

Who Governs Political Visibility?

The Digital Services Act's Democratic Blind Spot in Recommender System Governance

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Executive Summary

The Digital Services Act (DSA) governs society as a collection of individuals. But political opinion formation is not an individual process, it is a collective one. When the infrastructure of that collective process is controlled by a private platform optimizing for engagement, the governance question is not whether individuals are harmed. Who gave TikTok that authority? No one. That is the problem.

TikTok's recommendation system shapes the political opinions of millions of European citizens, not by distributing information, but by determining which issues, voices, and perspectives exist at scale in the European public sphere. The platform is built for entertainment. But the functional role its recommendation system performs is institutional: it executes agenda-setting and attention allocation — the determination of what becomes politically salient and who is heard — at scale no democratic institution has ever matched, and without the normative conditions that make those functions democratically legitimate.

Democratic theory identifies two such conditions. *Public justification* requires that the criteria through which political relevance is produced be explicable and contestable by citizens. *Institutional responsibility* requires that identifiable actors can be held accountable for how those criteria operate. TikTok's recommendation system satisfies neither. ByteDance, TikTok's mother company, made one decision: to optimize for engagement. Which voices are amplified, which issues trend, which perspectives are repeatedly encountered — no one decided that. These consequences cannot be traced back to any decision made inside the platform. They emerged from the optimization process itself. No one is accountable for the consequences. Because no one made a decision that led to them. This is the *responsibility paradox* at the heart of algorithmic governance.

The DSA does not govern this. Not because it lacks ambition — Article 34.1.c commits the EU to protecting civic discourse, and the Amsterdam District Court's ruling in *Bits of Freedom v. Meta* [1] confirms that DSA provisions can be read to protect users' democratic participation. But the DSA's vocabulary is calibrated to individual harm: it asks whether platforms damage users. It cannot ask whether the collective conditions under which political relevance is produced are themselves publicly justifiable. A system can be fully DSA-compliant while performing agenda-setting and attention allocation without a single democratically legitimate criterion governing how it does so.

This brief identifies four targeted adjustments within the Commission’s existing supervisory competence, none requiring legislative amendment. These recommendations would begin to close this governance gap by introducing collective accountability where the DSA currently sees only individual risk.

Introduction

Policy Background and Context

The DSA entered full effect in February 2024, imposing systemic risk obligations on nineteen Very Large Online Platforms (VLOPs) and search engines. The Commission’s enforcement actions against TikTok illustrate both the framework’s reach and its limits. The February 2024 formal proceedings and the February 2026 preliminary findings both frame algorithmic design as a source of individual harm — TikTok’s recommendation system is treated as a threat to user wellbeing and its addictive design as a danger to individual autonomy [2, 3].

What neither intervention addresses is what that same system does to the conditions under which millions of European citizens collectively form political opinions. The Amsterdam District Court’s 2025 ruling in *Bits of Freedom v. Meta* [1] confirms that DSA provisions can be read to protect individual users’ democratic participation — the right to choose and keep a non-profiled feed. But individual choice is not collective accountability. The DSA can protect a citizen’s right to opt out of algorithmic curation. It cannot ask whether the criteria governing that curation are themselves democratically legitimate for the millions who never opt out, and for the collective political environment they share.

Problem Statement

Recommendation systems do not merely distribute political information. They determine which issues become visible, which voices are amplified, and which perspectives are repeatedly encountered at scale. This is not a problem of individual exposure. It is a problem of collective infrastructure.

The distinction matters. When a parliament schedules a debate, when an editor leads with a story, when a public broadcaster decides what counts as news, these are collective decisions — made by identifiable actors under institutional norms that can be named, challenged, and reformed. Those arrangements were never democratically neutral. But they operated under accountability structures that made their relevance judgments, in principle, contestable at the collective level. A public broadcaster can be criticized for giving disproportionate airtime to extreme voices. A parliament can be challenged for failing to schedule debate on issues of broad public concern. These challenges are possible because identifiable actors are responsible for the allocation decisions, and because the criteria governing those decisions are publicly articulable.

Recommendation systems now perform the same governing functions at incomparably greater scale — but through mechanisms that dissolve collective accountability entirely. The criteria through which political relevance is produced are proprietary, continuously recalibrated, and attributed to no identifiable decision [9]. What becomes salient is not determined by any shared institutional standard. It is determined by what each user’s behavioral history has trained the system to surface [8]. This produces millions of individualized political environments, each optimized for behavioral response rather than democratic relevance.

As Habermas argues [5], democratic legitimacy depends not on preference aggregation but on the communicative procedures through which political opinions and collective will are formed. These

procedures require identifiable actors accountable for how they operate. When those functions migrate to engagement optimized systems, even that imperfect constraint dissolves, not gradually but structurally. The problem is not that the collective conditions of democratic opinion formation are being performed imperfectly. It is that they are being performed without any democratic condition whatsoever.

Findings

These findings draw on a qualitative institutional analysis combining normative democratic theory, regulatory document analysis of the DSA and Commission enforcement decisions, and an illustrative case study of TikTok's recommendation architecture. The analysis treats political opinion formation as a collective and procedural condition rather than an individual cognitive state, because the governance problem is located at the level of the collective, not the individual user.

TikTok structures political visibility through engagement optimization, not democratic criteria. Political content on TikTok is distributed because it performs well against behavioral metrics. Not because it is accurate, representative, or deliberatively relevant. The result is documented: disproportionate amplification of extreme voices, ideological clustering, and partisan selective exposure [6]. During the 2024 European parliament election campaign, far-right parties systematically adapted their communication style to TikTok's algorithmic logic, not necessarily by design but because the system structurally rewards emotionally charged, polarising content over deliberative argumentation [7]. These are not editorial decisions made by identifiable actors under contestable norms. They are structural outputs of a design optimized for behavioral engagement. No individual harm needs to occur for this to constitute a governance problem. The criteria through which collective political relevance is produced require democratic justification regardless of whether any measurable damage to any particular user can be demonstrated.

The DSA addresses recommendation systems as sources of individual harm, not as collective infrastructure shaping democratic opinion formation. The Commission's 2024 proceedings and 2026 preliminary findings against TikTok both invoked Article 34 systemic risks but operationalized them through measurable individual harms [2, 3]. Article 34.1.c requires risk assessment of civic discourse effects, but through a harm-based lens calibrated to individual outcomes. The DSA can ask whether recommendation systems damage democratic processes. It cannot ask whether the criteria governing political visibility are themselves collectively justifiable. The Amsterdam District Court's ruling in *Bits of Freedom v. Meta* [1] confirms that DSA provisions can reach democratic participation. But at the level of individual user choice, not collective accountability for how relevance criteria operate across an entire public.

The collective governance functions that recommendation systems perform are outside the DSA's scope. Public justification and institutional responsibility are the normative conditions democratic theory requires for agenda-setting and attention allocation, but they are absent. Article 27 requires platforms to explain how their systems work, not why engagement optimization should govern what millions of citizens see politically. EU law has begun to explore contestability requirements at the individual level, but has not extended that logic to the collective which is where political relevance is actually produced.

The gap is already shaping whose voices count. The Commission goes to the edge of recognizing TikTok as a political infrastructure and stops at individual wellbeing. Civil society consultation under Articles 34 and 35 meanwhile systematically excludes those most affected by algorithmic agenda-setting [10]. The governance gap is not only a matter of regulatory design. It is already determining

who has standing to contest the conditions under which collective political life is organized.

Policy Recommendations

The following four recommendations correspond to the collective governing functions that recommendation systems now perform without democratic accountability. Each operates within the Commission's existing supervisory competence. None requires legislative amendment.

Recommendation 1: Extend Article 34.1.c to encompass agenda-setting effects. The Commission should issue interpretive guidance clarifying that “negative effects on civic discourse” under Article 34.1.c encompass agenda-setting effects — the criteria and mechanisms by which political content is prioritised, ranked and amplified. VLOPs must demonstrate that their ranking criteria for political content have been evaluated against civic discourse standards, not only engagement metrics. This is not an expansion of the DSA's ambition. The Commission's March 2024 electoral integrity guidelines already used Article 35(3) to specify mitigation standards for recommendation systems without legislative amendment [4]. This recommendation applies the same mechanism as a standing obligation rather than an electoral period measure, because algorithmic agenda-setting does not pause between elections.

Recommendation 2: Introduce a collective public justification requirement. The Commission should require VLOPs to publish an annual public justification report explaining not only how their ranking systems work, but why their optimization objectives are appropriate for governing political visibility. This is distinct from individual transparency obligations under Article 27, and from the individual right to opt out of profiled recommendations confirmed in *Bits of Freedom v. Meta* [1]. Individual choice is not collective accountability. This recommendation extends the logic from individual decisions to the collective level of democratic opinion formation, where it is currently absent.

Recommendation 3: Issue Article 35(3) guidance on civic amplification risks. The Commission should issue guidance specifying that mitigation measures for electoral and civic risks must address algorithmic amplification of political content as a standing obligation, not only during electoral periods. Platforms must demonstrate that ranking criteria for political content have been evaluated against defined civic risk indicators, including disproportionate amplification of extreme voices, systematic suppression of underrepresented perspectives, and reinforcement of ideological clustering, and that mitigation extends to the design of relevance criteria, not only to content moderation after the fact. A system that produces no individually measurable harm while structurally amplifying extreme voices at collective scale remains outside the DSA's current reach. This recommendation closes that gap.

Recommendation 4: Require documentation of absent civil society perspectives. The Commission should require VLOPs to document which civil society perspectives were absent from their Article 34 risk assessments and to explain how identified gaps were addressed. Those most affected by algorithmic agenda-setting are communities whose political visibility is shaped by engagement optimization and currently have the least institutional standing to contest it [10]. EU environmental law already requires missing voices in consultation processes be documented rather than simply omitted. This logic should apply to the governance of collective political visibility. It creates a verifiable accountability mechanism within the Commission's existing supervisory competence, and begins to address the structural exclusion that makes the governance gap self-reinforcing.

Conclusion

The DSA has given the EU an unprecedented legal basis to hold the largest platforms accountable for their societal impact. What it cannot yet do is ask whether the collective conditions under which political relevance is produced are themselves publicly justifiable — not for any individual user, but for the political community as a whole.

The four adjustments proposed here do not replace the DSA’s risk framework. They reorient it from the individual to the collective to ensure that the democratic governance functions the EU has already committed to protecting under Article 34.1.c are governed at the level where they actually operate. The Amsterdam District Court confirmed in *Bits of Freedom v. Meta* [1] that provisions can reach democratic participation. The question that remains is whether they can reach collective democratic accountability. That requires asking not only whether platforms harm users, but whether the criteria through which political relevance is collectively produced are subject to any democratic justification at all.

Recommendation systems have become the infrastructure of collective democratic opinion formation. Governing them as such is not an expansion of the DSA’s ambition. It is a fulfillment of the commitment the EU has already made, extended, finally, to the level where political life is actually organized.

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