.

Structural Indicators also form an important part of the Code's commitments. These indicators aim to measure the Code's impact in addressing disinformation, facilitating a more comprehensive, objective, and longitudinal evaluation across various dimensions of the phenomenon. The goal is to assess the overall effectiveness of the Code in reducing disinformation through its implementation.⁽¹⁵⁾ While these indicators can provide added value, they need to be measured during a longer period of time and in a consistent manner. In that light, the Board calls on the Signatories to continue the implementation of the Structural Indicators, further developing them based on the first two pilots. In this regard, the Board expects platforms to provide access to all necessary data for the effective implementation of the Structural Indicators.

Furthermore, the Board emphasizes the critical importance of ensuring the independence of the Structural Indicators' measurements, and their long-term financial sustainability.

2.1.B Internal compliance function and independent audits following conversion of the Code

The conversion of the Code into a code of conduct pursuant to Article 45 of the DSA will lead to enhanced monitoring and enforcement. For the providers of VLOPs and VLOSEs, their compliance with commitments is monitored by their internal compliance officers, as per Article 41(3)(f) of the DSA. Additionally, the Code becomes part of the DSA's annual auditing cycle, as independent auditors will assess the compliance by VLOPs and VLOSEs with commitments, pursuant to Article 37(1)(b) DSA.

The Board stresses the need for audits to be performed with a high level of expertise, in line with the requirements laid out in the DSA and in the Delegated Regulation (EU)

⁽¹⁴⁾ The Permanent Task-force provides a forum of exchange among Signatories, the Commission, the EEAS, ERGA, EDMO and other invited third-parties. It notably also has structures that allow for working in subgroups to implement specific workstreams in between the plenary meetings of the Task-force (see Chapter IX of the Code).

⁽¹⁵⁾ European Digital Media Observatory, Structural Indicators of the Code of Practice on Disinformation: The 2nd EDMO report, March 2024, https://edmo.eu/wp-content/uploads/2024/03/SIs_-2nd-EDMO-report.pdf.

2024/436. ⁽¹⁶⁾ A high level of expertise is needed to exercise professional judgment and professional scepticism in light of the complexity and particular nature of these audits. Such expertise can be proven by practical experiences, academic activity, and scientific publications. The Board notes that auditing organisations may also subcontract the necessary expertise, provided the necessary conditions on independence, non-conflict of interest, proven objectivity and professional ethics are respected. ⁽¹⁷⁾

While the auditing brings important added value through an independent, external assessment of compliance with the Code's commitments, the Board stresses the importance that the audit reports do not replace the regular reporting under the Code. The regular reporting under the Code is especially useful due to the harmonised reporting templates and refined methodology for reporting and data disclosure that has been agreed in the Task-force as per commitment 43 of the Code. Furthermore, reporting under the Code achieves a high level of transparency due to the obligation to publish reports on the publicly accessible Transparency Centre website.

These elements emphasise the need of continuous engagement of VLOPs and VLOSEs signatories as one of the cornerstones of the Code. VLOPs and VLOSEs signatories must remain fully committed to the Code, cooperate constructively in the Task-force and continue their engagement with other non-platform signatories and regulators.

2.1.C Monitoring and evaluation by the Commission and the Board following the conversion of the Code

Following the conversion of the Code, and pursuant to Article 45(4) of the DSA, the Commission and the Board will regularly monitor and evaluate the achievement of the Code's objectives, having regard to the KPIs that it contains.

The Commission and the Board shall also encourage and facilitate regular review and adaptation of the Code over time.

This caters to the more flexible nature of codes of conduct vis-à-vis other instruments such as Guidelines. The Board foresees providing feedback to signatories and requiring updates of the Code if new technological developments and challenges occur.

⁽¹⁶⁾ Commission Delegated Regulation (EU) 2024/436 supplementing Regulation (EU) 2022/2065 of the European Parliament and of the Council, by laying down rules on the performance of audits for very large online platforms and very large online search engines, OJ L, 2.2.2024.

⁽¹⁷⁾ See Recitals 3, 9 and 10 of Delegated Regulation (EU) 2024/436.

At the time of writing, providers of several services that have been designated as VLOPs and VLOSEs have not joined the Code. While participation to a Code is voluntary, the Board would like to note that in certain circumstances it is important that very large online platforms adhere to specific codes of conduct (Recital 103 of the DSA). This would especially be the case for platforms that are exposed to the risk of disinformation. In that light, the Board recalls that the Commission can consider to invite such platforms to join the Code in line with Recital 104 of the DSA.

Finally, as per Article 45(4) of the DSA, the Commission and the Board may invite the signatories to codes of conduct to take the necessary action in the case of systematic failure to comply with codes of conduct.

2.2 Rapid Response System

The RRS, to be established by the signatories of the Code, represents a crucial framework for cooperation during elections and crises, complementing platforms' incident response mechanisms. To ensure its effectiveness, signatories that are designated as VLOPs and VLOSEs, together with the other signatories, should define a clear procedural framework for cooperation and coordination between them, both during elections and crises. This framework must guarantee the coverage of relevant languages and include a rapid feedback mechanism ensuring swift, efficient, and appropriate follow-up by platforms.

The Board strongly urges the signatories of the Code to swiftly finalize the full operationalisation of the RRS, ensuring it functions as a structured and reliable mechanism with clearly defined processes. These rules must be consistently applied by all signatories who are providers of VLOPs and VLOSEs and guarantee the system's timely activation for all national elections within the EU and swift feedback provided by platforms to the items flagged. The system should also be activated for other elections and referendums within the EU where, based on discussions within the Task-force, signatories identify potential risks to integrity of elections. The system should be fully aligned with the Commission Guidelines for providers of VLOPs and VLOSEs on the mitigation of systemic risks for electoral processes pursuant to Article 35(3) of Regulation (EU) 2022/2065 facilitating a coordinated and effective response to threats related to disinformation and online manipulation.

2.3 Transparent moderation processes

The Board recognises that the Code's objective to fight disinformation is necessary to address negative effects on the exercise of fundamental rights. At the same time, the Board

notes that, as required by the DSA, signatories must strike a balance between taking effective action to limit the spread and impact of disinformation, and protecting fundamental rights, in particular the freedom of expression and information, when implementing measures to meet the Code's relevant commitments ⁽¹⁸⁾.

In this regard, it is important to note that the Code serves as a mechanism to enhance freedom of expression. The dissemination of verifiably false information, particularly when there is a vested interest in amplifying it, can impede authentic discussions. Such dissemination conducted on a false premise has the capacity to constrain the range of opinions, thereby inhibiting the formation of informed viewpoints. Furthermore, the Code's commitments and measures are protecting the freedom of speech and the freedom to information e.g. by providing additional context and information to users when they navigate the services, and foreseeing transparent, diligent and objective appeal mechanisms if their content was subject to enforcement actions.

The Board is of the view that it is important that VLOPs and VLOSEs address disinformation by taking effective action with active cooperation including for example by incorporating the input by fact-checkers into their moderation practices. In this context, the Board notes that fact-checking by established stakeholders has proven to be an effective element in countering disinformation while fully upholding the freedom of speech. Transparent moderation processes are essential not only to provide clarity regarding the decision-making related to the content moderation, but also for educating and empowering users to recognize disinformation. Finally, the Board refers to the importance of media literacy initiatives by VLOPs and VLOSEs for users.

2.4 Reporting consistency

As noted above, the Board stresses the importance and the positive effect of the reporting process based on a standardized template that breaks down the Code into commitments, measures, and KPIs – Quantitative Reporting Elements (QREs), and Service Level Indicators (SLIs). Accompanying each data submission, signatories must include a methodology outlining how the data was calculated.

However, there should be increased consistency in reporting on Member State level. Currently, signatories are often, but not always, providing detailed data. It is recommended

⁽¹⁸⁾ See in particular Articles 14, 34, 48 and 91 and recitals 3, 22, 47, 51, 52, 53, 54, 63, 81, 86, 90, 149, 150 and 153.

that reported data is broken down by Member State and/or language. ⁽¹⁹⁾ Additionally, there are currently inconsistencies in the reporting per Member State. Since the Code and the DSA apply in all Member States, the consistency of reported data and the level of detail should be comparable. Some data points might benefit from a common denominator and reference points, to better assess the real impact of implemented measures. The Board invites signatories to take further steps on improving their data provision, particularly with regard to their granularity.

3. Conclusion

In summary, in view of the assessment set out above, the Board is of the view that the Code of Practice on Disinformation meets the criteria specified in Article 45(1) and (3) of the DSA for codes of conduct pursuant to Article 45 of the DSA. It constitutes a strong set of industry-led commitments and measures agreed by a broad signatory community, which all together constitute a comprehensive framework to address disinformation on online platforms – which will further be strengthened by its integration into the DSA’s enforcement framework.

The Board reminds the signatories that the Commission and the Board may invite the signatories to the codes of conduct to take the necessary action in case of systematic failure to comply with the Code, as per Article 45(4) of the DSA. The Board also encourages the signatories to take into account the above recommendations in their implementation of the Code commitments and any potential future review of the Code.

At the same time, the Board stresses that the assessment of the Code in itself should be kept separate from the assessment of the level of commitment of individual VLOPs and VLOSEs, as it follows from their subscription forms.

The Board welcomes that the signatories, in particular the VLOPs and VLOSEs signatories have asked for conversion of the Code into a code of conduct under the DSA, showing their commitment to the Code. The Board also welcomes that in some relevant areas (e.g. Chapter IV: Integrity of Services) VLOPs and VLOSEs have remained subscribed to almost all commitments. When it comes to Integrity of Services, in light of recent developments affecting the integrity of electoral processes, the Board stresses the importance of the commitments related to platforms policies prohibiting techniques, tactics, and procedures (TTPs) employed by rogue actors to engage in inauthentic

⁽¹⁹⁾ Depending on the relevant Service Level Indicator.

behaviour on VLOPs and VLOSEs and encourages signatories to maintain high ambition level in this area and regularly exchange within the Code's Task-force on this matter, keeping their relevant policies up to date.

At the same time, the Board finds it concerning that the overall commitment to the Code from signatories who are providers of VLOP and VLOSE has been reduced, in particular in some key areas (e.g. Chapter VII: Empowering the Fact-Checking Community; Chapter II: Scrutiny of Ad Placements and Chapter III: Political Advertising).

In that view, the Board invites signatories who are providers of VLOPs and VLOSEs to increase their level of subscription. The Board encourages the Commission to follow up with the VLOPs and VLOSEs on the areas where signatories have lowered their level of commitment, in cooperation with the Code's Task-force and the Board.

As regards fact-checking, the Board notes that, as set out further above, it considers it an effective instrument to address disinformation and encourages VLOPs and VLOSEs signatories to apply a multi-layered approach by including such third-party input and not only rely on automatic detection, recommender systems or user reporting tools.

When it comes to political advertising, recent elections showed the importance that VLOPs and VLOSEs put appropriate ad verification in place. The Board also stresses that scrutiny of ad placements and demonetisation of disinformation is an area of key importance for fighting disinformation efficiently.

Finally, the Board emphasises the need for the Code to be open to further relevant signatories which are online platforms as defined in Article 3(i) of the DSA and are exposed to risks of disinformation on their platforms. This concerns both online services who have been designated as a VLOP or a VLOSE, as well as other online services. Signatories are encouraged to engage in outreach actions to such players after the conversion.