

Twitter: an analysis on policies & regulations

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"Since its first public release in 2006, Twitter has established itself as the leading microblogging platform in most parts of the world. Its widespread adoption and integration with other parts of the digital networked media ecosystem have sparked public debate, pop-cultural responses, and academic research alike" [1]. Recent Events in Twitter, with Elon Musk's acquisition have initiated numerous online discussions and debates regarding the future of the platform. [2] The platform has, over the year, received a fair amount of criticism for the way they apply the policy rules. [3] The goal of this analysis is the present the EU Law and Regulations that apply to the platform, explore the way they are implemented by validating the platform's compliance with the various policies and regulations (GDPR, DSA etc) where the regulation modalities will also be presented.

1. CASE

"Twitter is a service for friends, family, and coworkers to communicate and stay connected through the exchange of quick, frequent messages. People post Tweets, which may contain photos, videos, links, and text. These messages are posted to your profile, sent to your followers, and are searchable on Twitter search" [4].

A. How Twitter Works

Twitter is an online news and social networking site where people communicate in short messages called tweets. Users can follow a specific user and by doing so they become their follower. Tweeting is posting short messages on Twitter, which followers see on their start page, with the hope that the tweets are useful and interesting to someone in the audience. "Another description of Twitter and tweeting might be microblogging."

Why Twitter Is So Popular. Twitter's big appeal is how scan-friendly it is. Hundreds of engaging Twitter users can be tracked, whose content can be read with a glance, which is ideal for our modern attention-deficit world.

"Twitter employs a purposeful message size restriction to keep things scan-friendly: every microblog tweet entry is limited to 280 characters or less. This size cap promotes the focused and clever use of language, which makes tweets easy to scan, and challenging to write. This size restriction made Twitter a popular social tool".[5]

Twitter's Explore page. Twitter is easy to use as either broadcaster or a receiver. The users joins with a free account a creates a Twitter username. There is no limitation regarding the frequency of the tweets that can be posted or viewed. Tweeting is as simple as going to the What's Happening box next to the user's profile image, typing 280 or fewer characters, and clicking Tweet. A user's tweets can be seen by his follower's and potentially other users. A brief user case scenario is described in [5]:

"Encourage people you know to follow you and receive your tweets in their Twitter feeds. Let your friends know you are on Twitter to build up a following slowly. When people follow you, Twitter etiquette calls for you to follow them back. To receive Twitter feeds, find someone interesting (celebrities included) and press Follow to subscribe to their tweets. If their tweets aren't as interesting as you hoped, you can always unfollow them. Go to your account at Twitter.com day or night to read your Twitter feed, which is continually changing as people post. Check out Trending topics to see what's going on in the world. Twitter is that simple."

Why People Tweet. People send tweets for all sorts of reasons besides sharing their thoughts: vanity, attention, shameless self-promotion of their web pages, or pure boredom. "The vast majority of tweeters microblog recreationally. It's a chance to shout out to the world and revel in how many people read their tweets."

However, over the last couple of year, a growing number of Twitter users send out useful content, and that's the real value of Twitter. Compared to the other social network platforms, where the length of the posts isn't pre-defined and the content not unified, Twitter has become a platform that provides a stream of quick updated ranging from friends to journalists and politicians.

Twitter as a Form of Amateur News Reporting. "Twitter users tend to be heavier news consumers than other social media users. News, indeed, is one of the primary activities that they engage in on the network. While people end up following news in general on Twitter and use the social network "to pass the time," the immediacy of using the network to track news in real time, as noted above, is one of the primary reasons that people say they use Twitter and the most common form of news that is followed. The great majority of those who use Twitter for news (70%) said they had used Twitter in the last month to follow a story in real time. Most of them (80%) said they did so by scrolling through their timeline.[6]

Twitter as a Marketing Tool. Most brands and companies include Twitter in the social media they user (along with Facebook and

Instagram). The companies can advertise their products by creating a *Promoted-tweet*.

"Promoted-only Tweets are only shown to users targeted in your ad campaigns. Unless specifically targeted, they do not show up on your followers' timelines and are not visible in search results. However, because Promoted-only Tweets are live, they are viewable by our data partners who have access to all live Tweets for analysis purposes. Promoted-only Tweets are made within your ads account. When seen by a targeted user, they function just like normal Tweets and can receive replies, be shared, Retweeted, and liked." [7]

Users can also follow their favorite brand in order to learn the latest news. According to [6], "[...] The largest number 32%, said they had followed a brand account. Almost a quarter, 24%, said they had used a hashtag relating to a brand or ad campaign and 21% had replied to a brand or advertiser on Twitter, while 21% had favorited a tweet by a brand or advertiser. Almost as many, 19%, had retweeted or passed along information in tweets from a brand and 18% had taken part in a competition of some kind set up by a brand on Twitter.

Twitter as a Social Messaging Tool. Twitter is social media, but it's more than instant messaging. Twitter is about discovering interesting people around the world. It can also be about building a following of people who have common interests, works or hobbies and then providing those followers with some knowledge value every day.

Twitter works well with other social tools, including Instagram, Snapchat, and Messenger. For example, a user can not only *retweet* inside twitter, but has also the ability of sharing a tweet in an Instagram story. This will create a hyperlink in Instagram which will lead to the actual tweet in Twitter. [8]

Why Celebrities Like Twitter. "Twitter has become one of the most used social media platforms because it is both personal and rapid. Celebrities use Twitter to build a personal connection with their fans.

Katy Perry, Ellen DeGeneres, and Dionne Warwick are some of the famous Twitter users. Their daily updates foster a sense of connectedness with their followers, which is powerful for advertising purposes and also compelling and motivating for the people who following the celebs." [5]

B. Twitter in Numbers

Since its appearance in 2006, twitter has seen steady increase in revenue and number of users, as seen in Figure 1.

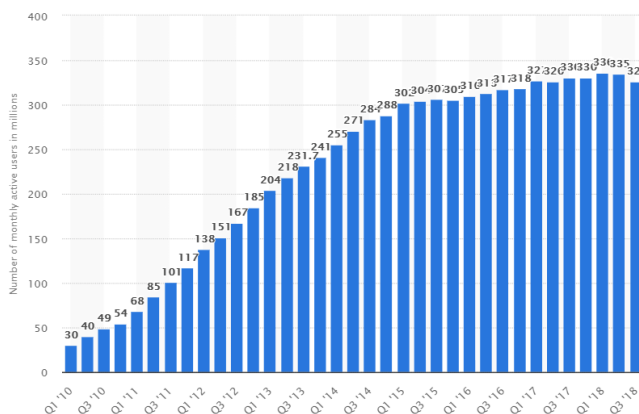


Fig. 1. Number of Twitter users over time (statista.com)

By the time twitter went public, in November 2013, the platform had slightly over 200 millions users. In 2022 Twitter has more than 400 millions users while the number of active users is around 240 millions [9].

A list of important statistics that will help put Twitter in number is presented below, derived from [9]:

1. Twitter has around 450 million monthly active users as of 2022.
2. Twitter has 237.8 million monetizable daily active users (mDAU) as of Q2 2022.
3. United States is the country with the most number of Twitter users.
4. Twitter has 41.5 million monetizable daily active users in the United States.
5. Majority of Twitter's audience (38.5%) belong to the 25 to 34 age group.
6. Twitter's brand value growth rate in 2022 is 85%.
7. Twitter is the 15th most popular social media in the world in terms of users.
8. Twitter has a 56.4% male audience and 43.6% female audience.
9. Barack Obama is the most followed person on Twitter.
10. Twitter generated \$5 billion in revenue in 2021.
11. Twitter generated \$1175 million in revenue in the second quarter of 2022.

While being very popular in the United States, Japan and India a significant number of people in Europe use Twitter. According to [10], 5.6% of Europe's population uses Twitter. This means that Twitter not only should comply with EU laws and regulations (as any business operating in EU) but, being one of the largest social media platforms, is more prone to inspections.

2. REGULATIONS OF INFORMATION TECHNOLOGY

"Regulation (in the digital domain) is the intervention of governmental, legal, social, economic, or technological authorities, by rules or procedures, to restrict the freedom of operations for market participants or to target the evolution of the digital markets. There are several reasons for regulation:

1. to avoid inefficiencies in markets such as formation of monopolies;
2. to ensure fair competition;
3. to assure that the users have correct and adequate information about the market;
4. to satisfy collective needs of the public;
5. to protect individuals against unethical business conduct and abuse of personal data; and
6. to ensure professional and ethical conduct of market participants.

One major reason for regulating the Internet is to prevent market dominance. Because of strong network effects and that the marginal cost associated with many digital goods is zero, several markets in the digital economy will be dominated by de facto monopolies if regulations are absent.

Other areas of regulation in the Internet are to protect consumer privacy (e.g., the General Data Privacy Regulation of EU), to ensure that private telecom operators pay for their use of public goods (e.g., frequencies), and to stop piracy and illegal distribution of content on the Internet. In general, an increasing number of regulations of the Internet have been put in force during the past decade."

Twitter "[...] an Irish company with its registered office at One Cumberland Place, Fenian Street Dublin 2, D02 AX07 Ireland

[...]"[11] operates in Europe, thus falls under European Laws and Regulations.

"Regulating the Internet may not only be done by laws and legal frameworks. The pathetic dot theory developed by Lawrence Lessig defines four modalities of regulation, as illustrated in Figure 2:

1. Legal: How the legal framework in a jurisdiction is used to regulate.
2. Market: How trade, markets, and economic factors are used to regulate.
3. Technology: How the technology is used to regulate.
4. Society: How norms and societal factors are used to regulate.

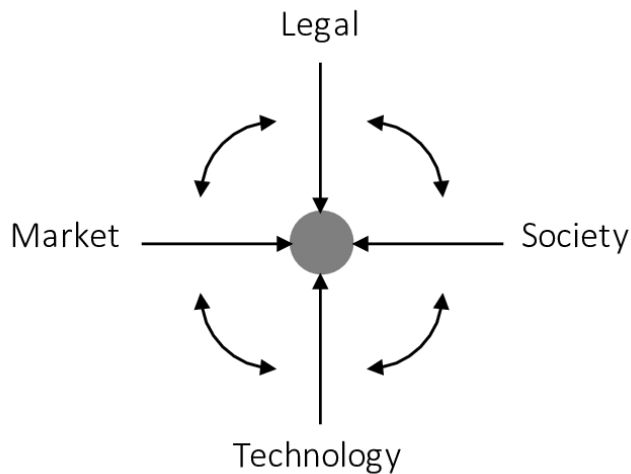


Fig. 2. Lessig's four modalities of regulation.

Regulating the digital economy—or a specific sector, domain, or market in the digital economy—can be achieved by using a combination of the four modalities. An example is the regulation of music piracy, in which the main problem is the violation of copyright and illegal downloading and spreading of music on the Internet. Such actions were made possible by the ubiquitous use of the Internet combined with applications or websites such as Napster and MP3.com. This was a major issue in the 2000s and still is, however, with less intensity today since a combination of the modalities described above has been employed to regulate the issue." [12]

3. REGULATORY ANALYSIS - CURRENT STATUS

This section offers an analysis on the Regulations and Obligations Twitter currently faces. Using the four modalities of regulation, we will attempt to analyze each point, providing information regarding the laws that apply.

A. Who regulates

There are two flows of regulations in Twitter's case;

EU - Twitter. The European Union has imposed regulations (such as the GDPR) with which Twitter must comply. According to the GDPR, article 5 "The controller shall be responsible for, and be able to demonstrate compliance with, paragraph 1 ('accountability')" [13]. In this case EU regulates Twitter.

Twitter - Users. Twitter on the other hand is responsible for regulating the users. Users must comply with Twitter's Terms and Conditions when they first create an account. On top of that, Twitter regulates a user's behaviour in various ways, which are presented in:

1. Twitter Terms of Service [11]
2. Twitter Privacy Policy [14]
3. Rules and policies [15]

B. What is the primary objective of the regulation (what is the regulatory objective)

EU - Twitter. The European Union regulates Twitter's compliance with the GDPR. Twitter acts as the controller, which is defined in Article 4 as follows: "controller" means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data; where the purposes and means of such processing are determined by Union or Member State law, the controller or the specific criteria for its nomination may be provided for by Union or Member State law; [13].

Processing is defined as: "any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;" [13].

Processing of personal data can be thought of as a flow of data consisting of three stages:

1. Data Input: by the data-subject, by a 3rd party, publicly found
2. Data Management: Read, Write, Preserve, Access, Delete
3. Data Sharing: 3rd parties, Data Processor, to other controller, to the data-subject, publish

Twitter uses the Privacy policy page to inform the users about each of the three stages. For example, regarding Data input Twitter separates it in three categories:

1. Information provided by the data subject:

"To use some of our products and services you need to have an account, and to create an account, you need to provide us certain information. Likewise, if you use our paid products and services, we cannot provide them to you without getting payment information. Basically, certain information is necessary if you want to use many of our products and services.

Personal Accounts. If you create an account, you must provide us with some information so that we can provide our services to you. This includes a display name (for example, "Twitter Moments"); a username (for example, @TwitterMoments); a password; an email address or phone number; a date of birth; your display language; and third-party single sign-in information (if you choose this sign-in method). You can also choose to share your location in your profile and Tweets, and to upload your address book to Twitter to help find people you may know. Your profile information, which includes your display name and username, is always public, but you can use either your real name or a pseudonym. And remember, you can create multiple Twitter accounts, for example, to express different parts of your identity, professional or otherwise.

Professional Accounts. If you create a professional account, you also need to provide us with a professional category, and may provide us with other information, including street address, contact email address, and contact phone number, all of which will always be public.

Payment Information. In order to purchase ads or other offerings provided as part of our paid products and services you will need to provide us payment information, including your credit or debit card number, card expiration date, CVV code, and billing address.

Preferences. When you set your preferences using your settings, we collect that information so that we can respect your preferences." [14]

2. Information collected by twitter: There is a long list of information Twitter collects. As twitter mentions: *"When you use our services, we collect information about how you use our products and services. We use that information to provide you with products and services, to help keep Twitter more secure and respectful for everyone, and more relevant to you."* Twitter collects Usage Information, Purchase and payments, Device information, Location information, Inferred Identity, Log information, Advertisements, Cookies and similar technologies and Interactions with our content on third-party sites. Regarding Cookies, Twitter offers a dedicated page on how they are being used [16]
3. Information collected by 3rd parties: Twitter also receives information from 3rd parties.

"Ad Partners, Developers, Publishers. *Our ad and business partners share information with us such as browser cookie IDs, Twitter-generated identifiers, mobile device IDs, hashed user information like email addresses, demographic or interest data, and content viewed or actions taken on a website or app. Some of our ad partners, particularly our advertisers, also enable us to collect similar information directly from their website or app by integrating our advertising technology. Information shared by ad partners and affiliates or collected by Twitter from the websites and apps of ad partners and affiliates may be combined with the other information you share with Twitter and that Twitter receives, generates, or infers about you described elsewhere in this Privacy Policy.*

Other Third Parties, Account Connections, and Integrations. *We may receive information about you from third parties who are not our ad partners, such as other Twitter users, developers, and partners who help us evaluate the safety and quality of content on our platform, our corporate affiliates, and other services you link to your Twitter account. You may choose to connect your Twitter account to your account on another service, and that other service may send us information about your account on that service."* [14]

As far as Data Processing is concerned, Twitter informs the user under the "How do you use my information?" sections. More specifically, twitter uses Information to:

- Operate, improve, and personalize services
- Foster safety and security
- Measure, analyze and make services better.
- Communicate with you about services.
- Research.

Finally, regarding data sharing, Twitter defines specific categories, with regards to data sharing, by informing the user, at the same time, how they can control what is being shared. Depending on the user's action, information is shared accordingly. Twitter shares information in five general way.

- When the user Tweets, posts and shares:

With the general public. You are directing us to disclose that information as broadly as possible. Twitter content, including your profile information (e.g., name/pseudonym, username, profile pictures), is available for viewing by the general public. The public does not need to be signed in to view much of the content on Twitter. They may also find Twitter content off of Twitter, for example from search query results on Internet search engines.

With other Twitter users. *"Depending on your settings, and based on the Twitter products and services you use, we share:*

- *Your interactions with Twitter content of other users, such as likes, and people you follow.*

- *Content you send to a specific Twitter user, such as through Direct Messages. Please keep in mind that if you've shared information like Direct Messages or protected Tweets with someone else who accesses Twitter through a third-party service, the information may be shared with the third-party service.*

With partners. *"Depending on your settings, we also provide certain third parties with information to help us offer or operate our products and services. You can learn more about these partnerships in our Help Center. You can control whether Twitter shares your personal information with these partners by using the "Data sharing with business partners" option in your Privacy & Safety settings. (This setting does not control sharing described elsewhere in this Privacy Policy, such as when we share information with our service providers, or through partnerships other than as described in this Help Center article.)"*

- With third parties & third-party integrations

With service providers. *"We may share your information with our service providers that perform functions and provide services on our behalf, including payment services providers who facilitate payments; service providers that host our various blogs and wikis; service providers that help us understand the use of our services; and those that provide fraud detection services.*

With advertisers. *Advertising revenue enables us to provide our products and services. Advertisers may learn information from your engagement with their ads on or off Twitter. For example, if you click on an external link or ad on our services, that advertiser or website operator might figure out that you came from Twitter, along with other information associated with the ad you clicked, such as characteristics of the audience it was intended to reach and other Twitter-generated identifiers for that ad. They may also collect other personal information from you, such as cookie identifiers, or your IP address.*

Third-party content & integrations. *We share or disclose your information with your consent or at your direction, such as when you authorize a third-party web client or application to access your account or when you direct us to share your feedback with a business. Similarly, to improve your experience, we work with third-party partners to display their video content on Twitter or to allow cross-platform sharing. When you watch or otherwise interact with content from our video or cross-platform sharing partners, they may receive and process your personal information as described in their privacy policies. For video content, you can adjust your autoplay settings if you prefer that content not to play automatically.*

Through our APIs. *We use technology like APIs and embeds to make public Twitter information available to websites, apps, and others for their use, for example, displaying Tweets on a news website or analyzing what people say on Twitter. We generally make this content available in limited quantities for free and charge licensing fees for large-scale access. We have standard terms that govern how this information can be used, and a compliance program to enforce these terms. But these individuals and companies are not affiliated with Twitter, and their offerings may not reflect updates you make on Twitter. For more information about how we make public data on Twitter available to the world, visit <https://developer.twitter.com>."*

- When required by law, to prevent harm, or in the public interest. *We may preserve, use, share, or disclose your information if we believe that it is reasonably necessary to:*
 - comply with a law, regulation, legal process, or governmental request;
 - protect the safety of any person, protect the safety or integrity of our platform, including to help prevent spam, abuse, or malicious actors on our services;
 - explain why we have removed content or accounts from our services (e.g., for a violation of Twitter Rules);

- address fraud, security, or technical issues; or
- protect our rights or property, or the rights or property of those who use our services.
- With their Affiliates, as they may share information amongst their affiliates to provide products and services
- As a result of a change in ownership: *We may share, sell, or transfer information about you in connection with a merger, acquisition, reorganization, sale of assets, or bankruptcy. This Privacy Policy will apply to your personal information that is shared with (before and after the close of any transaction) or transferred to the new entity.*

Twitter-Users. Twitter, on the other hand, wants to regulate the behavior of its users.

First of all, a detailed explanation about Twitter's legal bases are in provided under the "Additional information about data processing" page [17]. Twitter uses the following legal bases:

- **Public interest.** As mentioned in the Privacy policy; *"Law enforcement and others as necessary to comply with law, prevent harm, and serve the public interest"* [14]
- **Legal Obligation.** as mentioned in [17], when the purpose of the processing is *"Complying with legal requests"* Twitter might share any data *"As required by applicable law, regulation, legal process, or governmental request."*
- **Contract.** a long list of data processing purposes is listed, which falls under the Contractual Necessity. For example, the user has to accept a baseline set of terms, in order to use the platform, including but not limited to Basic account information, Public information, contact information etc, which are necessary for twitter to Create the account, control, manage content creation and others. Moreover a special category is highlighted for the *"Safety and security features, including authentication, anti-spam, fraud protection, and quality and abuse prevention"*.
- **Consent.** Several cases fall under the Consent category, which the use can either accept or deny, which will personalise the experience. For example Twitter needs the user consent to Personalize based data based on the user's identity, personalize the services based on location, share data with third-part web clients the user has authorized and much more. The user can decide if he wants to receive personalized info, but can still decide not to, in which case the information received will be gather generic.
- **Legitimate interests.** The most detailed explanation, compared to the other categories, concerns the legitimate interests. Each sections, under the Legitimate interests, is thoroughly explained and the sections include categories like *"Legitimate interests analysis summary – inferences about your account; Legitimate interests analysis summary – advertising we show you on Twitter based on data you provide or we collect on Twitter, or on other websites or mobile apps based on information collected there; Legitimate interests analysis summary – Measuring the effectiveness of advertising we show you; Legitimate interests analysis summary – enabling advertisers to exclude an advertiser-submitted audience from being eligible for an advertising campaign and Legitimate interests analysis summary – non-service related notifications about your Twitter activity, related content, Direct Messages, and other Twitter product features"*

Having established the legitimate interests, we will proceed with analyzing how Twitter regulates its users. First of all, the user has to accept the Terms of Service, in order to use the platform [11]. This is the basis of the regulation and sets a common ground between the platform and the users. Moreover, under Twitter's "Rules and Policies" page, a long list of policies, regarding a plethora of topics can be found [15]. The terms and conditions along with the rules and policies, define the way twitter regulates the behavior of the user.

C. What are the regulation modalities in place (or which of the four modalities of regulation are applied)

In Twitter's case all the four modalities are in place. Namely, the Law modality applies to the law the EU has for the platforms, for example the GDPR, but there is also a cascade of regulation. For example, the EU has law regarding Child sexual exploitation. Twitter wants to make sure that illegal content is not being shared in the platform, thus regulates the users and takes the necessary actions against it.

As mentioned in the Child sexual exploitation policy: *"In the majority of cases, the consequence for violating our child sexual exploitation policy is immediate and permanent suspension. In addition, violators will be prohibited from creating any new accounts in the future. Note: when we're made aware of content depicting or promoting child sexual exploitation, including links to third party sites where this content can be accessed, they will be removed without further notice and reported to the National Center for Missing & Exploited Children (NCMEC). In a limited number of situations, where we haven't identified any malicious intent, we will require you to remove this content. We will also temporarily lock you out of your account before you can Tweet again. Further violations will lead to your account being permanently suspended. If you believe that your account was suspended in error, you can submit an appeal."* [18]

Moreover, there is the contract and consent, which also fall under the Law regulation modality. In the case of the latter, it is being applied through cookies, which is a tech Modality. Tech modalities can be split into Red-light and Green-light. Red-light will prevent users from a behaviour (for example detecting if inappropriate words are being used and prevent from posting) while Green-light will define the user's behaviour (like cookies).

In Twitter's case, the social norms has been a major point of discussion. Unfortunately, there is still no common ground, regarding the accepted social norms around Twitter. For example, while some users might consider a Tweet acceptable, others might find it offensive. Given the diversity, in political views, in Europe, it is hard to please all the users. That said, the Social norms in Twitter are a big part of the community.

Finally, the markets modality comes in place, since Twitter interacts with other platforms and business users, which buy services from Twitter to, as an example, promote their products.

D. What is the primary value produced by the regulation

In Twitter's case, the primary value produced is non-monetary. Since, for now, twitter is a free platforms for all users, *"Twitter divides its revenue into two categories: the sale of advertising services, which constitutes the vast majority of the company's revenue, and data licensing and other services"*. [19]

4. DSA

A. Introduction

"In recent years, the use of social media platforms such as Twitter has exploded in popularity. These platforms have provided users with a new way to connect and share information with each other, but they have also raised a number of legal and ethical concerns. One of the key issues in this regard is the Digital Service Act (DSA), which sets forth a number of rules and regulations governing the operation of online platforms."

Twitter, like all other social media platforms, must decide whether or not to comply with the DSA. On the one hand, compliance with the DSA would ensure that the platform is operating within the bounds of the law and is upholding ethical standards. This could help protect

Twitter and its users from potential legal and ethical issues. On the other hand, compliance with the DSA could also impose certain limitations on the platform and its users, potentially limiting their ability to freely express themselves and share information.

In considering whether or not to comply with the DSA, Twitter must weigh the potential benefits and drawbacks of doing so. On the positive side, compliance with the DSA could help protect the platform and its users from legal and ethical challenges. It could also help to maintain public trust and confidence in Twitter, which is essential for the platform's continued success. On the other hand, compliance with the DSA could also impose certain restrictions on the platform and its users, potentially limiting their ability to freely express themselves and share information. In conclusion, whether or not Twitter decides to comply with the DSA is ultimately up to the platform itself. However, compliance with the DSA would likely bring a number of benefits, including greater legal and ethical protections for the platform and its users. Ultimately, the decision to comply with the DSA will depend on the priorities and values of Twitter and its leadership." [20]

B. General information on the Digital Services Act

The following part, quotes various European Commissions' pages concerning the DSA and DMA, also known as the The Digital Services Act package.

The Digital Services Act (DSA) regulates the obligations of digital services that act as intermediaries in their role of connecting consumers with goods, services, and content. This includes online marketplaces amongst others. It will:

- give better protection to users and to fundamental rights online
- establish a powerful transparency and accountability framework for online platforms and
- provide a single, uniform framework across the EU.

The European Parliament and Council reached a political agreement on the new rules on 23 April, 2022 and the DSA entered into force on 16 November 2022 after being published in the EU Official Journal on 27 October 2022. [21]

The DSA and DMA have two main goals:

- to create a safer digital space in which the fundamental rights of all users of digital services are protected;
- to establish a level playing field to foster innovation, growth, and competitiveness, both in the European Single Market and globally.

Morespecifically the DSA aims at the production of rules that:

1. Better protect consumers and their fundamental rights online
2. Establish a powerful transparency and a clear accountability framework for online platforms
3. Foster innovation, growth and competitiveness within the single market [22]

The European Comissions has many detailed articles on it's website, which have information regarding the updated rules and their benefits, including visuals as seen in Figure 3.

The Digital Services Act includes rules for online intermediary services, which millions of Europeans use every day. The obligations of different online players match their role, size and impact in the online ecosystem.

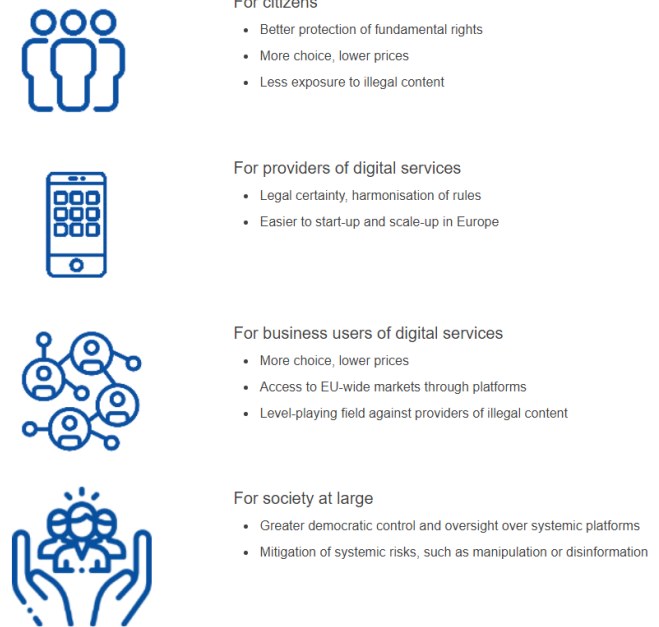


Fig. 3. Key goals of the Digital Services Act (Source).

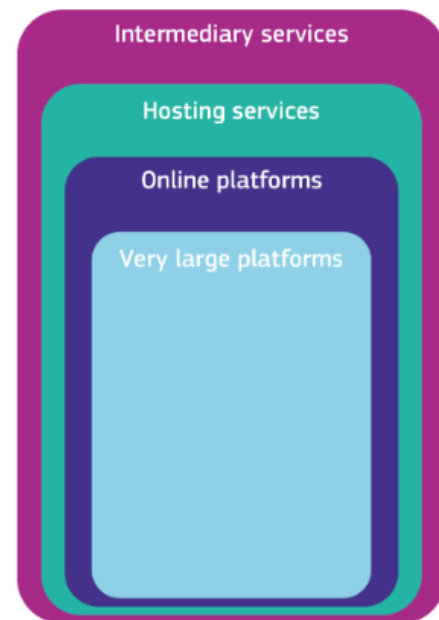


Fig. 4. Which providers are covered (Source).

- **Intermediary services.** offering network infrastructure: Internet access providers, domain name registrars, including also:
- **Hosting services.** such as cloud and web hosting services, including also:
- **Online platforms.** bringing together sellers and consumers such as online marketplaces, app stores, collaborative economy platforms and social media platforms.
- **Very large online platforms.** pose particular risks in the dissemination of illegal content and societal harms. Specific rules

are foreseen for platforms reaching more than 10% of 450 million consumers in Europe.

Back in June 2021 Twitter, joined with other companies, posted an article praising EU's initiative, regarding the DSA, by mentioning that: *"The Digital Services Act (DSA) represents a unique opportunity to build on the laws that laid a foundation for the flourishing of the Open Internet, which has been an unprecedented catalyst of economic and social development. We believe in a fair and forward-looking approach to regulation that protects what's best about our online environment and promotes the values of innovation, strong competition, and consumer choice that underpin the global, Open Internet."* [23] The platform has always been very strict and specific on their rules, having many distinct pages under their "Rules and policies" section. [15] The sections mentioned in the aforementioned page are:

- **General.** Understand the Twitter Rules and policies
- **Platform integrity and authenticity.** Policies that promote the health of the public conversation by investigating and mitigating material related to spam, platform manipulation, API abuse, and information operations
- **Safety and cybercrime.** Policies that enforce our principles against abuse, harassment, violence and criminal actions on the Twitter platform
- **Intellectual-property.** Policies that protect Intellectual Property rights of individual and organizations on the Twitter Platform
- **Platform Use Guidelines.** Policies and information relating to using the Twitter platform
- **Account Settings.** Articles and policies that assist users in setting up their account and settings
- **Law enforcement guidelines.** Information for law enforcement
- **Research and experiments .** How Twitter conducts research and experiments on the platform
- **Country-specific resources.** Articles that describe how Twitter supports applicable local laws

C. Twitter as an online player

In Twitter's case the debate correctly is if Twitter will be considered a Very Large Platform, or just a large platform. Depending on the categorization, the obligation are different, as seen in Figure 5.

As already mentioned, in order for a platform to qualify for a **Very large online platform**, it should have more than 10% of 450 million consumers in Europe. The DSA regulation states that this number is calculated based on the reach the platform has on EU citizens (EXPLANATORY MEMORANDUM 1. CONTEXT OF THE PROPOSAL). Based on the numbers presented in section 1, it would seem that Twitter is not that big of a platform, at least in Europe. That said, these numbers are not official and the EU could ask Twitter for official numbers.

Since Elon Musk's acquisition of the platform, there has been concern regarding it's future with some members of the Commission openly warning the new owner that Twitter should "fly by" the rules of Europe [24]. Whether or not Twitter should comply with the DSA's rules as a VLOP or just an Online Platform will be decided either by the new owner, or by an audit performed by the EU, which will determine the actual number of users. Strictly speaking, with the number of Twitter users in the EU, available publicly, there is no Legal obligation for Twitter to comply.

Given that, Twitter needs, at the moment, to comply with the obligations of an "Online Platform" we will give some examples, using the analysis previously made, regarding the current compliance.

	Intermediary services (cumulative obligations)	Hosting services (cumulative obligations)	Online platforms (cumulative obligations)	Very large platforms (cumulative obligations)
New obligations				
Transparency reporting	•	•	•	•
Requirements on terms of service due account of fundamental rights	•	•	•	•
Cooperation with national authorities following orders	•	•	•	•
Points of contact and, where necessary, legal representative	•	•	•	•
Notice and action and obligation to provide information to users		•	•	•
Reporting criminal offences		•	•	•
Complaint and redress mechanism and out of court dispute settlement			•	•
Trusted flaggers			•	•
Measures against abusive notices and counter-notices			•	•
Special obligations for marketplaces, e.g. vetting credentials of third party suppliers ("KYBC"), compliance by design, random checks			•	•
Bans on targeted adverts to children and those based on special characteristics of users			•	•
Transparency of recommender systems			•	•
User-facing transparency of online advertising			•	•
Risk management obligations and crisis response				•
External & independent auditing, internal compliance function and public accountability				•
User choice not to have recommendations based on profiling				•
Data sharing with authorities and researchers				•
Codes of conduct				•
Crisis response cooperation				•

Fig. 5. Obligations of different online players (Source).

Transparency reporting. Twitter has a dedicated page named "transparency" in which detailed reports regarding the number of suspensions, removal requests, copyright notices and much more is presented, in a global or per country basis. However, according to Article 23 of the DSA the platform should also mention the number of users in each member

state, which seems to be missing [25].

Requirements on terms of service due account of fundamental rights. As highlighted previously, Twitter has a very detailed section on privacy, which covers this requirement.

Cooperation with national authorities following orders. Twitter offers a dedicated page in which national authorities can refer to in case they want to make a request (public interest) to Twitter. [26].

Points of contact and, where necessary, legal representative. While Twitter offers many pages in which the user can find most of the information, regarding the user's rights, it also offers a dedicated ticketing system in which users can contact Twitter for a variety of issues, including legal issues. Under "Legal Requests" the process is explained [27].

Measures against abusive notices and counter-notices. Twitter takes measures against abusive content. The philosophy and methods behind it are highlighted under the "Our approach to policy development and enforcement philosophy" page [28].

D. DSA criticism

If Twitter will be classified as a VLOP, there are some additional obligations that need to be covered, that could come in contrast with the platform's view on free speech and targeted advertising.

In a series of articles posted on the Electronic Frontier Foundation, a lot of concerns were raised, which indicated that the EU would have unprecedented power over content posted on VLOPs. As seen in Figure 5, VLOP are being placed in authorities spotlight, and they have to comply with the requests placed by the national authorities, by taking necessary actions. Namely:

"Article 8 empowers national judicial or administrative authorities to issue mandatory takedown orders directly to "intermediary services" such as social media networks. In its recent vote, the Parliament rejected EFF's suggestion and the proposal by the Civil Liberties Committee to limit these powers to independent courts. Instead, the Parliament followed the Commission's proposal and allowed a broad category of non-independent authorities to exercise this power.

Taking down user communication is a highly intrusive act that interferes with the right to privacy and threatens the foundation of a democratic society. This is why only judicial authorities should be authorized to issue such orders. They are best able to determine with certainty that the material at issue is unlawful. By contrast, non-independent administrative authorities are often under the supervision of executive political power and don't necessarily consider the legitimate interests of all parties involved, including the protection of their fundamental rights.

On a positive note, instead of supporting global content takedowns, the EU Parliament partly followed EFF's suggestion to limit takedown orders to the territory of the issuing state, also known as "geo-blocking." However, where "rights at stake require a wider territorial scope," cross-border and even worldwide removal orders remain possible, which could also encourage companies to preemptively block content in countries where such content may not be illegal at all."

This could be a serious issue "With each member state assigning different rights and responsibilities to its police force, we should expect an environment that is highly unpredictable and inconsistent and could encourage forum shopping. And worse, the abuse this system could enable in countries like Poland and Hungary, which have been on the record for their anti-human rights views, must not be taken lightly. Hungary, for instance, has already been found guilty by the European Court of Human Rights of violating the right to respect for private life of an Iranian transgender man; similarly, Poland is ranked as the lowest in the EU when it comes to respect of human rights and,

in particular, those of the LGBTQ+ community. How comfortable are we with this type of online enforcement privatization?"

E. Social Norms

With everything discussed up until now, it seems that Twitter complies with most of the obligation of a VLOP but there are some parts of it that still have to be addressed. Musk had said that he is willing to work with the EU into applying the DSA. In Thierry Breton's words: *"I welcome Elon Musk's statements of intent to get Twitter 2.0 ready for the DSA. I am pleased to hear that he has read it carefully and considers it as a sensible approach to implement on a worldwide basis. But let's also be clear that there is still huge work ahead, as Twitter will have to implement transparent user policies, significantly reinforce content moderation and protect freedom of speech, tackle disinformation with resolve, and limit targeted advertising. All of this requires sufficient AI and human resources, both in volumes and skills. I look forward to progress in all these areas and we will come to assess Twitter's readiness on site."* [29]

In order for the DSA to be implemented successfully, in terms of content moderation, the social norms have to accept the rules and policies. This is the biggest challenge, since, as mentioned in subsection D, the range of political views inside the EU varies dramatically. We think that, although not obliged to, Twitter would grow as a platform if they work with the EU and implement the DSA. That said, both parties should exist in a more constructive environment, without trying to abuse their authorities.

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