COMPLAINT

against Meta Platforms regarding violation of Art. 38, 27(3), 25 of Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and amending Directive 2000/31/ED (Digital Services Act).

Collectively filed by Bits of Freedom, Convocation Research + Design, European Digital Rights (EDRi) and Gesellschaft Für Freiheitsrechte (GFF).

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A. Introduction

We hereby submit a complaint against the platforms Instagram and Facebook, operated by Meta Platforms [hereinafter "Meta" shall be understood as referencing the company itself] regarding the violation of Arts. 38, 27(3), 25 of the Digital Services Act ("DSA") by making the option to choose a non-algorithmic feed counter-intuitive and preventing it from being set as the default on its platforms. Therefore, Meta deprives its end users of a directly and easily accessible alternative, thus violating article Arts. 38, 27(3), 25 DSA.

The Society for Civil Rights (Gesellschaft für Freiheitsrechte e.V. - GFF) is a non-profit organisation based in Berlin that has been properly constituted in accordance with the German law. According to its statutory objectives (Exhibit 1) GFF aims to defend fundamental and civil liberties through legal means. One of its key focus areas is digital rights in the modern age. To enhance the enforcement of online rights, GFF established the Center for User Rights, which aims to uphold user rights under the DSA, among other initiatives.

Bits of Freedom is a non-profit organisation based in Amsterdam that has been properly constituted in accordance with the Dutch law. According to its statutory objectives (Exhibit 2) Bits of Freedom aims to defend and promote digital civil rights through, amongst other activities, acting in court to protect or promote fundamental rights.

European Digital Rights AISBL (EDRi) is a members-based, international non-profit organisation based in Brussels, properly constituted as in accordance with Belgian law. According to its statutory objectives, (Exhibit 3). EDRi's purpose is to promote, protect and uphold civil and human rights in the field of information and communication technology.

Patrick Kelleher, an Ireland resident and user of the online platforms Instagram and Facebook has authorized the above-mentioned organisations under Article 86(2) DSA to exercise his right to lodge a complaint against Meta Platforms Ireland Limited alleging an infringement of Article 38 in conjunction with Article 27(3) and Article 25(1) DSA with the Coimisiún na Meán on his behalf.

B. Legal Background

I. Non profiling recommender system, Art. 38 DSA

Most major social media platforms rely on recommender systems, which are algorithms designed to determine the content that users encounter and the order in which it appears. For instance, when a user opens the Instagram app, the recommender

system organises the posts displayed in their feed. These algorithms, by prioritising certain posts over others, significantly influence which content is amplified, as well as which posts are deemed less relevant. Most recommender systems employed by Very Large Online Platforms (VLOPs) are based on user profiling.

Recognising the implications of profiling-based algorithms, the European Union introduced an obligation within Art. 38 DSA requiring VLOPs to provide an alternative recommender system that is not reliant on profiling. A non-profiling-based system ensures that the content a user sees, and the order in which it is displayed, is not determined by their online behaviour.

II. Accessibility, Art. 27(3) DSA

Article 27(3) DSA stipulates that if multiple options for recommender systems are available, online platform providers must offer a feature that allows users to select and modify their preferred option at any time. This feature must be “directly and easily accessible” in the section of the platform’s interface where content is primarily displayed.

The explicit reference in Article 38 DSA ("In addition to the requirements set out in Article 27") makes it clear that this requirement also applies to the selection of the non-algorithmic option mandated by Article 38 DSA.

The setting must be accessible in a user-friendly manner, relative to the specific section of the online platform's interface where information is prioritised. User-friendliness aims to ensure that users can easily access the settings from the point where their interaction typically begins - such as the top of a content window or news feed, where information is primarily displayed. It is not adequate if users must search through numerous settings to find the function.

III. Online interface design and organisation, Art. 25 DSA

Art. 25 DSA sets out requirements regarding a platform’s online interface design, which – in essence – prohibits harmful design.

The DSA defines such harmful design (referred to as “Dark Patterns”) in Recital 67 as “practices that materially distort or impair, either on purpose or in effect, the ability of recipients of the service to make autonomous and informed choices or decisions. Those practices can be used to persuade the recipients of the service to engage in unwanted behaviours or into undesired decisions which have negative consequences for them. Providers of online platforms should therefore be prohibited from deceiving or nudging recipients of the service and from distorting or impairing the autonomy,

decision-making, or choice of the recipients of the service via the structure, design or functionalities of an online interface or a part thereof. This should include, but not be limited to, exploitative design choices to direct the recipient to actions that benefit the provider of online platforms, but which may not be in the recipients' interests, presenting choices in a non-neutral manner, such as giving more prominence to certain choices through visual, auditory, or other components, when asking the recipient of the service for a decision."

1. What are harmful design patterns?

Harmful design patterns, often called manipulative design patterns, "dark" patterns or deceptive design patterns, are design patterns that unintentionally or intentionally confuse, manipulate, design or obstruct users from making their intended choices, choices not in their best interests, or choices that benefit the company over the user.

Harmful design patterns are a subset of design patterns, but unlike typical design patterns, which are intended to benefit users and create usable and accessible products, harmful design patterns have the opposite effect. Design patterns are "reusable/recurring components which designers use to solve common problems in user interface (UI) design," such as navigation menus for webpages or mobile devices.[1] According to harmful design scholars, harmful design can impact users in various important ways. Legal scholar and privacy expert Professor Ryan Calo has noted three major categories of harms within harmful design: privacy harms, economic harms, and autonomy harms[2], while Mathur *et al.* similarly note privacy and economic harms, but also identify the 'cognitive burden' harmful design patterns place on users within decision-making.[3] Common harms from harmful design patterns can be:

- **Financial loss** (from difficult to unsubscribe or hidden subscription traps, unintended purchases 'sneak into baskets' or other harms),[4]
- **Privacy harms** (such as tricks that encourage consumers to disclose personal information, like email or phone numbers, or to accept cookies) or
- **Cognitive burden** (such as the design causing the consumer to expend unnecessary time, energy, or attention etc)[5].

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[1] Interaction Design Foundation: "User Interface (UI) Design Patterns", available at https://www.interaction-design.org/literature/topics/ui-design-patterns, last accessed on 14 April 2025.

[2] Ryan Calo: "Digital Market Manipulation", available at https://www.gwlr.org/wp-content/uploads/2014/10/Calo_82_41.pdf, last accessed on 14 April 2025.

[3] Arunesh Mathur et al: "What Makes a Dark Pattern... Dark? Design Attributes, Normative Considerations, and Measurement Methods", available at https://arxiv.org/pdf/2101.04843.pdf, last accessed on 14 April 2025.

[4] While "designers" (e.g., visual designers or engineers) may be the individuals who actually implement harmful design patterns in practice, the term is a proxy for whomever or whatever is benefitting from their use. For a discussion of the user's best interest see Gray, C. M., Kou, Y., Battles, B., Hoggatt, J., & Toombs, A. L.: "The Dark (Patterns) Side of UX Design", in CHI'18: Proceedings of the 2018 CHI Conference on Human Factors in Computing Systems (Paper No. 534). NewYork, NY: ACM Press, available at https://doi.org/10.1145/3173574.3174108, last accessed on 14 April 2025. Also, see generally: https://darkpatterns.uxp2.com.

[5] European Commission: "Behavioural study on unfair commercial practices in the digital environment. Dark patterns and manipulative personalisation : final report", 2022, available at https://op.europa.eu/en/publication-detail/-/publication/606365bc-d58b-11ec-a95f-01aa75ed71a1/language-en/format-PDF/source-

Whereas harmless design patterns are created to benefit users by centring design principles such as minimalism, consistency, efficiency within a product, minimal cognitive burden, or simplicity[6]. For example, online interfaces should *reduce* users' cognitive load: "the amount of mental resources that is required to operate the system" and make it easy to use a product.[7] Ideally, design patterns reduce unnecessary friction and asymmetry and make it easier and faster for users to use products or engage in a particular task or action. Harmless or pro-user patterns can help limit or ease the cognitive burden of engaging with a product.

Harmful design patterns can be categorised as: defaults, sensory manipulation and or sludges, interface interference, pre-selection, hinder and mislead.

- **Defaults**: the UK's Competition and Markets Authority (CMA) defines defaults as the designs, action, or choice architecture "[applying] a predefined setting that the consumer must take active steps to change.[8]"
- **Sludges**: the UK's Competition and Markets Authority (CMA) defines sludges as designs, actions, or choice architecture "[that] makes it hard for consumers to act in their interests (such as adding friction to cancellation processes)."[9]
- **Interface interference**: the European Commission's report "Behavioural study on unfair commercial practices in the digital environment: Dark patterns and manipulative personalisation" created a combined taxonomy of experts' harmful design patterns definitions. Different examples of harmful design patterns had subsets of types and kinds. In this taxonomy, two subsets of interface interference represented the harmful design patterns and friction uncovered in Meta's products:[10]
  - Hidden information or False Hierarchy: information visually obscured or ordered in a way to promote a specific option (Gray, Mathur)
  - Preselection (default): Preselected default option that is in the company's interest (Bosch, Gray)
- **Hindering or obstruction**: Gray *et al*. define obstruction as "impeding a task flow, making an interaction more difficult than it inherently needs to be with the intent to dissuade an action."[11] The European Data Protection Board refers to this

257599418, last accessed on 14 April 2025.

[6] Jacob Nielsen: "10 Usability Heuristics for User Interface Design", available at https://www.nngroup.com/articles/ten-usability-heuristics, last accessed on 14 April 2025.

[7] Kathryn Whitenton: "Minimise Cognitive Load to Maximize Usability", available at https://www.nngroup.com/articles/minimize-cognitive-load, last accessed on 14 April 2025.

[8] Competition and Markets Authority (CMA): "Online Choice Architecture How digital design can harm competition and consumers", April 2022, available at https://assets.publishing.service.gov.uk/media/624c27c68fa8f527710aaf58/Online_choice_architecture_discussion_paper.pdf, last accessed on 14 April 2025.

[9] European Commission, 2022.

[10] Gray, C. M., Kou, Y., Battles, B., Hoggatt, J., & Toombs, A. L., 2018.

[11] European Data Protection Board: "Guidelines 3/2022 on Dark patterns in social media platform interfaces: How to recognise and avoid them", March 2022, available at https://edpb.europa.eu/system/files/2022-03/edpb_03-2022_guidelines_on_dark_patterns_in_social_media_platform_interfaces_en.pdf, last accessed on 14 April 2025.

action as 'hindering', which it defines as "an obstruction or blocking of users in their process of getting informed or managing their data by making the action hard or impossible to achieve[12]." Throughout the report, the EDPB gives examples of hindering such as 'taking longer than necessary', giving 'misleading information', and 'creating a dead end'. Legal scholar Luisa Jarovsky defines 'hinder' as practices that "delay, hide, or make it difficult for the consumer to adopt privacy protective actions."[13] Jarovsky's definition goes further, defining hinder to include design practices that have: difficult rejection, difficult settings, difficult deletion, privacy invasive defaults, and hidden settings.

2. Harmful design in Context for This Response

While a significant portion of harmful design patterns definitions are contextualised for financial harmful design, a joint paper between the UK regulators, the ICO and the CMA, has shown that these harmful design patterns types can be easily reinterpreted in data protection and privacy contexts alongside financial or trade context and regulation. In this joint paper, the ICO described how harmful design nudges and sludges can "create asymmetric friction between different choices discourages users from more conscious consideration of their decisions, particularly in situations where they wish to access content quickly or otherwise do not have the time or expertise to go through more detailed settings."[14]

A European Commission report[15] highlights the disproportionate effects of harmful design patterns on vulnerable users, who were found to make inconsistent choices 50.89% of the time compared to 47.24% for average users. Additionally, users with prior knowledge of harmful design patterns or experience in user interface design were better equipped to identify and navigate these barriers. This underscores the inequitable impact of such patterns, further illustrating how Meta's design fails to align with the DSA's goal of empowering users with meaningful, accessible choices.

Lastly, it is important to emphasise that harmful design patterns are not solely identifiable by the 'exact' visual elements or the kind of graphical user interface, but rather by the (intended) effect as described in Art. 25 DSA. Meta benefits from users engaging with its profiling-based recommender system, which captures attention and maximises time spent on the platform. More time on the platform means more ads seen, directly boosting Meta's revenue. In contrast, a feed that is not based on profiling could reduce user engagement and, consequently, ad revenue. While Meta is required by the DSA to introduce an option not based on profiling for its online platforms, the

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[12] Luiza Jarovsky: "Dark Patterns in Personal Data Collection: Definition, Taxonomy and Lawfulness", 1 March 2022, at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4048582, last accessed on 14 April 2025.
[13] Vulnerable refers to older users or those navigating the internet in a second, third or fourth language.
[14] Digital Regulation Cooperation Forum: "Harmful design in digital markets: How Online Choice Architecture practices can undermine consumer choice and control over personal information", available at https://www.drcf.org.uk/_siteassets/drcf/pdf-files/harmful-design-in-digital-markets-ico-cma-joint-position-paper.pdf, last accessed on 14 April 2025.
[15] European Commission, 2022.

company has a clear commercial incentive to keep users on its algorithmic feed instead. This could motivate Meta to employ design patterns that subtly discourage users from switching away from the profiling-based algorithm and to push them back to it where they did make that choice.

C. Evidence

In compliance with Art. 38 DSA, VLOPs began implementing an alternative non-algorithmic timeline in the summer of 2023. Meta's platforms Instagram and Facebook opted to introduce a chronological feed of the accounts someone is following as an alternative to the profiling-based recommender system. Under this new model, the order of posts is determined by the time of publication instead of an algorithm analysing user behaviour**.**

In February 2024, July 18 2024, and March 19, 2025, we analysed Facebook and Instagram's different feeds, along with the introduction of their new, non-profiling chronological feeds and favourites feeds, most likely changed as a reaction to Art. 38 DSA on recommender systems. Between July 18, 2024 and March 19, 2025, Meta made one slight UI change, moving the placement of the "Feeds" box from the bottom of the menu page to the top.

Meta has established an algorithmic default feed, and while alternative feeds are available, they do not function as 'sticky' settings[16]. This defaulted algorithmic feed setting cannot be changed to another setting of favourites or following/chronological feed.

To select a feed other than the default, users must repeatedly choose alternative options from an additional navigation bar or section. The selection of the non-algorithmic feed is displayed in the app and the online application as shown in the following graphical representation:

[16] European Commission, 2022.

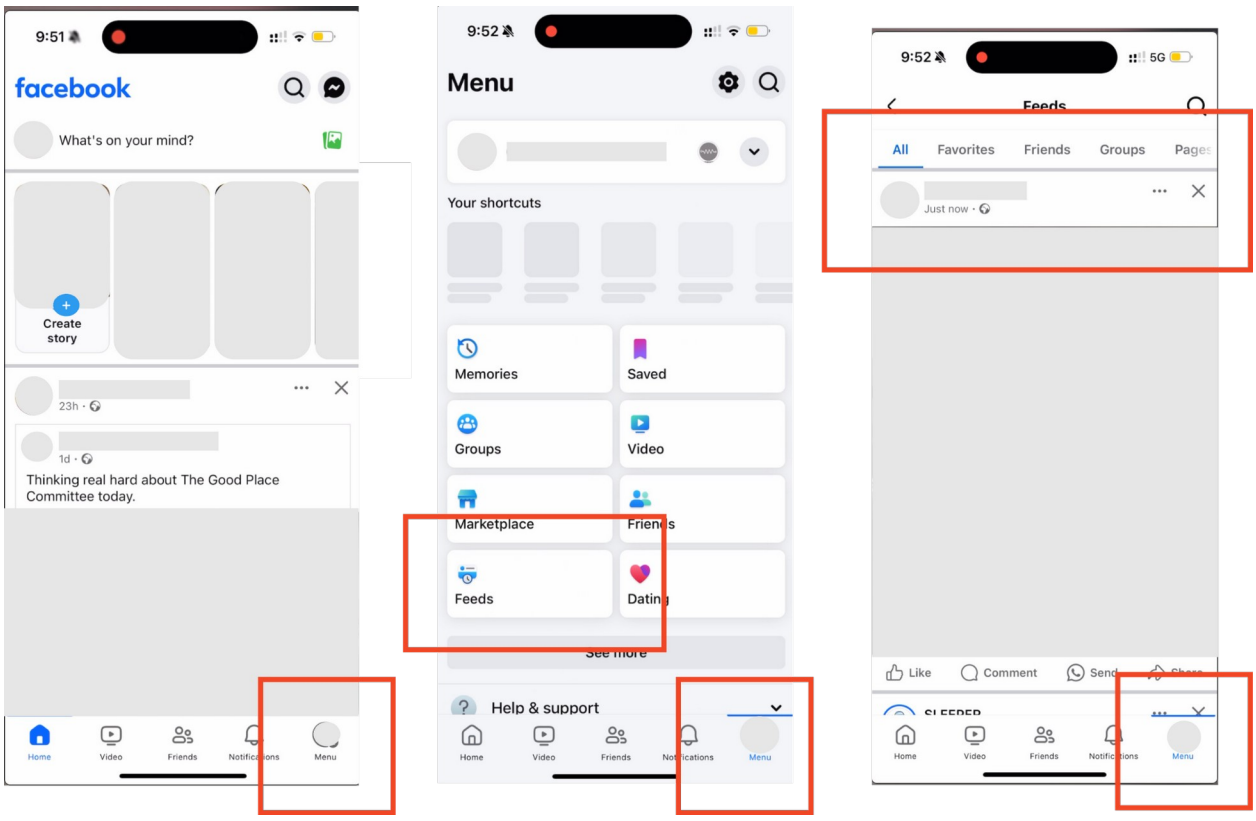

Figure 1: Selecting the non-algorithmic, chronological feed on Facebook Mobile, from July 18, 2024

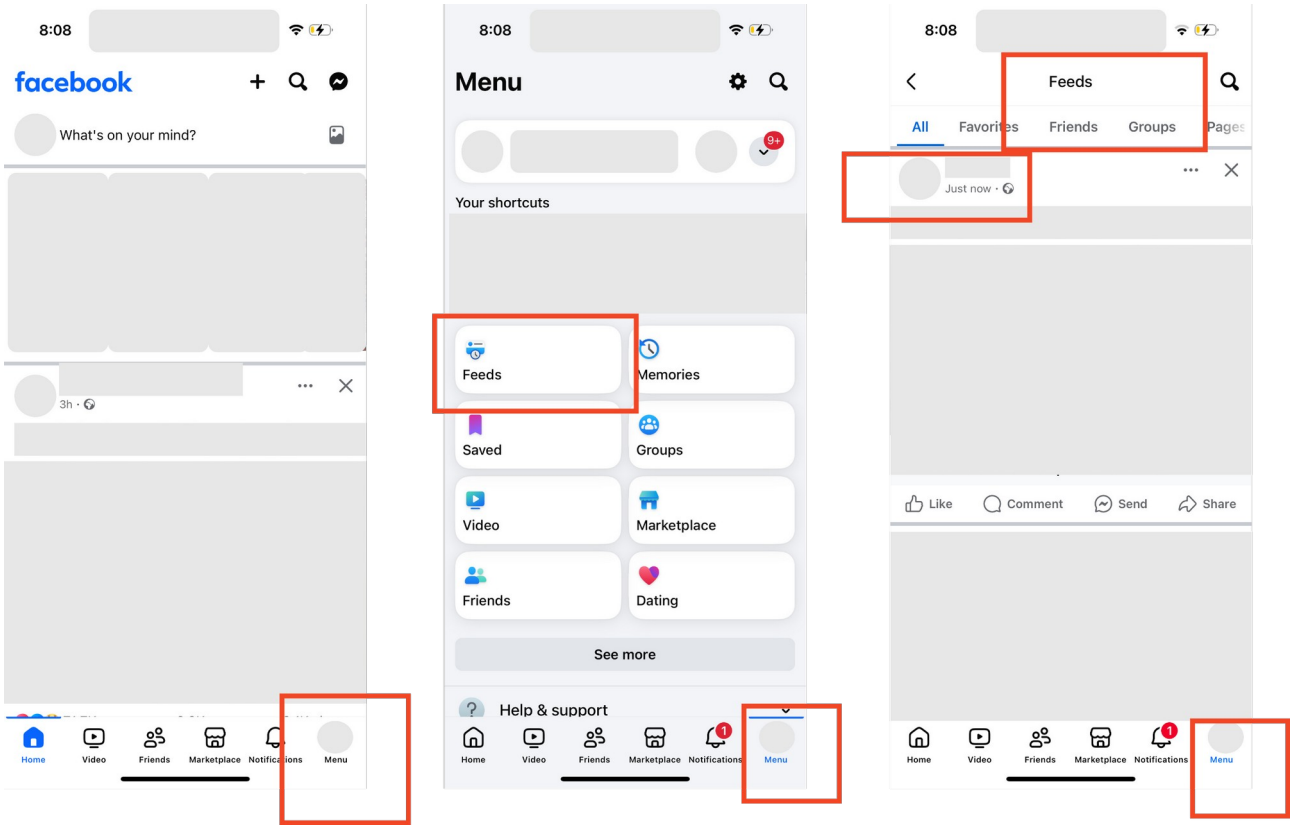

Figure 2: Selecting the non-algorithmic, chronological feed on Facebook Mobile, from March 19, 2025

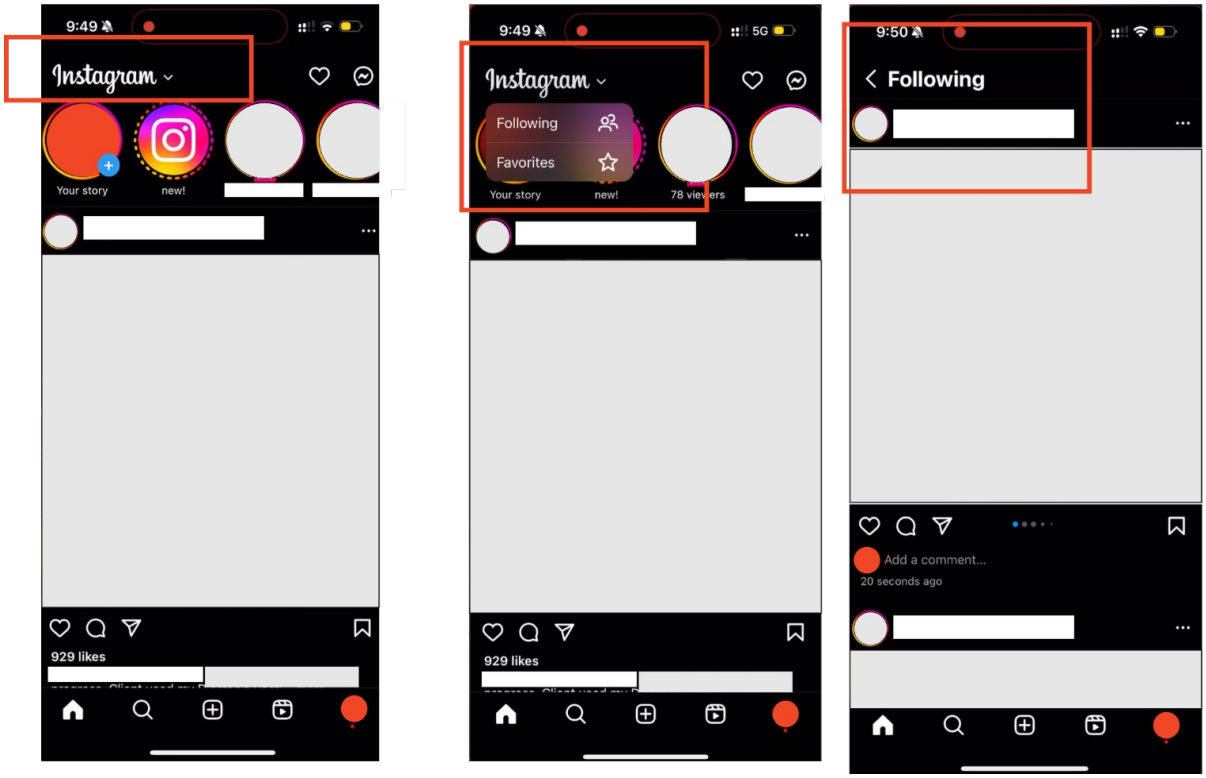

Figure 3: Selecting the non-algorithmic feed on Instagram mobile, 2024 (Instagram's feeds UI was not changed)

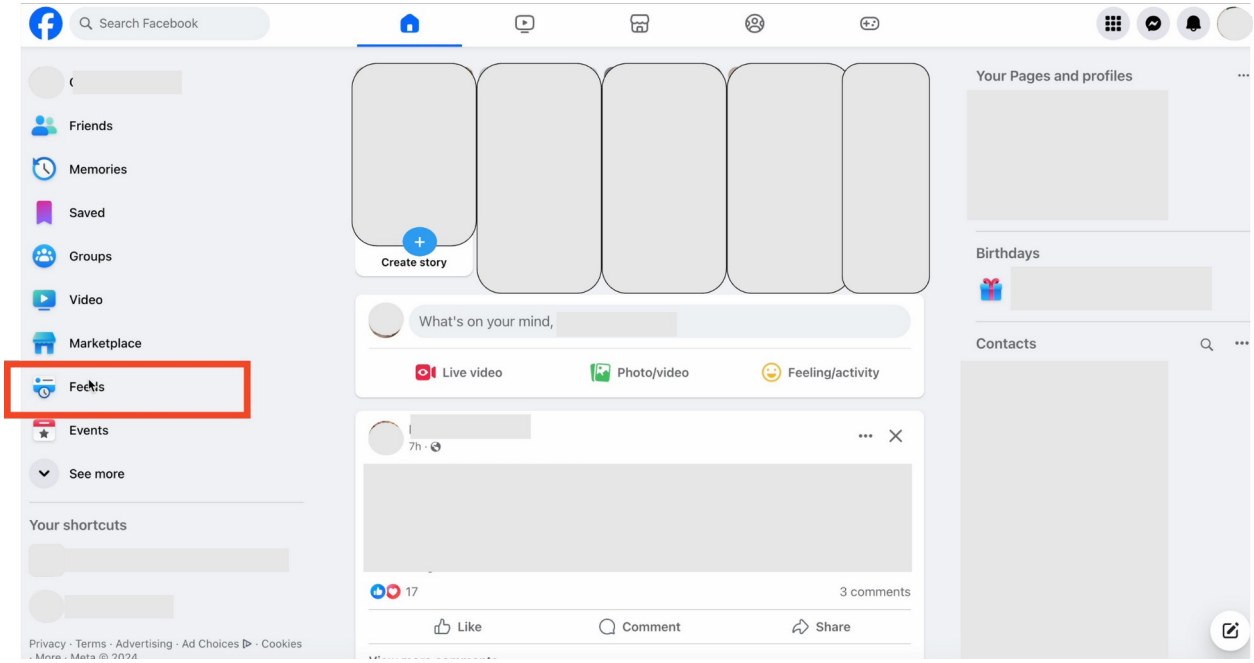

Figure 4.1: Selecting the non-algorithmic feed Facebook Desktop, July 18, 2024

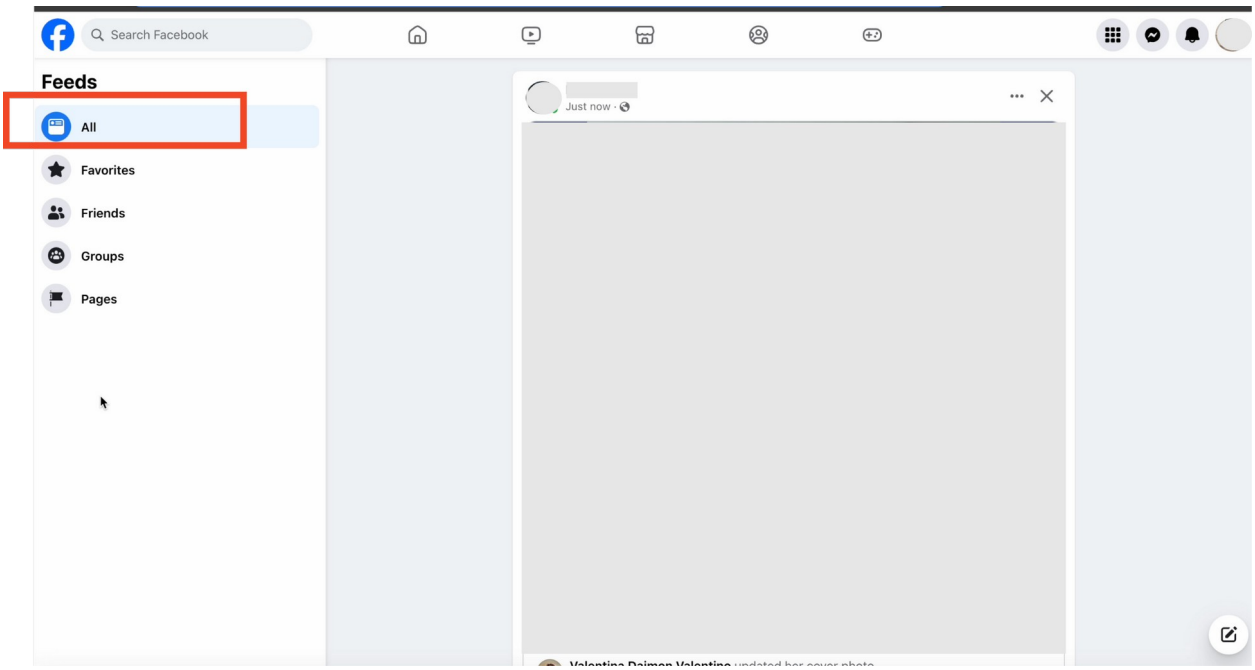

Figure 4.2 Once selected the non-algorithmic feed for Facebook Desktop, this is what users see (note: the user is sent to a new page to see the non-algorithmic feed) July 18, 2024

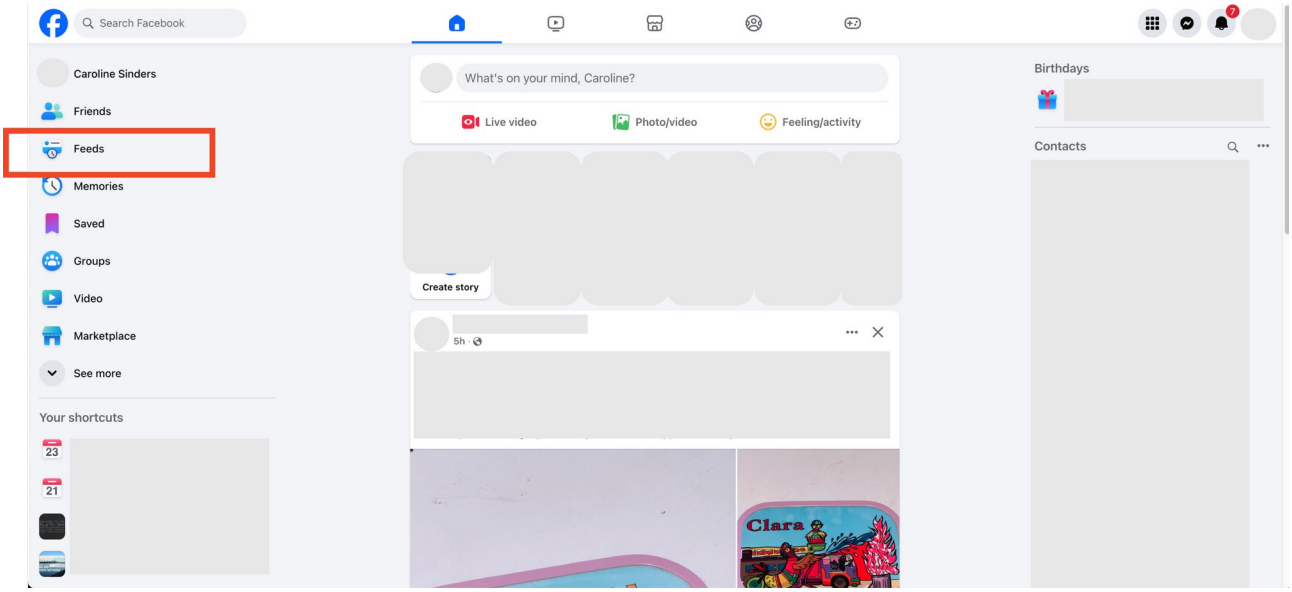

Figure 5.1: Selecting the non-algorithmic feed Facebook Desktop, March 19, 2025. Nearly identical to Figure 4.1

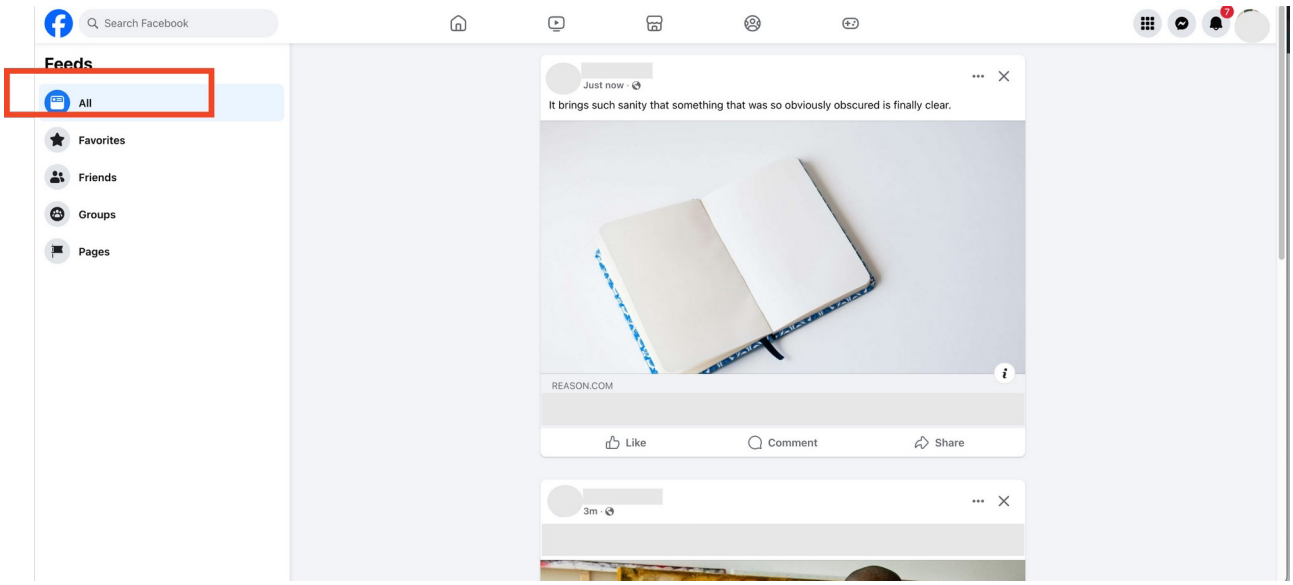

Figure 5.2 Once selected the non-algorithmic feed for Facebook Desktop, this is what users see (note: the user is sent to a new page to see the non-algorithmic feed) March 19, 2025. Nearly identical to Figure 5.2

Accessing a chronological or favourites feed involves more steps and clicks per visit compared to the algorithmic feed.

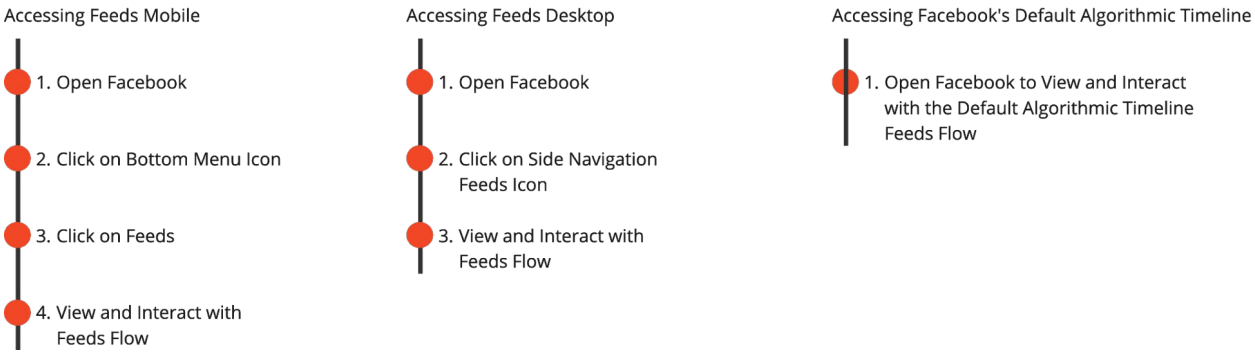

Figure 4: A visualization comparing the amount of steps between accessing Facebook's non-algorithmic timeline on mobile, desktop and then accessing Facebook's algorithmic feed on desktop and mobile (which is the same number of steps)

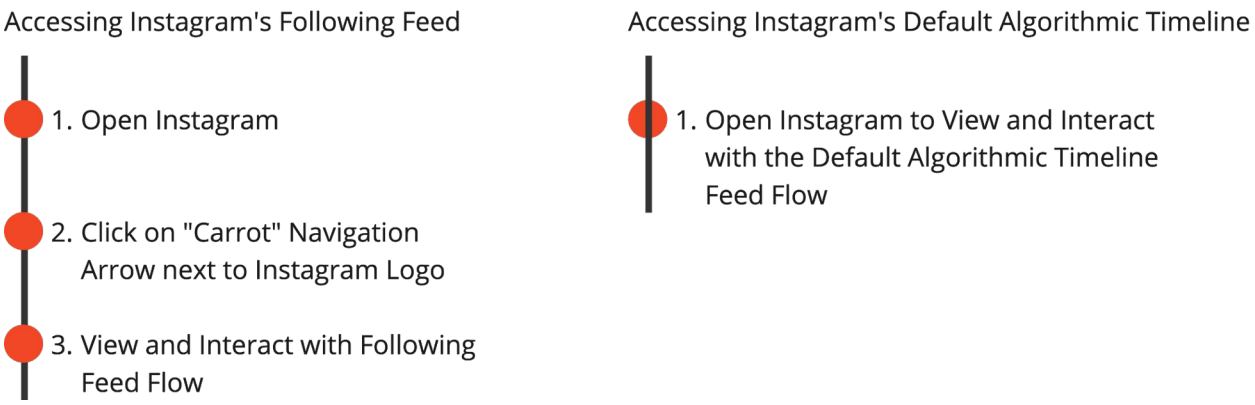

Figure 5: A visualization comparing the amount of steps between accessing Instagram's non-algorithmic "Following" feed and Instagram's default, algorithmic timeline on both desktop and mobile

Accessing Instagram's Following Feed

1. Open Instagram
2. Click on "Carrot" Navigation Arrow next to Instagram Logo
3. Click on "Following" to be sent to the "Following Page"
4. Scroll to interact with content

Accessing Instagram's Default Algorithmic Timeline

1. Open Instagram to View and Interact with the Default Algorithmic Timeline Feed Flow

D. Legal Assessment

I. Respondent as a provider of a very large online platform

The respondent is subject to the obligations under Art. 38 DSA in conjunction with Art. 27 DSA.

The provision applies to providers of Very Large Online Platforms and Very Large Online Search Engines. By its decision of 25 April 2023, the Commission designated Instagram and Facebook as such platforms in accordance with Art. 33(4) DSA.[17]

II. Meta's harmful design as a violation of the provisions of the DSA

Meta violates Art. 38 DSA in conjunction with Art. 27 (3) and Art. 25 (1) DSA.

Meta's design choices regarding non-profiling recommender systems and non-algorithmic feeds hinder direct and easy accessibility, potentially creating harmful design patterns. These patterns introduce unnecessary friction for users, limiting their choices and agency. This includes non-sticky[18] settings for accessing chronological feeds, default settings favouring the algorithmic recommendation feed, unclear or misleading names for the different feeds users toggle between and awkward placement of feed options.

1. Alternative feeds can not be set as the default

Meta has established an algorithmic feed as the default, and while alternative feeds such as favourites or following/chronological feeds are available, they are not sticky and cannot be set as the default.

Although the possibility to set the non-algorithmic feed as the default is not directly and explicitly required in the text of the DSA, it can be derived from a reasonable interpretation of the obligations in Art. 27(3) DSA and the prohibition of harmful design patterns in Art. 25 DSA.

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[17] European Commission: "Designation decisions for the first set of Very Large Online Platforms (VLOPs) and Very Large Online Search Engines (VLOSEs)", available at https://digital-strategy.ec.europa.eu/en/library/designation-decisions-first-set-very-large-online-platforms-vlops-and-very-large-online-search, last accessed on 14 April 2025.

[18] "Sticky" settings are a design term that refers to an action of when a user makes a choice with a setting, and it stays that way. For example, a 'sticky' setting is one where a user could select 'turning off location services' and the product remembers that setting change for all future visits to the product. Tumblr's help page for Android settings describes "sticky settings" as "features [that] remember the last setting you used, and continue to use that setting unless you change it."

a) Art. 27(3) DSA

Meta's design is in violation of Art. 27(3) DSA, which requires that alternative recommender systems must be "**directly and easily accessible**".

This requirement must be interpreted in light of the first sentence of Article 27(3) DSA, which stipulates, that providers "shall also make available a functionality that allows the recipient of the service to **select and to modify at any time** their preferred option." The wording of the provision suggests a certain permanence of the user's decision: in common usage, "select" is generally understood as a one-time choice. This is further supported by the phrase "modify at any time," as such a clarification only makes sense if the selection remains in effect until actively changed. If the legislator had intended a design where the app defaults to the algorithmic timeline upon every restart, the explicitly stated requirement to allow modifications to a previously made selection would be superfluous within the provision.

The principle of ***effet utile*** supports this interpretation: The provision's purpose—to provide users with genuine control over their content preferences—would be undermined if such control of would have to be re-exercised upon every new start of the app.

b) Art. 25 DSA

Additionally, the default algorithmic feed constitutes a harmful design pattern under Article 25 DSA as it creates unnecessary friction and limits user control over their content preferences. As defined above, harmful design patterns involve features that manipulate or restrict user decisions in a way that undermines user agency, often through mechanisms like "interface interference," "pre-selection," "defaults," or "difficult settings." In this case, the algorithmic feed is set as the default, meaning that even if a user selects an alternative feed, such as "favourites" or "chronological," the app reverts back to the algorithmic feed once restarted.

Article 25(3) DSA provides an important indication that the default algorithmic feed, which requires users to repeatedly reselect their preferred non-algorithmic feed, constitutes a harmful design pattern. The provision states that the Commission may issue guidelines on specific practices, including "**repeatedly requesting** that the recipient of the service make a choice **where that choice has already been made**."

Meta's design choice goes beyond this category. Meta does not merely request users to rethink the choice that they made—something the DSA already considers a potential harmful design—it actively reverts back to the choice that the user has explicitly decided against, **effectively overriding their preferences**. A repeated request imposes unnecessary friction and inconvenience, which is

exactly what Article 25(3) seeks to address. A repeated override can only be considered even more harmful in its effects.

2. Additional Barriers to Non-Algorithmic Feeds

As shown in the evidence, accessing a chronological or favourites feed requires users to overcome additional barriers on both platforms. Although the barriers on Facebook are significantly more severe, Instagram also does not meet the legal requirements.

a. Art. 27(3) DSA

This design fails to meet the requirements of Article 27(3) DSA for two key reasons.

First, Facebook's design involves too many intermediate steps and the process is lengthy and counter-intuitive. Instagram has recently adjusted its mobile interface, allowing users to switch from the "For You" feed to the "Following" feed with two clicks on the home screen. However, the process is significantly more complex in Facebook's mobile and desktop app, as shown above. There, users must first navigate to the menu, marked by three horizontal lines at the bottom right, select an option labelled "Feeds", and then be redirected to a new page to access alternative timelines. Direct and easy access, as required by Art. 27(3) DSA, should minimise the number of actions needed to reach a user's preferred feed.

Second, the language and interface design are not intuitively clear. On Facebook, the term "Feeds" does not immediately communicate to an average user that it offers access to alternative display options. **There is no information contextualising that "Feed" is now a chronological feed, beyond a user needing to notice and read the timestamp of each post written in a small font.** While 'Following' on Instagram is somewhat clearer, it may still be unclear to users what the 'Following' timeline means, as there are no clarifications or descriptions. As a result, only users who are already aware of the existence of alternative feeds are likely to find and use this option, which realistically represents a small minority of users.

Together, these shortcomings fail to provide the straightforward and user-friendly access envisioned by Art. 27(3). They undermine the DSA's goal of ensuring that all users, regardless of prior knowledge, can easily exercise meaningful choice over their content display settings.

b. Art. 25 DSA

The interface design and language, in Facebook's mobile app, constitute harmful design patterns.

The multiple steps or clicks required to access alternative feeds create unnecessary friction and fatigue for users, reflecting practices such as “hindering,” “obstruction,” and “sludges.” For example, users must repeatedly navigate to a specific menu within Facebook to view a chronological feed. On mobile devices, this involves four clicks or steps to access “Feeds”, while on a desktop, three clicks are required. In contrast, the default algorithmic feed is instantly presented whenever the app or website is opened.

It should not be significantly harder to access the alternative to the algorithmic feed;[19] to ensure user agency and protect user consent, all feeds should be treated similarly in terms of visual design, access, hierarchy and ‘stickiness’. Instead, the current setup creates a clear **asymmetry** between the default feed and the alternative feeds, which are buried in additional navigation layers. While it is common for settings to be a few clicks away in an app’s architecture, Facebook’s design separates alternative feeds into an obscure section, creating an imbalance that favours the default feed. This asymmetry constitutes “sludge,” “hindering,” “obstruction” and “interface interference,” as users face added complexity in accessing non-algorithmic options. By comparison, the default feed requires no action, emphasizing the disparity.

Moreover, the placement and labelling of the alternative feeds exacerbate the issue. On mobile, users must first open the menu to find the “Feeds” option, while on desktop, the option appears in the side navigation bar. The term “Feeds” itself may not clearly communicate its purpose, leaving users—particularly those unfamiliar with Facebook’s layout—uncertain about its functionality.

Marginalised, vulnerable, or disabled users are especially impacted by this added friction, as even minor interface barriers can significantly hinder accessibility.

III. Art. 65(2) DSA

As this case involves a potential violation of Section 5, Chapter III, we propose requesting the Commission, under Art. 65(2) DSA, to examine the matter, as there are indications that the respondent, as a VLOP, may have breached Art. 38 in conjunction with Art. 27(3) and Art. 25 DSA. The explicit reference in Art. 38 DSA underscores that the provision of an alternative which is not based on profiling is only adequate if its accessibility aligns with the requirements set out in Art. 27 and Art. 25 DSA.

[19] Regarding the example of subscription cancellation, see for example “How companies make it difficult to unsubscribe”, available at https://pudding.cool/2023/05/dark-patterns, last accessed on 14 April 2025.

E. Suggestions

The complainants suggest that Meta changes its interface designs. Meta has to allow for true user agency, choice and decision making for users being able to select their true preference for recommendation algorithms. Opting for the non-profiling-based feed should be a real and informed choice, and therefore it should be selectable as a default option in the design of Meta platforms.

This requires the implementation of the following suggestions.

1. Change Timeline Settings

Changing the timeline settings must be easily accessible to comply with Article 27(3) DSA. Users should be able to select and change the settings in their timeline, and have those changes appear within their main timeline, which is the landing page for Facebook and Instagram. Users should be able to see and engage with the timeline of their choice in the same space as the default timeline, which is the landing page when opening the app(s) or visiting Facebook.com and Instagram.com.

2. Sticky Settings for Non-Profiling Options

Building upon point 1, users should be able to change their settings to the non-profiling option and have it stick (and appear within the same space as the default timeline). In essence, the non-profiling option should also appear as the main timeline and stay defaulted in the main timeline until the user changes their settings. This functionality is how most other features currently function within these products; for example, when a user changes their location, gender, privacy settings, or profile photo, those changes 'stick' and stay put until the user changes those settings. This same stickiness should be implemented for the choice architecture of recommendation system settings, especially for non-profiling options.[20]

3. Language For Settings Should Be Clear

The language, naming and descriptions of settings should be clear and legible. Users should be able to find the recommendation system settings and understand what the setting choices are via understandable and legible names and descriptions.

An example of clear language, naming and legible descriptions with settings easier to find and with sticky setting choices, can be seen on Microsoft's online platform LinkedIn (as of March 31st, 2025). Another example is the way users can permanently curate their feeds on Mastodon. While Mastodon does not offer any profiling-based recommender system, the interface clearly distinguishes between:

[20] This stickiness and ease of finding the settings can be seen currently in LinkedIn (as of October 27, 2024).

1. the "Home" feed, which includes all posts by the accounts a user follows, chronologically;
2. the "Local" feed, which includes all posts by local accounts from the same Mastodon server; and
3. the "Federated" feed, which includes all posts by local accounts and accounts that those locals are following.

Mastodon has no steering or nudging that favours any particular feed. In addition, users can create any number of custom feeds based on hashtags or keywords they choose; simply by clicking on a hashtag and then on the button "Pin" (to add all content with this hashtag to a custom feed), or on "Follow hashtag" to add those posts to their "Home" feed.

On Facebook, 'Feeds' is not clear enough to indicate that the user is selecting a non-profiling feed, nor is it explained how it differs from the main feed, which uses an algorithmic timeline. While 'Following' on Instagram is somewhat clearer, it may still be unclear to users what the 'Following' timeline means, as there are no clarifications or descriptions.

These recommendations are a mere starting point to help create more pro-user choice architecture that centres user agency and autonomy in compliance with the DSA. However, many more changes could be made to better support users and promote consent, legibility, understanding, and accessibility within Very Large Online Platforms, and creating choice architecture that avoids harmful design patterns.