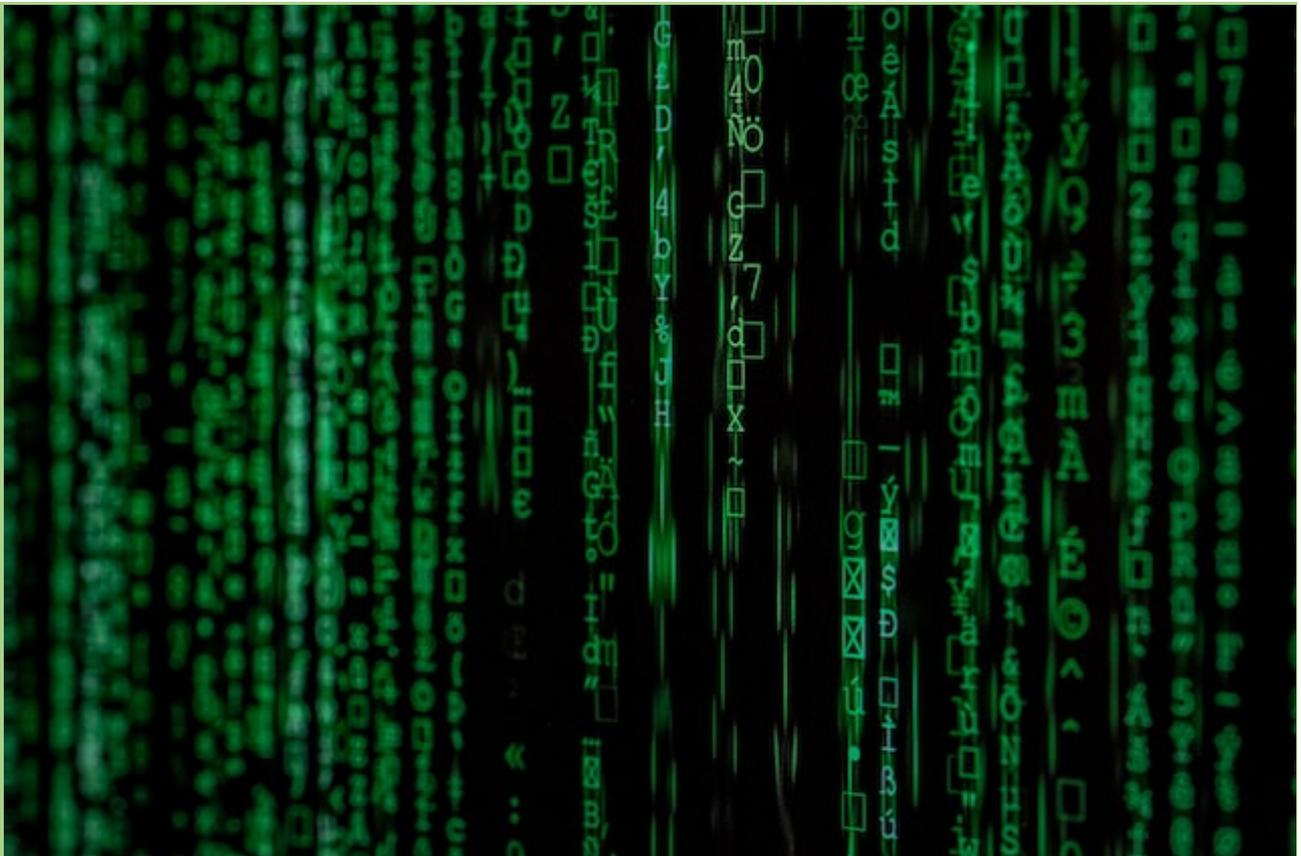


European Democracy and Digital Development in the EU: The Issue of Transparency in the DSA and DMA Decision-Making Process



Source: Markus Spiske (2018) from Unsplash.com

AALBORG UNIVERSITY
3rd February 2023

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10. semester (4. semester)

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Abstract

The thesis is about the EU's decision-making process of the Digital Services Act (DSA) and Digital Markets Act (DMA). These two regulations are new and targeted against Big Tech in order to strengthen the democratic control for the citizens. The focus in this thesis is to study the transparency issues involved in the lobbying of the DMA. Six interest groups were studied on their lobby strategies. The conclusion is that it was difficult to find information about the content from the meeting that these interest groups had with the European Commission and the European Parliament. This illustrated the transparent issues.

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Chapter 1: Introduction

1.1 The case of EU-lobbyism, Big Tech and the matter of Democracy and Digitalization

In recent years, the development of the Internet and online activities has grown intensively not just in Europe but also globally. Many discussions from different fields such as academic literature and the public opinion have been raising questions about the democratic challenges brought on by the ever-growing digitalization of the citizens' daily lives and political institutions. Specifically, the conflicted role of the Big Tech, such as Google and Facebook, when they are on the one hand promoting more democracy and on the other doing business to sell data concerning the consumers. Yet, it is not officially known what kind of data that is being sold. Therefore, Big Tech have illimitable power over the consumers, and the question is how these Big Tech compagnies use this position to try to influence the policy-decision making process such as in the EU. Prins, Cuijpers, Lindseth and Rosina (2017) reflect upon this paradoxical relation (Prins et al., 2017:21):

“On the one hand we witness digital technology opening the door to a greater role for the public, we see companies such as Facebook and Google that appear to have more regulatory power in a cross-border information market than nation-states, and we notice extraterritorial implications of data-transfer that are determined by completely new factors, among them normative standards implemented in technological code. At the same time, digital tools put pressure on the traditional ordering of democratic processes” (Ibid., 2017:21).

The democratic potentials are, for instance, how the digital technology with platforms like Twitter, Facebook and YouTube made it easier to mobilize during the Arab Spring and to give the citizens job opportunities to be more engaging and creative with a platform such as LinkedIn. Additionally, it made it easier for the national governments to share policy documents online to become more open and to come closer to the voters by consulting them in decision-making processes through tablets and apps that make it easier to participate. The role of Big Data (large digital data analysis) has become very useful for the governments and public sectors to formulate policies in areas like security, public healthcare, or traffic management, due to these data showing patterns and insights, as well as to predict future policy and politic plans (Ibid.:3-4). The examples of digital developments and the above

quote show how much the digitalization is continuing to influence the political landscape and the daily lives of the citizens. The complexities are also found in very different discussions about how this development changes and challenges the understanding and protection of democracy since there is no universal understanding of democracy due to the different norms and ideals of democracy (Ibid.:4-5). For instance, one way to understand the term democracy is the global development of *E-democracy* understood as new kinds of direct-deliberative and digital democracy discussed by Ingolf Pernice in which global governance challenges the classical and national understanding of citizenship and constitutional settings, like the need of global rules for protecting democratic legitimacy and fundamental rights, because of new technological services (Ibid.: 19, 27-29). The many democratic definitions often share the fundamental understanding of the Greek term *demos* meaning citizenship, political community, representation, self-rule, transparency, and accountability. However, this democratic power is no longer limited only to the nation-state but now also applies to the global actors like multinational corporations due the development of digitalization (Ibid.:17).

Politically, in Europe, much development is going on with the digitalization, and the European Union (EU) has the ambition of being both a world promoter of democracy and the desire of being a leading global promoter of having the most digitalized society (European Union, 2022a; European Union, 2022b). The most significant regulation on digitalization from the EU was made 23 years ago with *the 2000 e-commerce directive* (European Commission, 2022) that concerned digital trade and services, though it did not include the influences of the Big Tech firms that came to dominate the Internet during the last two decades. The directive is therefore considered to be outdated in the rapidly developing digital societies in Europe. Even though the EU has made other supplementing directives to protect the rights of the Internet users, such as the General Data Protection Regulation in 2018 (GDPR), this has still not been enough (European Commission, 2019).

Now, the European Commission has recently finished the '*Conference on the Future of Europe*', which is a digital platform for the civil society and citizens in the EU to come with ideas and topic-related events for the future. There are ten topics and, among them, two are of interest for this thesis: *European Democracy* and *Digital Transformation* (European Union, 2022c). The first one deals with how the EU wants to strengthen its position on 'fair elections', 'free media' and 'no disinformation' since the EU is experiencing growing challenges in terms of fake-news, extremism and the EU-citizens' impression of the long distance between themselves and the EU. This is for instance how fake news creates misleading narratives and serves to further the perceived distance between the EU and citizens (European Commission - European Democracy Action Plan, 2022). The

second, *digital transformation*, deals with how the EU also has the ambition to have all EU-citizens and firms fully digitalized with special focus on ‘technology for people’, ‘digital economy’ and ‘a sustainable digital society’ in which the EU wants to strengthen its position on technologies and data (European Commission - Shaping Europe’s digital future, 2022). The two topics are of interest since the EU has a dedicated focus on how the future of the European democracy and digitalization should be. Even though there is no direct connection between the two topics, they are relevant for this research as a foundation for the current thinking of the EU’s response towards the Big Tech firms since the two ambitions from the EU illustrate the future interactions with the Big Tech’s growing influence on the combination of democracy and digitalization. This relates especially to the completed new EU multimedia law that the EU has been working on, based on two parts: *Digital Services Act: Ensuring a safe and accountable online environment* (DSA) and *Digital Markets Act: Ensuring fair and open digital markets* (DMA). They are an update to the *e-commerce directive* from 2000, now with the direct link between democracy, digitalization, and Big Tech firms. With these laws, the EU wants as public rule-makers to restrict the power of the Big Tech with their growing influence as private rule-makers. This applies to for instance how users’ accounts and posts are being deleted, making it more transparent for the users to complain against the Big Tech firms, the EU’s demand on openness about how the algorithms work and therefore the pattern of data collections, and creating a more equal competition for small and medium size businesses online to limit monopolies. Through the Digital Services Act and Digital Markets Act laws, the EU hereby attempts to restrict the powerful and private Big Tech’s behaviour on the digital market and influence on public society and digital economy in the EU member states (European Commission – DMA, 2022; European Commission – DMA & DSA, 2022; European Commission – DSA, 2022).

Consequently, it is interesting to analyse and explore the relation between democracy and the development of digitalization in Europe. In this case, it is the influence and the role of transparency of EU-lobbyism on the EU law-making process of the Digital Services Act and the Digital Markets Act. There are three groups of actors to be analysed: the EU, the Big Tech firms such as Amazon, Microsoft, Google, Huawei and Facebook, and the CSOs (Civil Society Organisations) that also have a relation to the EU’s decision-making process. This research focusses on the topic of how the biggest tech and Internet firms have been growing in power, and how this is changing the idea of European democracy, especially related to lobbying on the two historical and newly completed EU-laws: DSA and DMA. According to a tech-democratic CSO, *Corporate Europe Observatory* (CEO), Microsoft, Facebook, Apple, Google, Amazon and Huawei all together spent €

21 million in one year, between 2019-2020, on lobbying the EU's laws which was more than twice as much as the seven biggest car manufactures in Europe (Ford, Volkswagen, Renault, Daimler, Fiat Chrysler, BMW and Peugeot) which spent €7.9 million in total in 2019 (Corporate Europe Observatory, 2020a). This development has been increasing through the years as the EU places an even higher priority on the topics and the relations between democracy and digitalization. The increasing interest in lobbying from these Big Tech firms and their growing power to attempt impacting the EU-decision makers raise the question about transparency in relation to their exertion of influence. This happened, for example, when an CSO, LobbyControl, complained to the EU about the lack of full transparency about the financial spending and other information on EU-lobbyism from Google, Amazon and others that were not clear in the *EU's Transparency Register* (list of companies, think tanks and organisations and their activities with EU-decision-makers) and that made it difficult for the citizens and civil society organisations to scrutinise these activities (Corporate Europe Observatory, 2020a; EU Transparency Register, 2022).¹ In the latest research, made by the CSOs CEO and LobbyControl, 612 interest groups, based on for example business associations and companies, had been lobbying on the EU-policy process of digitalization, spending more than €97 million which also revealed an unbalanced lobbyism. It revealed that ten companies contributed 1/3 of the total lobby spending with €32 million all together. Google topped the list, followed by Facebook, Microsoft, and Apple (Corporate Europe Observatory, 2021a). Therefore, the role and influence from the Big Tech firms are of particular interest due to their involvement in the EU-decision making process. But how are they doing that especially related to the DSA and DMA law package? And why this imbalance of getting information and access to these DSA and DMA lobby activities between the actors?

The purpose of this thesis is to contribute to the issue of EU-lobbyism from the Big Tech and the CSOs and explore how this relation impacts the development of the very important multimedia law in DSA and DMA in the EU. In this thesis CSOs are defined as interest groups that are pursuing the protection of democracy in European society and hereby as democracy promoters. However, the focus is not on how the democratic effects are since these two laws have just been completed, meaning that it is too early to analyse the outcome (European Commission – DMA & DSA, 2022). Therefore, the research takes a critical view on the law-making process with the focus on lobbyism. The

¹ Just to be safe, I put a note here to mention that part of the text from this section is from the paper of my Thesis Preparation exam on 9th semester.

analytical period is from 2019-2023 due to the activities prior to and during the process of this multimedia law. The two biggest Big Tech actors, Google and Facebook, have been selected since they are the biggest lobbyists on DSA and DMA. The most active CSOs, Global Witness, Corporate Europe Observatory (CEO), LobbyControl, and Alliance for Lobby Transparency and Ethics Regulation (Alter-EU) have been selected. In the following, the research question and the structure of the thesis are presented.

1.2 Research question

The research question emphasises the underlying relation between the EU's ambitions of strengthening the European democracy and digitalization. In this relation, the focus in the thesis is mainly on the issue of transparency and resources in the EU-lobbyism surrounding the Big Tech firms and CSOs in relation to the new multimedia laws Digital Services Act and Digital Markets Act. The research question is:

What are the transparent limitations in the EU decision-making process of the multimedia package Digital Services Act and Digital Markets Act?

The research covers the period between 2019-2023 since the DSA and DMA were proposed in December 2020 (European Commission – DMA & DSA, 2022), and it would be interesting to explore the access to data and meetings in the DSA and DMA-lobbyism from the Big Tech and the CSOs. As earlier stated, three groups of actors are considered: the EU, the Big Tech, and the CSOs. More specifically, it is analysed how Big Tech and the CSOs attempt to lobby the EU.

This thesis is structured in the following way: In the *first chapter*, following this introduction and research question, there is the presentation of the public opinion, multimedia laws of DSA and DMA, and literature review. In the *second chapter*, the definition of democracy as part of *transparency* is presented along with the theoretical approach by Andreas Dür and Gemma Mateo on strategies from different types of organisations with *insider* and *outsider lobbyism*. This is done with a focus on lobby resources and how and when these actors influence the EU decision-making process (Dür & Mateo, 2016). In the *third chapter*, the methods and methodology are presented through a case study of the DSA and DMA lobbyism with the use of qualitative data such as lobby documents and statements

from Google and Facebook, open letters, report from CSOs, and data from databases on the EU-lobbyism of the DSA and DMA processes. In the *fourth chapter*, the analysis contains three steps with the first step being a description of Big Techs' and CSOs' resources. The second step is an analysis of Big Tech, and the third step is an analysis of the CSOs. Finally, the *fifth chapter* is presented to sum up the results to answer the research question. In the following, the relevance of the public opinion is presented.

1.3 The citizens' worries about Digitalization

The EU's focus on its democracy and digitalization policies in the future has become central due to, for example, the growing concerns by the EU citizens, which the EU's own surveys also emphasise. Therefore, these concerns also stress the EU's motivation for the new laws of DSA and DMA. The increasing digitalization and the protection of democratic rights are issues that the public has a greater concern about, which has made it relevant for the EU to focus on. In a 2019-survey from Eurostat, on average 25% of the EU-citizens between the ages of 16-74 years responded that they were concerned about sharing their private data on social and professional digital platforms because of security concerns. The highest number was in France with 40% and the Netherlands with 39% (European Commission, 2020). This is illustrated in figure 1:

Figure 1: The EU-citizens' concerns about online privacy in 2019



Source: European Commission through Eurostat, 2020

In 2021 a Eurostat-survey also showed that the use of social media by the EU-citizens (like posting messages or having a user profile) had increased during the last three months compared to the first survey in 2011 from 36% to 57% on average in 2020. For the younger generation, aged 16-24 years, it was 87% on average (European Commission, 2021). Another survey, from a special Eurobarometer (518), was conducted in September and October in 2021 to explore how the EU-citizens perceive the future of digitalization and the Internet and what influences these would have on their daily lives by the year 2030. The reason for conducting the survey was the EU's policy plan for Europe's digital transformation goal in 2030 in order to create tools of digital principles in areas like online freedoms, Internet service admittance, and online security. The results from the survey show for instance that (European Union, 2021a):

- 81% of the EU-citizens believe that the Internet and digital tools would play an important role in their daily lives by 2030.

- 80% believe that the future of the digital life would have as many disadvantages as advantages.
- 56% of the EU-citizens also have concerns about digital risks and harms like cybercrime and abuse or theft of personal data.
- 53% of the EU-citizens are worried about the online well-being and safety of children.
- 46% are worried about how public administrations or companies use citizens' personal information and data.
- 40% are unaware of their online rights such as privacy, non-discrimination, and freedom of expression.
- 82% support an EU declaration on common digital principles and rights.

These numbers demonstrate that the population of the EU have concerns about how digital tools and the Internet are impacting their lives, especially the need of being clearly informed about conditions and terms and having a secure digital identity admission to private and public services (Ibid., 2021a). The role of lobbying, in the interplay between the EU, Big Tech and the CSOs on how the DMA and DSA are shaped, is therefore also important to the consequences and improvements in the EU citizens' use of the digital platforms.

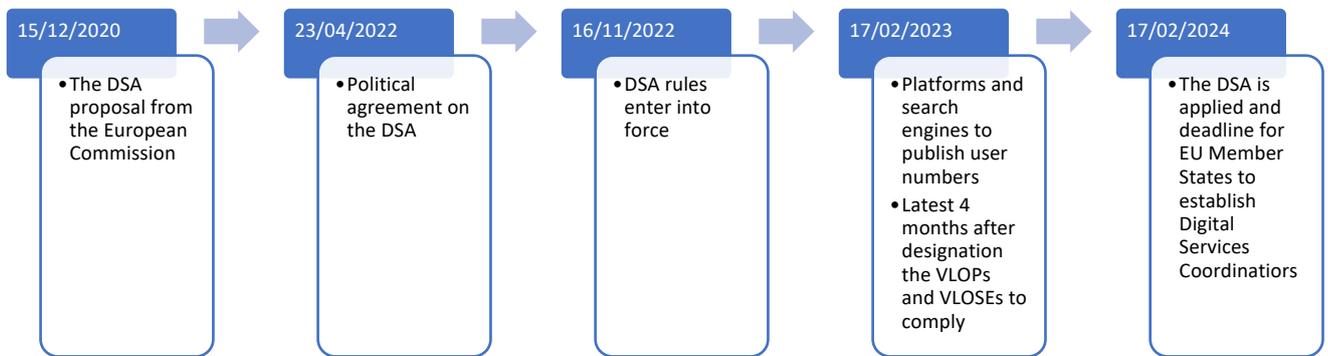
1.4 Problem area - EU's new Multimedia Package

1.4.1 The Multimedia law – Digital Services Act (DSA) and Digital Markets Act (DMA)

The European Commission proposed two new laws, *Digital Services Act* (DSA) and *Digital Markets Act* (DMA), in December 2020 as an upgrade to the regulations on digital platforms and for the digital future of Europe. The goal is to have an effect in the whole EU-area to ensure the protection of fundamental rights for the users and to create a sustainable digital market with fair competition and growth both in the EU and globally. The decision-making process of this multimedia law has been politically agreed upon in relation to the DMA on 25 March 2022 and the DSA on 23 April 2022 (European Commission – DMA & DSA, 2022). In July 2022 the DSA was adopted and later also the DMA and both laws were later signed by Roberta Metsola, the President of European Parliament, and Charles Michel, the President of the Council of the European Union. The laws have been published in the Official Journal of the European Union. On 16 November 2022 the DSA came into

force and will apply in all EU-member states at latest 1 January 2024 (Ibid., 2022). Digital services then have until 17 February 2023 to report their number of online users. With the numbers the European Commission puts a designation as to whether these digital services can be categorized as Very Large Search Engines (VLOSEs), Very Large Online Platforms (VLOPs) or not. If they are, then they “(..) have 4 months to comply with” the rules of DSA (European Commission – DSA, 2022). The DSA will be applied to all entities on 17 February 2024 (Ibid., 2022). The process is illustrated in figure 2:

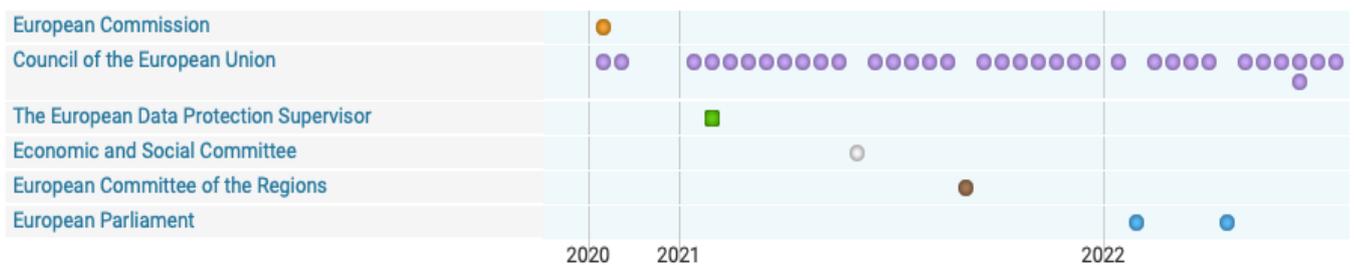
Figure 2: The formation and application of the DSA



Source: European Commission – DMA & DSA, 2022; Own creation

However, there are still activities on the DSA. As recently as 22 December 2022, there were discussions in the Council of the European Union concerning this matter (European Union – DSA law procedure, 2022). The activities and the EU-actors involved in the DSA are illustrated in figure 3:

Figure 3: The number of activities from different actors in the EU on the DSA procedure

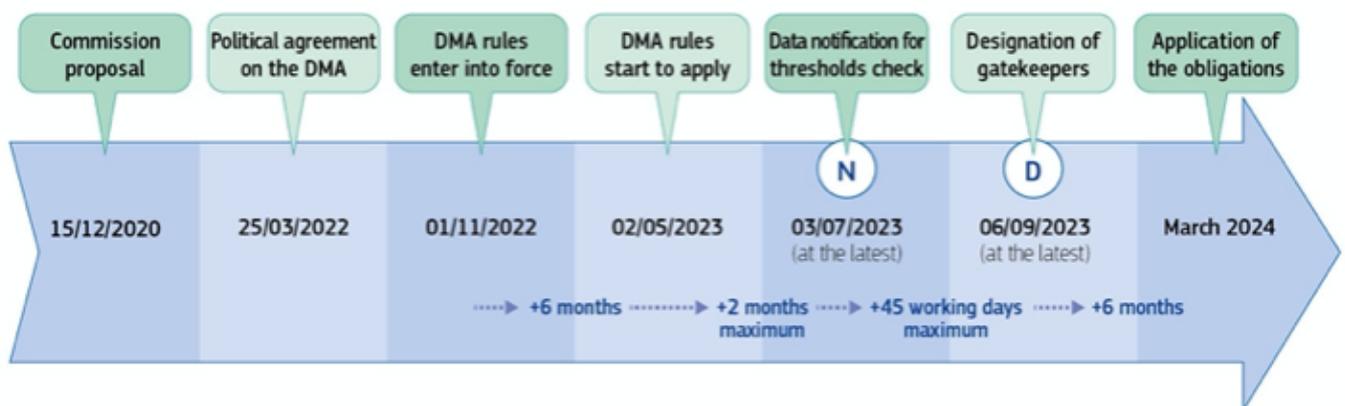


Source: European Union – DSA law procedure, 2022

The latest activity is a published information note with a list of working papers in which one of them is related to the DSA dated on 7 December 2022. The document is a presentation on the latest preparations for the DSA (Council of the European Union, 2022a).

The DMA was signed on 14 September 2022 and came into force on 1 November 2022. The law will be applied six months later. From May 2023 the companies then have a maximum of two months to provide any needed information to the European Commission. In the following two months the European Commission will create a designation on whether these core platform services that the companies provide can be categorized as ‘gatekeepers’ (having powerful economic position in several EU-countries, having large number of user base linked to businesses, and if the companies also have been stable in these two positions in the last three years). If a company is designated as a gatekeeper by the European Commission, then the company has six months to comply with the rules of the DMA. This means that the DMA is entirely applied in March 2024 (European Commission – DMA, 2022; European Commission – DMA & DSA, 2022). This is illustrated in figure 4:

Figure 4: The formation and application of the DMA



Source: European Commission – DMA & DSA, 2022

Unlike the DSA, the activities have not continued since the signing of the DMA on 14 September 2022. The activities also display fewer discussions rounds unlike the DSA (European Union – DMA law procedure, 2022). This is illustrated in figure 5:

Figure 5: The number of activities from different actors in the EU on the DMA procedure



Source: European Union – DMA law procedure, 2022

The Digital Services Act (DSA) was proposed on December 15 2020 by the Commission in order to harmonize the rules on the digital services through the intermediary services in the internal market, such as the marketplaces and social networks. The purpose was to remove obstacles and national digital economic differences since “... *several Member States have legislated or intend to legislate on issues such as the removal of illegal content online, diligence, notice and action procedures and transparency*” (European Parliament – DSA basic information, 2020). These services have become more important for the EU’s economy and for the daily use by the EU citizens, and therefore there is a need of a law amendment of the ‘*e-Commerce Directive 2000/31/E*’ from 2000 to achieve innovative services and business models in Europe. The reason for this amendment and update is found in the development of the use of information and digital transactions since 2000. This means new risks for the citizens and for society (Ibid., 2020). Thus, the main goals in the DSA are to ensure users, public institutions, and online platforms to comply more with the values in the EU. This means that the EU citizens would get better online protection of their fundamental rights, more digital choices, and less online presentations with illegal content. For the providers of big and small digital services, it would force them to follow the same rules across the EU and foster more competitiveness. As a result, the EU expects broader democratic control on the digital providers and greater control on online risks such as disinformation and manipulation (European Commission – DSA, 2022). The principle for the EU is “*what is illegal offline, should also be illegal online*” that is for both the DSA and Digital Markets Act (DMA) meaning they would ensure a “*safer and more open digital space, with European values at its centre*” (Council of the European Union, 2022b). These two laws are part

of the budget plan of the financial framework 2021-2027 of the Digital Europe Programme and the Single Market Programme. There are eight goals in the DSA law (European Parliament – DSA basic information, 2020; European Commission – DSA, 2022):

1. For the users to have “trusted flaggers” to notify services, illegal goods, or content on the digital platforms.
2. Trace business users to identify sellers of illegal goods.
3. Safeguards for the users so they have greater influence on how the digital platforms decide to change contents.
4. Prohibit types of targeted adverts that are created through personal data collection for instance users’ political views, ethnicity and sexual orientation or adverts targeting children.
5. Transparency measures like algorithms of how they make recommendations to the users.
6. Rules for very large platforms to prevent system misuse (risks).
7. Access for the researchers to analyse the data of algorithms.
8. The need for a new cooperation with the European Board for Digital Services since it is a complex field.

In the DSA law, there is no mention of specific Big Tech names, marketplaces nor of specific social networks, only in general but not exclusive categories of digital services. These are categorised based on the size of digital services they each provide: *Intermediary services* by offering Internet access such as domain name registrars, *Hosting services* by webhosting services and cloud, *Online platforms* by offering online marketplaces, social media, and app stores, and finally *Very Large Online Platforms* (VLOPs) and *Very Large Online Search Engines* (VLOSEs) by having at least 45 million EU-consumers using these platforms or search engines. The VLOPs and VLOSEs have the most obligations in the DSA. The law document consists of five chapters and 93 articles (European Commission – DSA, 2022; European Union – DSA law, 2022). The DSA focusses mainly on creating safer online platforms for the users and more responsibility from the online services such as better removal of illegal services, products, and content online, transparency obligations meaning more open information for the users, and obligations of detecting and removing disinformation (European Parliament – DSA Agreement, 2022). As for the EU, it has high ambitions for the new DSA law. For example, the rapporteur of the DSA-decision making process, Christel Schaldemose (MEP), said of it (Ibid., 2022):

“The Digital Services Act will set new global standards. Citizens will have better control over how their data are used by online platforms and big tech-companies. We have finally made sure that what is illegal offline is also illegal online. For the European Parliament, additional obligations on algorithmic transparency and disinformation are important achievements” (Ibid., 2022).

The EU hereby does not only want to strengthen the democratic control, but also place the EU and Europe as the democratic ideal with the aspiration that other countries implement stricter digital regulations with reference to the power of the very large online platforms. On 23-27 May 2022, members from the European Parliament’s Internal Market Committee visited several Big Tech firms such as Apple, Meta (Facebook) and Google in the USA “... to discuss in person the Digital Services Act package, and other digital legislation in the pipeline, and hear the position of American companies, start-ups, academia and government officials” (Ibid.). What the agendas of these meetings were about is not clear yet.

The second part of the multimedia package is the *Digital Markets Act* (DMA), which has more focus on creating competitive equality for small and medium-size business firms, online platforms, and start-ups in order to achieve a more open and fair market to reach a higher level of innovation and growth. The EU wants to end what they call “*unfair business practices*” with dominating business models of big platforms and limitation for Internet users to freely choose between online services. The DMA deals with how the EU is setting and controlling the rules for big tech companies that have the status as ‘gatekeepers’, meaning that they control activities like cloud computing, video-sharing services, web browsers, search engines, social networks, and advertising services connecting companies and the consumers (European Parliament – DMA basic information, 2022; European Parliament, 2021). These daily activities are dominated by the biggest online platforms that gain a lot from the digital economy in Europe and greatly shape the EU consumers’ choices (Ibid., 2022). This DMA-regulation specifies what the big platforms are allowed “*to do and not to do*” in the markets. The EU has some main goals (Ibid., 2021; European Union – DMA law, 2022):

1. As the bigger companies get bigger, they should also aspire towards higher ethical standards in relation to the EU-citizens/consumers in order to make fair practices.

2. Rule by the EU and not from the private companies (alternative business models that do not provide EU-citizens/users with free choice).
3. Less market dominance from the biggest online platforms.
4. Especially targeting against the gatekeepers' commercial behaviour such as third-party advertising that collects personal data from the EU-citizens unless it is accepted by the user in accordance with the General Data Protection Regulation.
5. 'Killer acquisitions' - the EU wants to halt "*the structural or behavioural remedies*" of the gatekeepers if they are not following the rules.
6. EU level cooperation – Need for a new cooperation with 'the high-level group' (Ibid., 2022, Art. 40).
7. Whistleblowers' rights - the DMA should ensure that the whistle blowers can better alert the authorities, when these rules are infringed upon, and protect the whistleblowers.
8. Fines if the gatekeepers are not following the rules. These should not exceed "*(...) 10% of its total worldwide turnover in the preceding financial year*" (Ibid., 2022: Art. 30 (1)).

The DMA law consists of six chapters with 54 articles (European Union – DMA law, 2022). Also, with this law, the EU is very confident about the actions against the biggest tech firms and what results these regulations would have. For instance, the rapporteur from the Internal Market and Consumer Protection Committee, Andreas Schwab (MEP), said after the policy agreement on 24/25 March 2022 (European Parliament – DMA Agreement, 2022):

"The agreement ushers in a new era of tech regulation worldwide. The Digital Markets Act puts an end to the ever-increasing dominance of Big Tech companies. From now on, they must show that they also allow for fair competition on the internet" (Ibid.,2022).

Thus, with reference to the EU co-legislators' role, the EU expects the democratic public institutions to set the rules and not the private big companies like the Big Tech (Ibid., 2022). With the current process of the application and compliance on the rules of the DMA law, the European Commission is planning on meeting with the relevant stakeholders through meetings called technical workshops to gain opinions from the stakeholders involved (European Commission – DMA, 2022).

1.5 Literature review

This section presents some of the discussions on and perspectives of the theme of democracy and digitalization to get an overview of the subject of this thesis concerning the EU, the Big Tech, CSOs and lobbyism. These discussions and perspectives contribute to a nuanced understanding of the complexity of the research question especially on how complicated the interplay between digitalization and democracy. This impacts the role of transparency in the EU decision-making process of the ongoing DMA and DSA laws when the Big Tech and the CSOs are lobbying. The texts have been sorted out in terms of their relevance to the research question to understand what the contributions have been on the issue in relation to lobbyism. This search has been based on the criteria of cross fields of words such as ‘digitalization’, ‘democracy’, ‘free choice’, ‘transparency’, ‘EU’, ‘Europe’, ‘EU-citizen’, ‘Big Tech’, ‘algorithms’, ‘surveillance capitalism’, ‘lobbyism’, ‘Google’, and ‘Facebook’. These contributions from the literature, which were found using Google Scholar and Primo from the library of Aalborg University, represent a great variety of sources such as from think tanks, experts in human technology, research papers, experts in ethics, business area, books and journals on human rights, culture and communication, European politics, and data politics. They have analysed subjects such as regulation on Big Tech, data protection, the concept ‘surveillance capitalism’, protection of the European citizen’s rights, interest group lobbyism in the EU, the relation between algorithms and democracy, the future of ethics, digitalization, and governance, but also how digitalization has changed society and democracy. It shows that the combination of democracy and digitalisation is a complex issue characterised by great diversity. These perspectives and discussions are relevant for the thesis since those positions represent what is relevant on a smaller ‘geographical scale’ as the EU-institutions and European society.

The following texts analyse the complexity of digitalization and democracy.

In the chapter ‘*Digitalization has changed the foundation of the democracy*’ in the book by Larsson and Teigland (2020), Wästberg (2020) defines democracy as “... *the dialogue between citizens and their democratically elected representatives as well as the participation in the political process*” (Larsson & Teigland, 2020:318) and argues that this understanding has changed much into a very conflictual space due to the changes of organisations, political processes, media, and public opinions by the development of digitalization. However, Wästberg also argues that the domination of digitalised societies also has some positive outcomes like the Arab Spring with activists using cell

phones to mobilise and document protests against dictatorships. He gives some examples of how digitalization has had influence in countries like USA with the 2016 election and the risk of hacking. Another argument is that digitalization has changed the political dialogue a lot. This applies to, for example, how politically engaged citizens are using social media like Facebook to share materials, opinions and find political online-groups to reach political activism that has a positive or negative results on democracy such as having more politically engaged young voters but also creating closed online-groups like far-right communities. The result is that the Internet has become the platform of the political discourse. In addition, the media have changed dramatically by publishing their news digitally and the consequences are that the readers are more selective in which information they want to read. Wåstberg concludes that digitalization with algorithms largely has shaped the citizens' preferences, the political debate and democratic dialogue as the new reality of modern democracy (Larsson & Teigland, 2020:318-333).

Cuijpers (2017) also emphasises these positive and negative developments in the chapter "*The ambivalence of the impact of digitalization on democracy through the lens of privacy and transparency*" of the book by Prins et al. (2017), though with the focus on transparency and privacy. Cuijpers argues that democracy is founded on values and principles, and it is important that the citizens are equal and free to use digital tools, but the complexity is that the digital space cannot be viewed as neutral and value-free. Digitalization has a big role in influencing what Cuijpers calls '*the democratic ecosystem*' with the interplay between the values, stakeholders, and technology in which it is difficult to categorise digitalization as either good or bad. Despite this, it is concluded that the values of transparency and privacy are the two essential keys for maintaining a democracy and it makes it more complex with the digitalization. This is because both the citizens and the governments need privacy as protection; yet they also need transparency as a democratic control and legitimacy which makes data protection and access difficult (Prins et al., 2017: 121-139). The relevance of these two texts is the focus on how the combination of digitalization and democracy both has some positive and negative impacts and hereby to understand why it is so complex. This can be related to why the EU both must listen to the Big Tech as well as listen to the CSOs and the public opinion when making the DSA and DMA law-package.

The book "*The right to know: Transparency for an open world*" Florini (2007) follows the importance of transparency in democracy with several issues involving for example the governance of different countries like China and central European countries, the process of law making as well as the role of transparency in the security sector. It is concluded that a good

transparency system is a system that is desired and expected to be successful when dealing with disclosure of governance, private sector or intergovernmental organisation work like improving basic rights of the citizens, the decision-making process and minimizing corruption. Therefore, transparency is, according Florini, strongly connected to how effective a democratic society and government are, but also to accountability to its citizens. In this case, transparency is both the right of free information and an administrative tool (Florini, 2007: 337-348). The relevance for this thesis is the very focus on the concept transparency that is relevant to understand the issue of analysing the research question.

The following texts make an issue of the complexity of data collection by governments and Big Tech.

In the chapter “*Surveillance capitalism, surveillance culture and data politics*” in the book from Bigo et al. (2019), Lyon (2019) discusses the ethical issues about companies’ use of data from the consumers when they for instance participate in surveys on Facebook unaware of how, when and by whom these data are used. Lyon gives an example from a controversial case in 2015 when a whistle blower, who used to work for a company called Cambridge Analytica (CA) that analyses how to influence consumers’ voting behaviour, made a 2018-interview telling how they got access to the survey data made by a psychologist on Facebook. It was revealed that 270.000 consumers had taken the survey and the data from each of them, and their social network of friends were sold to CA. Some of these data were used for the 2016-presidential election in USA to help Ted Cruz and Donald Trump. The use of some other data was unclear. The case resulted in a scandal in which the founder of Facebook, Mark Zuckerberg, was called for government hearings in different countries. Bigo concludes that the Internet is a space of different forms of surveillance of the consumers’ everyday lives meaning how to make profit of personal data that can be used by governments like healthcare systems or by business models in private companies like Google through ads. It means that the large data from the citizens become big data and that becomes a powerful tool in politics and business. Even though it is concluded that this surveillance and data policies are both positive and negative, Bigo puts forward normative questions about how they influence society (Bigo et al., 2019:64-75).

Meanwhile in the same book, Tréguer (2019) takes the issue a step further in the chapter “*Seeing like Big Tech: Security assemblages, technology, and the future of state bureaucracy*” by also discussing the need for cooperation and interaction between Big Tech and the governments due

to security matters like terrorist propaganda and encryptions. Big data have become hard power² and Tréguer concludes that these powerful Big Tech companies become part of a new type of governmentality since they also become part of the state (Ibid., 2019: 145-159). The relevance of the two texts for this thesis is the issue about the role of Big Tech when using these business models and why the EU wants to have a democratic control over this and how to find the balance of limiting the Big Tech through their DSA and DMA-laws making process.

The following texts make an issue of and analyse the role of actors in EU lobbyism and powerful Big Tech.

The article “*Interest Group Success in the European Union: When (and Why) Does Business Lose?*” by Dür et al. (2015) focuses on specific actors such as business actors win or lose in the EU policy making process. They analyze 70 EU law proposals and 95 structured interviews with quantitative analysis in the period from 2007-2010. They argue that business actors, like car manufactures and trade unions, are not necessarily more successful than interest groups (like civil society groups) in EU lobbyism in influencing the decision-making process. They conclude that business groups are often in a defensive position while the EU Commission, the EU Parliament and interest groups are in an offensive position in regulating a law. However, when the business firms are having lobby success then the success is bigger if the issue is less conflictual, and the firms are meeting little opposition (Dür et al., 2015). The article “*The contextual nature of lobbying: Explaining lobbying success in the European Union*” by Klüver (2011) analyses, in general, how some interest groups are successful in achieving influence in the EU policy decision making while other actors are not. The study was done by quantitative analysis of the EU Commission consultations with several interest groups on 56 policy issues. Klüver disagrees that explaining lobby success is dependent on the type of actors and resources. Instead, he argues that the lobby success is dependent on the issue context, meaning the salience, complexity, and conflict of the issue, but also the size of coalitions by the interest groups sharing the same ideal goal (Klüver, 2011). The relevance of the two texts is how to theoretically analyse different actors’ EU lobbyism and it illustrates the discussion of when, why, and how lobbyism in the EU can be successful.

² The concept is defined by Joseph Nye as the resource and ability to keep or change the choices and behaviours of others by force such as threats or payments to acquire a desired result. Examples of hard power are military power and economic power (Nye, J. S. (2013). “Hard, Soft and Smart Power”. In: Cooper, A. et al. (2013). *The Oxford Handbook of Modern Diplomacy*. pp. 559-562, 564-565 [pdf]: <https://academic.oup.com/edited-volume/34361/chapter/291491282>)

The article “*Interest group lobbying in the European Union: privacy, data protection and the right to be forgotten*” by Christou and Rashid (2021) also directly focuses on interest groups and their lobbyism in the EU. They analyse a case study of when some interest groups in the Right To be Forgotten-lobby have been successful in their lobbyism concerning the regulation from EU on data control and citizen privacy with the EU’s General Data Protection Regulation (GDPR). This was proposed in 2012 and agreed in 2015 as an update to the Data Protection Directive from 1995. They conclude that the outcomes and the lobby representation are depended on issue conflict, salience and institutional factors meaning how is the political entrepreneurship. The result was no clear of winners and losers of the interest groups, but the role of compromises was important (Christou & Rashid, 2021). The relevance of this text is the very focus on EU lobbyism and the similarity of analysing a law-case about digital rights.

The article “*Co-constitutive complexity Unpacking Google’s privacy policy and terms of service post-GDPR*” by Valtysson et al. (2021) also focusses on the GDPR, though with discursive analysis on the role of Google after being fined by France of violating the law in 2019. They argue that Google did change its terms and privacy policy to be more transparent to the citizens. However, they also conclude that Google likewise made it difficult for the citizens since their policy and terms are complex for instance having the overview and consent of which data are used. Therefore, the result from the goals of that EU regulation in practice created the opposite goal of more transparent, clear, and understandable data collection and privacy policy (Valtysson et al., 2021). The relevance of this text is the very issue of how the EU has an ambition of protecting the citizens’ digital rights and restricting the powerful Big Tech in the DSA law and the very focus of the concept of transparency.

The article “*Are We All Amazon Primed? Consumers and the Politics of Platform Power*” by Culpepper and Thelen (2020) argues, contrarily, that the power of big technology firms to achieve political influence does not only come from lobbying and campaigns but more from the consumers’ loyalty and trust in the firms. Big Tech do not earn money, like other firms with traditional ways of goods and services, but from data like online search, ads, and information. Hereby Big Tech, like Facebook, Apple, and Google, are also dependent on the consumers’ use of their online platforms. This is, for example, the consumers’ expectation to the Big Tech’s role of restricting fake news online. It is concluded that the political and economic power of the Big Tech is vulnerable due to the consumers’ preferences and opinions that can change at any time. They also emphasize that the role of authorities is important to challenge this power (Culpepper & Thelen, 2020). The relevance

of this text is why Big Tech like Google and Facebook are interested in the DSA and DMA law-making process not only because of business models but also due to the concern of losing consumers of their platforms.

Chapter 2: Theories

The following chapter first presents the understanding and definition of what is understood as the framework of democratic challenges in the research question. This is done by defining the concept *transparency* as part of the democracy aspect. Secondly, Andreas Dür and Gemma Mateo's theoretical approach to two lobbying logics, '*lobbying insiders*' and '*lobbying outsiders*', is presented to understand and explain the power relation between the Big Tech and the CSOs in influencing the EU's DMA and DSA decision-making process.

2.1 Specification of democracy

Specification of transparency

In this thesis the focus is on the concept *transparency*, which is part of the larger concept of democracy. Therefore, it is necessary to define how this is understood when analysing the actors (Big Tech and CSOs) in the research question.

In the literature, Florini (2007) describes transparency as an understanding of two parts: One in which transparency does not guarantee public scrutiny of the politicians and disclosure having a high priority in the public and private sectors due to security matters, even if there is a pressure from civil society. The other understanding is how transparency is an effective tool for the public to achieve openness about the political process (Florini, 2007: 14). Florini clarifies that the concept is widely understood differently in politics, economics and in security fields because it is a matter: "*Of whom is information being demanded? What specific information is needed, and for what purposes?*" (Ibid., 2007:4-5). Therefore, a broader definition of transparency is used by Florini, who defines it as:

"...to the degree to which information is available to outsiders that enables them to have informed voice in decisions and/or to access the decisions made by insiders" (Ibid., 2007:5).

In that definition the concept is used to understand the rapidly developing societies in the EU in the technological and informational age in which private actors like the Big Tech firms have a central role due to their power of monitoring data collection and technological scrutiny of the public (Ibid.:5).

The EU itself does not have a clear definition of the term but uses the fundamental understanding of it. This is, for instance, through the European Data Protection Supervisor (EDPS), which is a self-governing data protection authority from the EU that focusses on monitoring and advising the EU about new technology, protection of data and personal information (European Data Protection Supervisor, 2022a). The EDPS defines transparency as the legislation process in the EU institutions being open as possible because this affects the EU citizens and they have the right to know how this decision-making process works. The EDPS makes a further connection to the understanding of transparency (European Data Protection Supervisor, 2022b):

“Similarly, transparency is a core principle in data protection. You have the right to know which of your personal data are collected, used, consulted or otherwise processed and to what extent the personal data are or will be processed” (Ibid., 2022).

Furthermore, in the Treaty of the European Union (TEU) in Art. 11 (2 & 3) transparency can be connected to the EU’s understanding of good governance (European Union, 2016):

“2. The institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society”

“3. The European Commission shall carry out broad consultations with parties concerned in order to ensure that the Union's actions are coherent and transparent”

(Ibid., 2016).

But there is also Art. 42 in the Charter of Fundamental Rights of the European Union that centers around transparency through access to documents (European Union – EUCFR, 2016):

“Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, has a right of access to documents of the

institutions, bodies, offices and agencies of the Union, whatever their medium” (Ibid., 2016).

The transparency interpretation from the EU is therefore strongly connected to the democratic function of its institutions and society, the fundamental rights of the citizens and the open access to documents in the decision-making process. The understanding of transparency in this thesis is an important framework of the following section of Dür and Mateo-theoretical approach of lobbyism in the DSA and DMA law package when the different actors' behaviour and influence are being analysed. The following section present this.

2.2 The theoretical approach of lobbyism from Dür and Mateo

To explain and understand the democratic limitation in the research question, Andreas Dür and Gemma Mateo's theoretical approach to the actor's European lobby behaviour has been chosen to analyse how and why some interest groups have better ability to shape the policy outcome according to their ideal goals. What type of influence do the different means have on the access to the EU institutions in the decision-making process of the DSA and DMA law package?

First, the choice of the theoretical approach from Andreas Dür and Gemma Mateo (2016) is due to there being no unified explanation and understanding of this even though there is rich literature on how, when, and why interest groups have success in lobbying access, strategies, and influence. Most literature in this field bases its arguments on one of three approaches. These three approaches are: group characteristics, institutional setting, and issue characteristics. Hereby there are few competing theories and they often do not connect the interaction between strategies, influence, and access. This is what Dür and Mateo theorise in their approach to analyse interest groups and lobbying. However, their primary focus is on the main variable *group characteristics* (Dür & Mateo, 2016: 7-11). The connection of these variables gives a more nuanced and whole framework for the analysis in the thesis and, therefore, the flexibility to analyse the different factors to answering the research question.

The phenomena '*lobbying*' is understood as the relation between authorities, for example national and subnational governments or EU institutions, like the European Commission, and different types of interest groups, for instance business firms, civil society organisations, labour

unions and professional associations, on aiming to shape the policy decision-making process (Ibid., 2016: 1). Dür and Mateo define lobbying as “(...) *interference with democracy that leads to the promotion of some interests to the detriment of others*” (Ibid., 2016:2). This means that the market differences between these different interest groups impact their ability to influence the decision-makers and variation of access to them. Some have direct access like contact with the politicians and bureaucrats, public consultations, and hearings while others have indirect access like aiming to shape and mobilize public opinion through press releases, internet campaigns and demonstrations. The activities illustrate different types of strategies by the interest groups. These actors are not elected by the citizens unlike the politicians, and this can challenge the democratic legitimation of the policy outcomes. However, lobbying can also be positive for democratic societies by enhancing the quality of the decision-making process and being a voice of many citizens’ or consumers’ different interests (Ibid.: 1-2). Dür & Mateo (2016) explain the variation of lobbying strategies by making a distinction of types of interest groups and categorising them into ‘*lobbying insiders*’ and ‘*lobbying outsiders*’ (Ibid.: 2-5). They focus more specifically on “(...) *what explains variation across interest groups in lobbying strategy, access to decision-makers, and influence on policy outcomes*” (Ibid.: 1). Generally, the concepts do not just make a distinction of types of interest groups but also between their resources. More concretely, lobbying insiders and lobbying outsiders are divided into several categories which all are important in terms of how the variations of the lobbying process are (Ibid.: 2). This is illustrated in figure 4:

Figure 6: Theoretical lobbying concepts of Dür & Mateo

	Lobbying insiders	Lobbying outsiders
Prototype	Resource-rich business associations	Citizen groups
Strategy	Relatively more inside	Relatively more outside
Focus	Multilevel	National
Access	Executive institutions	Legislative institutions
Conditions for influence	Issues not amenable to outside lobbying	Issues amenable to outside lobbying

Source: Dür & Mateo, 2016: 5

Firstly, the *type of interest groups (prototype)* is understood as the key to mainly explain why some interest groups choose certain lobby strategies, goals, having access to different decision-makers, and in which situations they exert influence in the decision-making process. They are categorised as *labour unions, citizen groups, business associations, and professional associations*.

Labour unions are groups that “represent the interest of employees” (Ibid.:2). *Business associations* are associations of firms or individual firms. *Professional associations* represent certain professions like medics and lawyers. *Citizen groups* have broad memberships and represent different interests like environmental protection or animal welfare. The different types of interest groups have large variation of lobbying behaviour for two reasons: First the role of *collective action problems* is easier for business associations to lobby because of the pursuit of survival and influence often easily follows. This is due to business groups often having less complicated collective actions problems than the citizen groups since for the latter it is a trade-off between exerting influence and survival. As for the other group types, labour unions and professional associations, they are in between. The reason for the difference in collective action problems for the four types of interest groups is especially found in the sizes of their group memberships. Business associations often have limited memberships while citizen groups often have the broadest memberships and therefore represent many different interests. As for the other two interest groups, they are in between. Second, the role of *resources* to which the interest group gains comparative advantages also differs. Business associations are often better endowed with *technical information*. Another advantage they have is the ability to hinder or facilitate implementation of a certain public policy. Citizen groups have a different comparative advantage by having *political information* like information about representativeness, legitimacy, and constituency preferences. For the other interest groups, it is in between these positions (Ibid.: 2-3, 20-21). The members of each interest group act *rationally* meaning always choosing the best option and information closest to their ideal preferences to take the ideal decisions. The degree of being well-informed differs from issue to issue for the citizens. Hereby also the degree of being well-informed about every policy decision (Ibid.:18). Therefore, an interest group’s goal to mobilize and survive is dependent on ‘selling a product’ that convinces the members and the decision-makers that the benefits are exceeding the costs. This is, for example, offering their resources as a help in implementation of a certain policy, assistance to society issues, or influencing public policies (Ibid.: 20). Another factor in the survival and mobilization abilities is the *identity set* of the members of an interest group. A unified identity facilitates the mobilization and survival easier than a fragmented identity when lobbying. Business associations and professional associations often have a unified identity set unlike citizen groups and labour unions, again due to representing a larger membership with different interests (Ibid.:21). Business associations therefore have the best chances of surviving and mobilizing while citizen groups are the most challenged in this respect.

Secondly, the *lobby strategy*, *focus*, *access*, and *influence* also vary between the different types of interest groups. *Lobby strategy*: Business associations and their interests are often more focused on *inside lobbying* than the other interest groups which means that business associations are more likely to have direct contact with the politicians and bureaucrats in the decision-making process. This is, for instance, through participating in hearings and statements of their positions. Meanwhile, for the citizen groups, they are more focused on *outside lobbying* meaning using tactics to change the public attitude or mobilize the public on a specific issue for instance by campaigns, press releases, social media, demonstrations, and petitions. *Focus*: Business associations also act in a *multilevel lobbying* meaning both in national and EU legislation and at national and EU levels. Citizen groups focus more on national legislation and operate on the national level however, this does not exclude focusing on multilevel lobbying (Ibid.: 3-4). The terms *insider lobbying* and *outsider lobbying* do not mean that one is better at lobbying in the decision-making process than the other ones. They only differ in their choices of strategies and use of resources (Ibid.:17). In general, the *lobbying strategy and target* are based on the interest group's use of resources through tactics of how to survive and pursue the ideal goals. The survival is about how to maintain existing supporters and members and recruiting new ones for instance with services. Another aspect is also how the interest groups invest their resources in representing interests in the lobbying to gain access and influence. Since the interest group mentality is rationally bounded, they seek optimal gains. That is achieving largest influence with lowest cost (Ibid.:28). *Access and influence*: The interest groups are only gaining access and influence if they offer a resource that is 'better' than the other groups. Yet, not all resources are attractive for the decision-makers. This is for example decision-makers in executive institutions and bureaucrats who need more technical information while politicians and decision-makers in legislative institutions need more political information due to concerns of being re-elected and therefore concerns about reputation, public support, and legitimacy. However, both technical and political information may be affected by how the public salience means the voters'/citizens' care about an issue since this may increase the importance of both types of information (Ibid.: 31-32). Business associations have more access to executive legislators and much greater influence on the determination of a policy outcome if the issue is complicated. This is, for example, the European Commission as an executive institution. Citizen groups tend to have more access to legislative decision-makers. This is for example the European Parliament as a legislative institution. They have much greater influence on the determination of a policy outcome if the issue has high salience in the public (Ibid.:3-4). Overall, interest groups' degree of access and influence can also be affected by

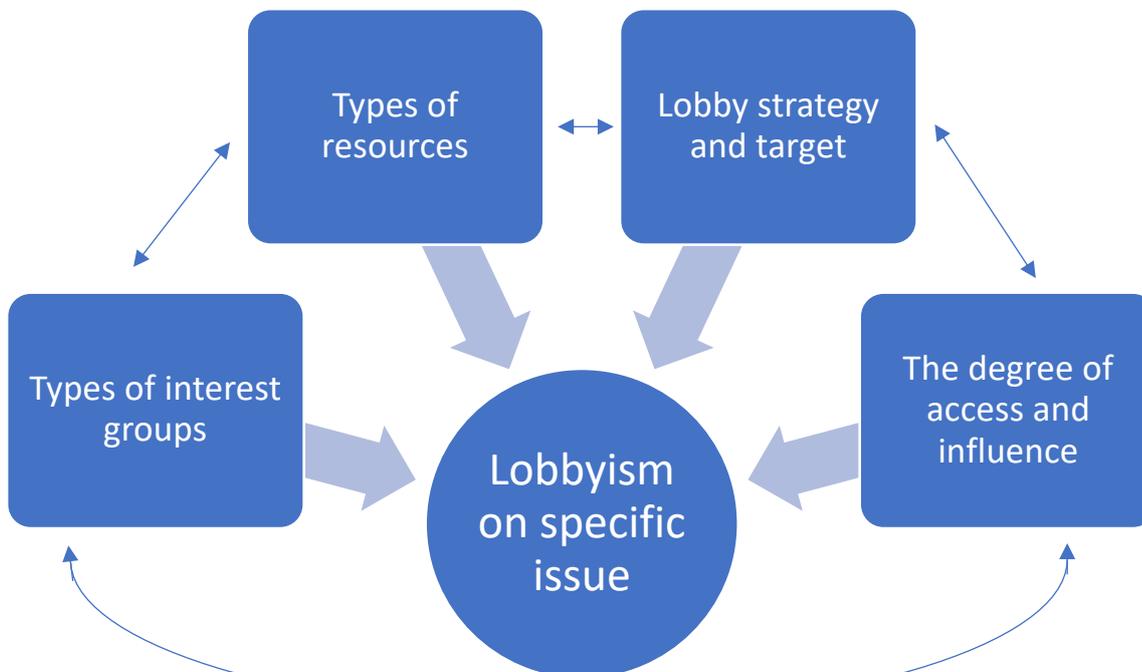
whether they have a reputation as trustworthy and credible when supplying decision-makers with resources. In order to gain this, the relationship between the interest groups and the decision-makers has to be long-term and stable (Ibid.: 32-33).

Thirdly, the *material resources*, for instance financial means, also vary between the interest groups and have an important role in lobbying. The larger the material resources are, the more they strengthen the interest group's ability to have influence. Dür and Mateo argue that resource-rich groups like business associations often possess material resources while resource-poor business groups like citizen groups, labour unions, and professional associations often do not have the same strength and influence in lobbying (Ibid.:4, 24). Yet, it can also be contrary since it is a matter of financial stability. For example, citizen groups can have a strong material resource if they receive many or large donations from the members and that flow is stable. However, citizen groups are often in a bigger competition than business groups (Ibid.: 27). But material resources are one aspect of the concept *resources* that the interest groups possess. The number of resources that an interest group possesses differs and each group has a limited number of the resource types. Other types of resources are *legitimacy*, *representativeness*, *information*, the ability to *hinder or facilitate implementation* of a policy, and *expertise*. The resource *legitimacy* is about whether the interest group's lobbying on an issue is enjoying public support. But it is not necessarily only about the number of supporters but also which group of citizens in society supports it. For example, interest groups that are lobbying for anti-abortion legislation enjoy strong support from groups of citizens that support that specific issue. Citizen groups often enjoy high legitimacy due to many of them enjoying great public support. This also means that citizen groups have high *representativeness* and therefore this is also a strong resource (Ibid.:27-28). The resource *information* is distinguished in technical and political information. *Technical information* has the strategy to limit the uncertainty for the decision-makers on the consequences of a policy choice. This is for instance: "(...) *is the proposed policy feasible? Can it be implemented? Will the policy be effective and achieve the desired goal? How costly will the policy be?*" (Ibid.: 24). Business associations often have answers to these types of questions, particularly because of their material resources to buy experts with specialized knowledge (Ibid.: 25-26). The other, *political information*, has the strategy to limit uncertainty for the decision-makers on constituency preferences (meaning attitudes) like "(...) *do they favour or oppose the policy?*" and the constituent salience of an issue like "(...) *how important is the policy for them?*" (Ibid.: 24). As mentioned before, this information is something that citizen groups often have like having information about what the public preferences on a policy are (Ibid.: 25). The resource to

hinder or facilitate implementation of a policy is about the ability of an interest group to cooperate with the decision-makers in the decision-making process. Business associations and professional associations often have this as a strong resource (Ibid.: 27). Lastly, the resource *expertise* is not only something that business associations gain from buying experts, but also a resource that citizen groups can strongly possess as well. This is, for example, if the interest group itself has expertise in a specific issue or sector, if they buy expertise to influence the policy outcome or invest in activities of the interest group's survival such as recruiting new supporters and members or keeping members and supporters (Ibid.: 25).

Conclusively, the different types of interest groups vary greatly in terms of their influence, degree of access, resources, and the ability of strategies to shape or shift a policy outcome when lobbying in a decision-making process. In the thesis types of the six interest groups are categorised as business associations with Google and Facebook, and citizens groups with Global Witness, Corporate Europe Observatory (CEO), LobbyControl, and Alliance for Lobby Transparency and Ethics Regulation (ALTER-EU). To summarise the theoretical key factors and their interactions in interest groups' lobbying in the EU, they are illustrated in figure 5:

Figure 7: Interest group characteristics and their role of EU Lobbyism



Source: Own creation

The different factors are used in the following section of methods to theorise and create a framework of analysis of the selected interest groups: Google, Facebook, Global Witness, Corporate Europe Observatory (CEO), LobbyControl, and Alliance for Lobby Transparency and Ethics Regulation (ALTER-EU). How are these different factors shaping the power relation and transparency of their lobby activities in the DSA and DMA law-making process? How these are later used in the analysis is explained in the following chapter. But firstly, a presentation of the methodology of the research is explained.

Chapter 3: Methods and Methodology

In this chapter the methodological considerations in the thesis are presented to answer the research question. This is achieved by the choice of *critical realism* as the *ontological* and *epistemological* understanding, *abduction* as the strategy, *case study* as the research design, *mix methods* by the collection of the variety of data, a discussion of the quality of the research, and finally the operationalisation of the theoretical definition of the six interest groups and EU-lobbyism. These considerations are carried out in an analytical framework to conduct the analysis.

3.1 Methodology – Critical realism and strategy

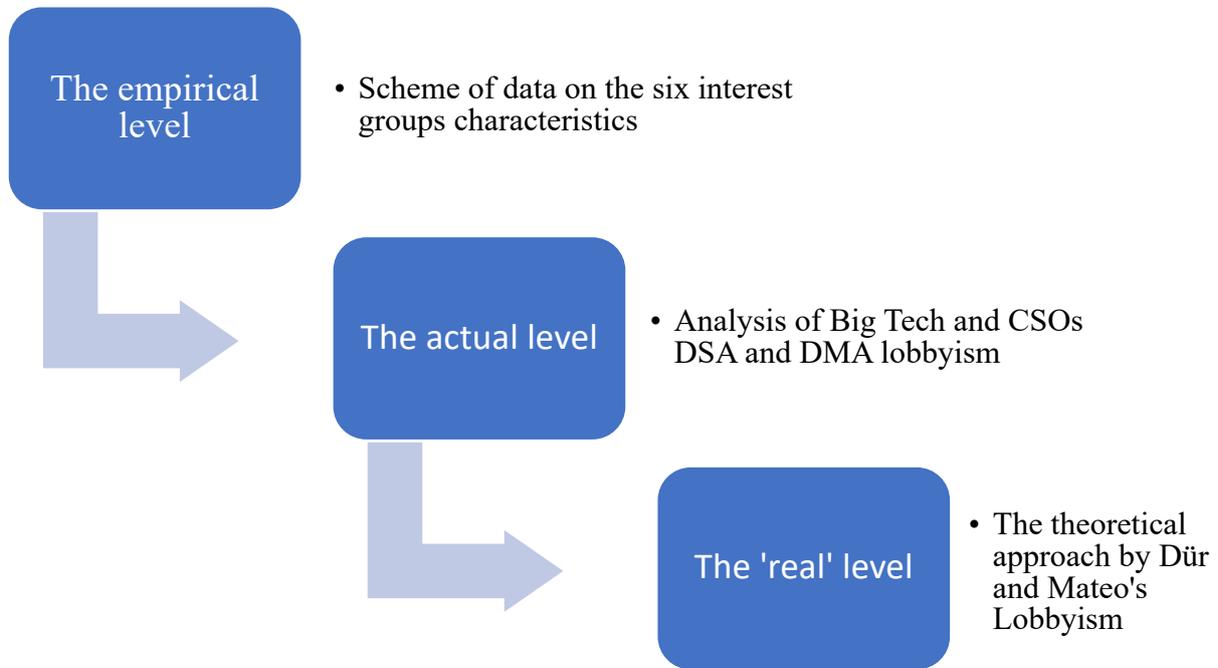
The research takes a *critical realism* position in the understanding of how the research question is approached to be answered. This is due to the theoretical choice of Dür and Mateo's *lobbying insiders* and *lobbying outsiders* that focus much on an interest group's resources and how to view its strategies in the lobbying process. In order to achieve new knowledge, the *ontological* consideration is understood as how to view the social entities and how to construct the understanding of the world and social reality by the actors (Ingemann, 2013:160-161). This means how to study "nature of being" and the characteristics of the social entity (Fuglsang, Olsen & Rasborg., 2013: 177). The ontological approach in critical realism views the social entity to be independent from the researcher's influence. However, the social reality changes constantly and is an interaction between the social entities and the complex and contextual structure of society. Thus, there is not a limited understanding of the social reality and the achieved knowledge to a research question (Fuglsang et al., 2013: 172). The social entities in the thesis are the lobbying strategies of the six interest groups, Google, Facebook, Global Witness, Corporate Europe Observatory (CEO), LobbyControl, and Alliance for Lobby

Transparency and Ethics Regulation (Alter-EU), in the decision-making process of the Digital Services Act and the Digital Markets Act. This means the actual lobbying process and the challenges of transparency. Another aspect in achieving new knowledge in relation to the research question is the *epistemological* consideration on what kinds of instruments and materials can be used to gain the knowledge (Fuglsang et al., 2013:184; Ingemann, 2013:160-161). The epistemological view in critical realism is the social entities to be observed, though to gain a deeper understanding and explanation of the social reality it must be applied with reflection (Fuglsang et al., 2013:184; Ingemann, 2013:161-162). In the thesis this is conducted by using data and statistics on the six interest groups that are observed and these data are a part of the understanding and explanation of the interest groups' DSA and DMA lobbyism. Another part is applied with *qualitative content analysis* (that is described later in this chapter) on data from each of the interest groups' interaction with the EU such as internal EU documents, mails, statements, and reports. The data are then reflected using the theoretical approach with the lobbying insiders and lobbying outsiders to answer the research question about the transparent limitations in the DMA and DSA lobbyism.

This means that the strategy in the thesis is *abduction*, which is using the combination of *induction* and *deduction* as a methodological approach. Induction is the theoretical interpretation and conclusion inferred from what is observed of specific social entities while deduction starts with the general theoretical interpretation deduced on the social entities. Abduction uses the empirical observations to achieve some knowledge, however, in order to achieve more knowledge in depth that cannot be immediately observed, abduction takes the level to *transcendent realism*. This means to cover mechanisms, structures, and patterns to gain a deeper and nuanced knowledge (Fuglsang et al., 2013: 178-183). In the thesis this means that the observed data collected on the six interest groups' different resources, such as number of members and financial means, are what critical realism defines as *the empirical level* (data that are directly observed). Another aspect to the observed data in the thesis is also data collected on the six interest groups' interaction with the European Commission and the European Parliament such as letters, mails, and statements in their lobbyism. These data are analysed with qualitative content analysis and are identified as *the actual level* (analysis of the collected data) in critical realism. The theoretical concepts of lobbyism insiders and lobbyism outsiders in the thesis take the analysis to a deeper and more nuanced interpretation of the observed data to gain more knowledge on what cannot be directly observed from the data collection on the six interest groups' DMA and DSA lobbyism. This is *the 'real'/transcendent level* in critical realism

meaning to study the ‘hidden’ structures, patterns, and context of the observations (Ibid., 2014:172-175). This is illustrated in figure 8:

Figure 8: Forms of cognition in the thesis



Source: Own creation

3.2 Research design – Case study

The research design in the thesis is a *case study* design since the research question is focussing on a specific case of an EU decision-making process. According to Stake, a case study is (1995):” (...) *concerned with the complexity and particular nature of the case in question*” (Bryman, 2016:60). It is therefore a very detailed analysis of a single social entity or phenomenon in which the purpose is to gain an in-depth understanding or explanation of the uniqueness of the case (Ibid., 2016:60-61). In the thesis the case is therefore a detailed analysis of the DSA and DMA decision-making process in relation to democratic challenges while the phenomenon is the Big Tech and CSOs’ lobbyism. The issue of this DSA and DMA lobbyism is therefore an intensive examination and interpretation of the six selected interest groups’ lobby activities and the consequences.

Typically, qualitative methods and inductive approach are used in a case study. However, quantitative and qualitative data collection is often used as well (Ibid.:61-62). Since the research in the thesis uses an abductive strategy, the data collection is a combination of both qualitative and quantitative methods and for that reason uses mixed methods.

There are varieties of case studies, and in the thesis the type of case is a *representative or typical case* in which the “(...) *the objective is to capture the circumstances and condition of an everyday or commonplace situation*” (Ibid.:62). The DSA and DMA lobbyism is an example of everyday EU lobbyism and, hence, not an unusual phenomenon but gives a general knowledge of the different interest groups’ EU lobby activities in influencing EU’s decision-making process in the case of the DMA and DSA laws. This lobbyism is intensively examined as a complex social process through for instance the Big Tech and CSOs’ number of meetings, size of financial means, direct and indirect contact with the European Commission and European Parliament.

3.3 Choice of data and mixed methods

The thesis uses sources that are *documents*. The motive for this type of data is the variation of different types of information to answer the research question of how Big Tech firms and CSOs are lobbying and the transparent limitations in the DSA and DMA decision-making process. The data collection is based on *secondary data* meaning materials that are ‘out there’ since they already exist and are ready to be collected and analysed. Therefore, another advantage is that there is no need to produce own materials like *primary data* such as interviews or surveys (Bryman, 2016: 11, 546). The reason for not conducting this type of data collection is that the complicated issue of lobbyism is often closed for the public access. Also, the actors involved in it, especially Big Tech firms, are unlikely to give further information than what they already have stated on their webpages and in EU documents in relation to the DSA and DMA. Therefore, secondary documents in the thesis have been systematically prepared and selected according to their relevance to the research question and based on what it has been possible to get access to. As mentioned in section 1.1, *The case of EU-lobbyism, Big Tech and the matter of Democracy and Digitalization*, the choice of the selected actors of Big Tech, represented by Google and Facebook, and the CSOs represented by Global Witness, Corporate Europe Observatory (CEO), LobbyControl, and Alliance for Lobby Transparency and Ethics Regulation (Alter-EU), is due to their high lobby activities in the DSA and DMA decision-making process.

Their different lobby strategies also reflect the varieties of documents that have been collected for the thesis. The selected data are open letters, mails, notes, statements, reports about the

DSA and DMA found from each of the interest groups' websites that they have published and released on their own or through the Swedish Government and the European Commission with requests on freedom of information. Other data are published initiatives from the European Commission's webpage in which the Commission has invited for relevant stakeholders' feedback on content and implementation of the two laws. There was feedback from Google and Facebook and no results from the other four interest groups. Furthermore, there are data from internal documents on the communication between the six interest groups and the European Commission and other EU authorities found on the webpage *AsktheEU*, in which the public, like organisations and individuals, can request access to internal EU documents between the EU and the stakeholders of interest on a specific issue. Usually, it is the Secretariat General of the European Commission that decides whether the request can be accepted and how much of the internal documents can be published. However, it is not an official webpage from the EU but run by mySociety and Access Info Europe that send these requests to the relevant EU authorities and publish the documents accepted by the EU on the webpage (AsktheEU, 2023). These documents are in the thesis connected to the interest group that has made a request on the DMA and DSA lobbying between the EU and a specific stakeholder, for instance when Global Witness has made a request on Facebook's lobbying, then this is set as a source from them. Other internal documents that become published are from Corporate Europe Observatory (CEO). These data from AsktheEU and CEO display use of emails, notes, statements, and conclusions from meetings that the interest groups had with EU representants.

Lastly, there are data searched for on databases on the lobby activities from the six interest groups on *EU's Transparency Register*. These are official data from the EU that are established by the European Commission, European Parliament and Council of the European Union from meetings with the European Commission and the resources these interest groups have and use on influencing the decision-making process at EU level. This includes number of lobbyists representing an interest group, its financial means, and when and what meetings with the Commission (European Commission – Transparency Register, 2022). Another database used in the thesis is *Transparency International EU* that has a tool called *Integrity Watch* that also publishes data on lobby activities and decision-making processes in the EU such as 'Commission Meetings' about lobby meetings with the European Commission, 'EU Lobbyists' about registered lobby organisations in the EU, and 'MEP Meetings' about lobby meetings with members of the European Parliament. It is a database, developed by the media of New York Times, that is cofounded by for instance the EU's Internal Security Fund and in which the datasets are self-reported from the EU institutions

(Transparency International EU, 2023). In the thesis the focus is on ‘MEP meetings’ since the other database has comprehensive dataset on European Commission meetings and EU lobbying. The choice of two supplementing databases is to ensure a broad and whole data collection. All the data collections in the thesis display a period of 2019-2023 as to the relevance of DSA and DMA lobby activities from the six interest groups’ involvement in this EU decision-making process.

About the selected actors (interest groups) involved in the DSA and DMA lobbyism:

- Google: The American interest group is an IT (Information Technology) and internet company that is one of the world’s biggest tech firms. Therefore, the firm is one of the Big Techs. Its products and services include for example Google search engine, Gmail, Google Maps, Play Store and YouTube where Google makes profit through subscriptions, sales, and advertising. Google’s mission is “(...) *to organize the world’s information and make it universally accessible*” (Google, 2023).
- Facebook (Meta): The American interest group is also an IT and internet company. Facebook (also called Meta) is a social media platform and one of the biggest in the world of its kind with at least three billion people using its products. Hence, Facebook is also categorised as a Big Tech. Its services and products are for example Facebook, Messenger chat, Instagram, and WhatsApp (two other social media). Facebook’s mission is “*Giving people the power to build community and bring the world closer together*” (Facebook, 2023).
- Corporate Europe Observatory (CEO): The Belgian interest group is a CSO that focusses on campaigns and research on lobby activities from big corporations in the EU decision-making process (Corporate Europe Observatory – Basic information, 2023). Its work is in particularly in EU policies in economy and finance, trade and investment, EU lobbying regulations, energy and climate change, and agriculture and food safety. It is the area of EU lobbying regulation that is of interest in the thesis. It is supported through donations and funding independently from corporations and EU institutions. CEO’s mission is to “(...) *expose what they do (corporate lobbies), increase public awareness, and build momentum to curb corporate influence over EU policy-making*” (Corporate Europe Observatory – Action plan, 2023).

- LobbyControl: The German interest group is a CSO that often cooperates with CEO. It focusses on lobbyism both in Germany and in the EU. Its work is research and campaigns to display publicity of strategies of influence and structure of power from the different organisations' lobby activities. It is supported through memberships, donations, and grant funding. LobbyControl's mission is (...) *eine starke, lebendige Demokratie mit transparenten, fairen und ausgewogenen Beteiligungsverfahren*” meaning that LobbyControl wants to ensure a capable and strong democracy with balance and transparency in the decision-making processes (LobbyControl, 2023).

- Global Witness: The international interest group, with offices in Brussels, London, and Washington DC, is a CSO that often cooperates with other international CSOs. Thus, its work is at an international level based on research and campaigns on especially issues such as climate change and environment, and disinformation and hate on online platforms. It is supported through donations. Global Witness' mission is “(...) *to focus on some of the most urgent issues facing humanity: the climate emergency and attacks on civic space*” (Global Witness, 2023).

- Alliance for Lobby Transparency and Ethics Regulation (ALTER-EU): The Belgian interest group is a big coalition of trade unions and interest groups with more than 200 members from within and beyond the EU countries. CEO and LobbyControl are members of this coalition and have representants in the steering committee. In the thesis, ALTER-EU is categorized as a CSO due to its mission and the fact that most of its members are CSOs. The coalition is supported through donations and funding. ALTER-EU's mission is to issue “(...) *the increasing influence exerted by corporate lobbyists on the political agenda in Europe, the resulting loss of democracy in EU decision-making and the postponement, weakening, or blockage...of... reforms*” (Alliance for Lobby Transparency and Ethics Regulation – Basic information, 2023; Alliance for Lobby Transparency and Ethics Regulation – Members, 2023).

The keywords used in the data collection: *DMA, DSA, Digital Services Act, Digital Markets Act, Meta, Facebook, Google, LobbyControl, Global Witness, CEO, Corporate Europe Observatory, Alliance for Lobby Transparency and Ethics Regulation, Alter-EU.*

The data are *mixed methods* since the methods used in the thesis are a combination of *qualitative* and *quantitative* data to the relevance of explaining and understanding the research question and to carry out the analysis (Bryman, 2016: 621-622, 634-636). In addition to that, it is also mixed methods due to the theoretical approach, lobbying insiders and outsiders, that emphasises a lot on nomothetic data such as the interest groups' types of resources but also ideographic data such as the interest groups' strategies and degrees of access. The quantitative methods are in the thesis data from the two databases and a report from CEO and LobbyControl while the qualitative methods are the documents based on statements, feedbacks, letters, emails, notes, and meeting conclusions. The latter is also the primary method used in the thesis with qualitative content analysis. This is to achieve a broader knowledge on the DMA and DSA lobbying and democratic implications. The data collection is illustrated in figures 9 and 10:

Figure 9: Scheme of the selected data from the six interest groups

Interest group	Type of data (Qualitative data)
Google	<p><u>Statements/Opinions:</u></p> <p><i>A more responsible, innovative and helpful internet in Europe (03.09.20)</i></p> <p><i>The Digital Services Act must not harm Europe's economic recovery (28.10.2020)</i></p> <p><u>Published initiatives (feedback):</u></p> <p><i>Digital Services Act package – ex ante regulatory instrument of very large online platforms acting as gatekeepers (30.06.2020)</i></p> <p><i>Digital Services Act – deepening the internal market and clarifying responsibilities for digital services (30.06.2020)</i></p> <p><i>Digital Markets Act – implementing provisions (09.01.23)</i></p>
Facebook (Meta)	<p><u>Statements/Opinions:</u></p> <p><i>Europe Should Tear Down Digital Walls, Not Build New Ones (22.10.2020)</i></p> <p><i>Europe Must Not Turn Against the Creative Use of Data (31.01.2021)</i></p>

	<p><u>Published initiatives (feedback):</u></p> <p><i>Digital Services Act package – ex ante regulatory instrument of very large online platforms acting as gatekeepers (30.06.2020)</i></p> <p><i>Digital Services Act – deepening the internal market and clarifying responsibilities for digital services (30.06.2020)</i></p> <p><i>Digital Markets Act – implementing provisions (09.01.23)</i></p>
<p>Corporate Europe Observatory (CEO)</p>	<p><u>Open letter:</u></p> <p><i>Over 40 NGOs and trade unions demand transparency over DSA and DMA trilogues (1.03.2022)</i></p> <p><u>Report:</u></p> <p><i>The lobby network: Big tech’s web of influence in the EU (31.08.2021) (Qualitative and Quantitative data)</i></p> <p><u>Internal EU documents:</u></p> <p><u>On Google:</u></p> <p><i>Meeting conclusions: Notes from the European Commission (Vestager cabinet) with Google and Alphabet (17.11. 2021)</i></p> <p><i>Notes from the European Commission (Vestager cabinet) with Google (2.12.2021):</i></p> <p><i>Notes from European Commission (Breton cabinet) with Google: Meeting with an EC member (11.01.2022)</i></p> <p><i>Minnesanteckningar – Google. Notes of meeting with Google on DSA (22.02.2022)</i></p> <p><i>Overall Trialogue priorities – Google (28.02.2022)</i></p> <p><i>Thank you – email from Google Sweden to Swedish Government (23.03.2022)</i></p>
<p>Global Witness</p>	<p><u>Statement/Opinion:</u></p> <p><i>Global Witness statement on the draft Digital Services Act. (15.12.2020)</i></p> <p><u>Internal EU documents:</u></p>

	<p>On Facebook: <i>Dombrovskis cabinet/Facebook meeting request email</i> (10.12.2020)</p> <p><i>Access to documents request: 2021-09-22 meeting between Anthony Whelan and Facebook Ireland Limited</i> (14.10.2021 and 27.10.2021)</p> <p><i>Mail from EU Commission’s Director-General for Communication Networks, Content and Technology</i> (14.12.2021)</p> <p><i>Access to documents request: 2021-12-06 meeting between Věra Jourová and Facebook Ireland Limited</i> (17.02.2022)</p> <p><i>Access to documents request: 2022-05-19 meeting between Thierry Breton and Meta Platforms Ireland Limited and its various subsidiaries (f/k/a Facebook Ireland Limited)</i> (15.07.2022)</p>
LobbyControl	<p><u>Report:</u></p> <p><i>The lobby network: Big tech’s web of influence in the EU</i> (31.08.2021) (Cooperated with CEO)</p>
Alliance for Lobby Transparency and Ethics Regulation (ALTER-EU)	<p><u>Open letters:</u></p> <p><i>Unbalanced lobby meetings and corporate influence</i> (29. 06.2020)</p> <p><i>Privileged and unbalanced access by Big tech lobby</i> (27.11.2020)</p> <p><i>ALTER-EU joined by 18 NGOs to demand improvements to EU Transparency register</i> (02.02.2022)</p>

Figure 10: Scheme of the selected data on the six interest group’s resources

Interest group	Type of data (Quantitative data)
Google	<ul style="list-style-type: none"> - Transparency International EU (Integrity Watch) <ul style="list-style-type: none"> o MEP meetings o EU Lobbyists - EU’s Transparency Register
Facebook (Meta)	
Corporate Europe Observatory (CEO)	
Global Witness	

LobbyControl	<ul style="list-style-type: none"> ○ List of organisations and their lobby activities ○ European Commission meetings
Alliance for Lobby Transparency and Ethics Regulation (ALTER-EU)	

3.4 Discussion of the quality of the research

The use of these collected data and the interpretations of the selected theoretical concepts are to be critically reflective about the sources and bias that are involved. Therefore, it is important to have research criteria in social science to discuss the process of the research in the thesis. There are, in general, two criteria: *validity* and *reliability* (Bryman, 2016: 41-42, 383). In this thesis, it has been decided to apply research criteria from the qualitative methods because of the case study design and qualitative methods as the primary method.

The criterion, *validity*, refers to the question whether the researcher is studying the actual measurements, identifications, and observations that are being studied and concluded on (Ibid., 2016: 383). There are two classifications: *internal* and *external validity*. *Internal validity* refers to if there is a close connection between the theoretical concepts and the researcher's observations (Ibid.: 384). In the thesis there is a close operationalisation of the theoretical concepts used in the data to analyse the lobby activities (observations) from the six interest groups in the databases and documents from the in-depth study of the DSA and DMA lobbying. It is acknowledged in the thesis that the data collection, from the two Big Tech, four CSOs and what the EU institutions have accepted to publish, all include bias. Also, there can be added bias with the researchers' theoretical interpretation when analysing the observations. Hence, the use of mix methods with varied documents and databases, the use of *qualitative content analysis* with coding to be as close to the materials, theory, and research question as possible (that is later described in section 3.5), and the choice of several and different actors to analyse in order to achieve a broader and whole conclusion.

External validity refers to the scope of generalisation that is concluded in the research to have value to other social settings (Ibid.). In general, this is a little weakness in the thesis since it is one case of the EU lobbyism and one theory. However, the theory is a broad theoretical lobbyism approach and the case of the DMA and DSA lobbyism with a large and varied data collection displays an *analytical generalisation* meaning they are comparable to other theoretical settings (Ibid.:64, 384).

For that reason, the conclusions in the thesis can theoretically be compared with other similar lobbying cases with different regulations and laws in the EU.

The criterion, *reliability*, refers to the possibility to repeat the results from research. This means if the measurements are consistently used from the theoretical concepts and the observations, they generate the same conclusions (Ibid.:41). There are two types: *internal* and *external reliability*. *Internal reliability* refers to the number of researchers that are conducting and analysing a study to achieve the same interpretation and understanding of the findings (Ibid.: 384). In the thesis there is one researcher to conduct the study, and for that reason it is not complicated since it is the very same person who systematically prepares, collects, and analyses the theory and data.

Lastly, *external reliability* refers to if research can be reproduced. The challenge is that society always changes, and it is then “(...) impossible to ‘freeze’ a social setting and the circumstances” to achieve the same results (Ibid. 383). It would be difficult in the thesis to gain the same result due to both the interpretation of findings and the development with the DSA and DMA that are both first fully applied in 2024. However, the collected documents do not change and the transparency in the thesis, with description of the operational process, may make it possible to replicate the study.

3.5 Qualitative Content Analysis

The approach to analyse and interpretate the data in the thesis is the choice of using *qualitative content analysis* (QCA) since the primary data are qualitative methods based on different kinds of communication. QCA is an approach that reduces the large number of materials with the focal point on ideas, opinions, and content through underlying themes to be analysed such as in newspapers, websites, magazines, documents, and interview transcripts. This is often conducted through an inductive strategy in which the coding through text phrases and quotations is open themes but relevant to the research question. Yet, a deductive strategy can also be taken in which the coding is closely related to the concepts of a theory meaning that the themes are pre-defined (Bryman, 2016:562-65; Mayring, 2000: 1-6). The process is coding the data step by step which means that a *code* can be a word or phrase directly from the text while a *theme* consists of codes and analytical reflection with longer phrase based on a pattern (Saldaña, 2013:11, 14). A code is therefore showing a uniqueness with attributes that the researcher interprets as relevant to the study (Ibid.:3-4).

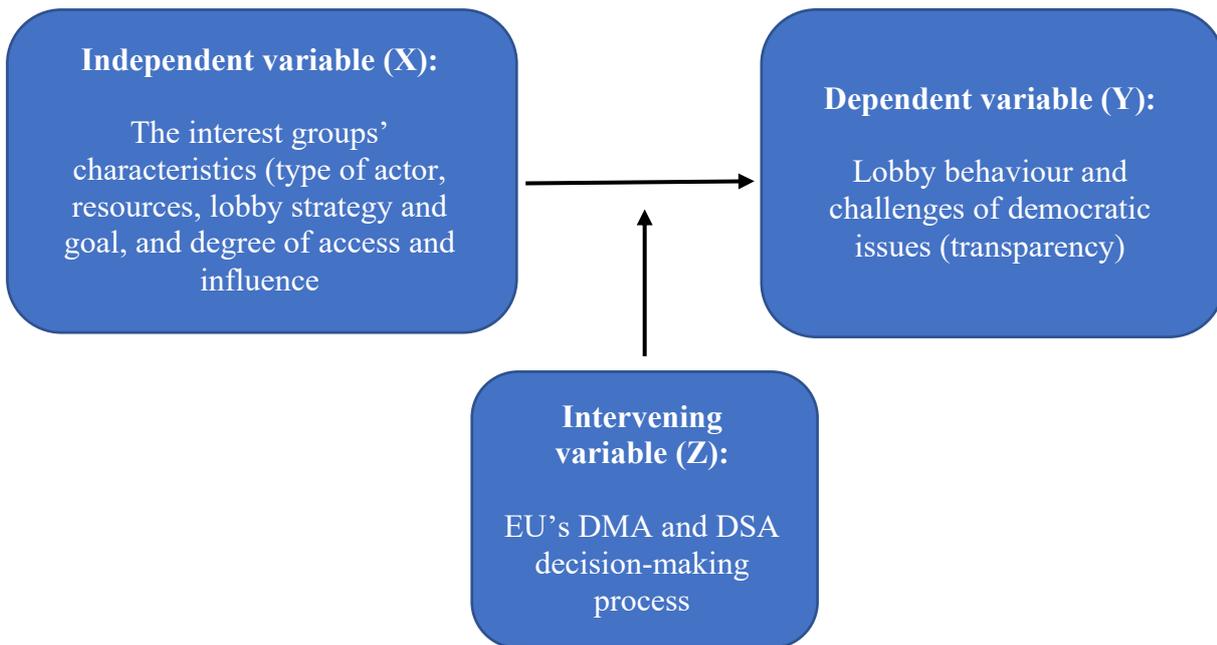
Since the thesis has an abductive strategy, meaning using both an inductive and deductive approach, the inductive part is the analysis on the statements, notes, mails, report, open letters, feedbacks, and EU documents from the six interest groups. This part is coding on what they each say on the DSA and DMA, the opinion on the decision-making process and their views on the European Commission and the European Parliament. This is open coding to the relevance of the research question. The other part, deductive approach, is also an analysis on the same materials. However, the coding is connected to the pre-defined themes from the selected theoretical approach with *lobbyism insiders* and *lobbyism outsiders* and the following theoretical concepts of the attributes of lobby actors. The themes are in four categories: *types of interest groups* (business associations and citizen groups), *types of resources* (material, legitimacy, representativeness, information, ability to hinder or facilitate implementation, and expertise), *lobby strategy and target* (strategy and focus), and the *degree of access and influence* (condition for influence and access). The following section describes further the operationalisation and analysis model of the thesis.

3.6 The analytical framework

In the analysis there are three steps, as mentioned in section 1.2 *Research question*, to connect the lobbying insider and lobbying outsider with the data from the two databases and the varied documents to interpret the results in order to answer the research question about what the transparent limitations are in the Digital Services Act and Digital Markets Act decision-making process. The coding with QCA shows the underlying themes and opinions in the data to understand and explain the dynamic in the relation of the six interest groups' activities in this EU lobbyism. This dynamic is to analyse these interest groups' access and the distribution of representativeness in the DSA and DMA lobbying and emphasise the case of democratic challenges in this decision-making process.

The context in the thesis is perceived as the six interest groups' characteristics to be the independent variable that influences the transparent issues in lobbying as the dependent variable. In this connection the EU's DMA and DSA decision-making process is involved and impacted by this as the intervening variable. The context in the thesis is not understood as a variable analysis or as a causality, but more as an illustration of the connection extracted from the research question and the theoretical approach from Dür and Mateo. This is exemplified in figure 11:

Figure 11: The connection of the variables and concepts in the thesis



Source: own creation

3.6.1 Analytical model and process

The definition and operationalisation of the six selected interest groups' lobby activities and theoretical concepts are displayed in figure 12 to analyse the interaction of what the two Big Tech and the four CSOs want in the case study of DSA and DMA decision-making process of this thesis.

Figure 12: Operationalisation of the concepts and variables: Analytical model

	Lobbying insiders	Lobbying outsider
Prototype	<u>Business associations:</u> Google Facebook	<u>Citizen groups:</u> Global Witness Corporate Europe Observatory (CEO) LobbyControl Alliance for Lobby Transparency and Ethics Regulation (ALTER-EU)
Strategy	<u>Inside:</u> Direct contacts through meetings and mails	<u>Outside:</u> Open letters, request of EU-internal documents and reports
Focus	<u>Multilevel:</u> European Institutions	<u>Multilevel:</u> European Institutions

Access	Mainly the European Commission Swedish Government	Mainly the European Parliament
Conditions for influence	Technical information on the DSA and DMA process	Public information on the democratic issues of the DSA and DMA process

Source: own creation

In the first part of the three-step analysis, the analysis contains from the quantitative methods with the use of the two databases, Transparency International EU’s Integrity Watch and the EU’s Transparency Register, to display the activities and resources by the six interest groups. This is to complement the following steps in the analysis. In the second part, the two Big Tech, Facebook and Google, are analysed with qualitative methods to display their interactions with the EU and their positions on the DSA and DMA decision-making process. In the third part, the four CSOs, Global Witness, Corporate Europe Observatory (CEO), LobbyControl, and Alliance for Lobby Transparency and Ethics Regulation (Alter-EU), are also analysed with qualitative methods to display their interactions with the EU and their positions on the DSA and DMA decision-making process. Part two and three are with the use of QCA. The analytical process is illustrated in figure 13:

Figure 13: The analytical process

1. step	2. step	3. step
Scheme of lobby activities of the interest groups: <ul style="list-style-type: none"> - Resources used on the DSA and DMA decision-making process - Meetings with the EU institutions 	Google and Facebook: <ul style="list-style-type: none"> - Opinions on the DSA and DMA - Contacts with the EU institutions 	The CSOs: <ul style="list-style-type: none"> - Opinions and critiques of DSA and DMA democratic limitations in the decision-making process - Contacts with the EU institutions

Source: own creation

Chapter 4: Analysis

4.1 Scheme of DSA and DMA lobby activities from the six interest groups

The first part of the analysis describes the activities and distribution of the six-interest groups lobbying in the period of 2019-2023 in the *Digital Services Act* (DSA) and *Digital Markets Act* (DMA). This is to illustrate the power relation between the Big Tech, Google and Facebook (Meta), and the CSOs, Corporate Europe Observatory (CEO), LobbyControl, Global Witness, and Alliance for Lobby Transparency and Ethics Regulation (ALTER-EU). The two databases, *Transparency International EU's Integrity Watch* and the *EU's Transparency Register*, are used to analyse and contribute to the discussion of transparency and the six interest groups' resources.

Table 1 (below) displays an overview of datasets from Transparency International EU's Integrity Watch with the focus on meetings with the European Parliament since the database, unlike the database from the EU's Transparency Register, has dataset on this:

Table 1: The six interest groups' lobby activities and resources registered and published in Integrity Watch

Interest group	Google	Facebook (Meta)	CEO	LobbyControl	Global Witness	ALTER-EU
European Parliament meetings (total since 2019)	151	112	34	16	122	1
DMA and DSA meetings	57	35	1	8	3	0

Source: Own creation (based on search of each of the interest groups with the focus on the subjects DSA and DMA from: Transparency International EU – MEP meetings, 2023).

The dataset on how many meetings the six interest groups have had from 2019 to now, as of the thesis writing, demonstrates that the Big Tech, Google and Facebook, have much more contacts with the

members of the European Parliament from committees or outside of the committees (generals). However, the CSO, Global Witness, also has the same level of meetings. The meetings with the Members of the European Parliament about DSA, DMA or both also display a considerable difference between the Big Tech and the CSOs. Google had 57 meetings. The first meeting was on 20 November 2019. The latest one was on 18 May 2022. The Big Tech, Facebook, had 35 meetings about the DSA, DMA or both with the European Parliament. The first meeting was on 14 January 2020. The latest one was on 22 March 2022. The CSO, Corporate Europe Observatory (CEO), had one meeting about the DSA, DMA or both with the European Parliament on 10 March 2020. The CSO, LobbyControl, had eight meetings about the DSA, DMA or both with the European Parliament, which is half of its total meetings. The first meeting was on 26 January 2021. The latest one was on 22 February 2022. The CSO, Global Witness, had three meetings about the DSA, DMA or both with the European Parliament. The first meeting was on 20 April 2021. The latest one was on 10 March 2022. Finally, the CSO, Alliance for Lobby Transparency and Ethics Regulation (ALTER-EU), did not had any meetings with the Members of the European Parliament about the DSA, DMA or both.

Conclusively, both Google and Facebook had many more meetings with the European Parliament than CEO, Global Witness, LobbyControl, and ALTER-EU. The lobby activities from Google, Facebook and CEO to influence on the DSA and DMA already began before the European Commission made its DMA and DSA proposal in December 2020. At the same time, LobbyControl was amongst the four CSOs to gain most access while Google by far was that interest group, amongst the six, to gain most access to the European Parliament.

To further describe and analyse the activities from the six interest groups, they are illustrated in table 2. This is from the database, Transparency Register, of the EU's own registration of lobby actors in the EU. The information is written and published by the interest group on the EU's requirement of labels such as how the interest group is defined and what its financial means or lobby expenses are.

Table 2: The six interest groups' lobby activities and resources registered and published in the EU's Transparency Register

Name	Google	Facebook (Meta)	CEO	LobbyControl	Global Witness	ALTER-EU
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Category	Compagnies and groups	--- ---	NGOs, platforms, networks, and others	--- ---	--- ---	--- ---
Level of activity	Global	Global	European	National European	European Global	European
European Commission meetings (dates)	103 (since 2019)	180 (since 2019)	10 (since 2019)	4 (since 2019)	36 (since 2019)	0 (since 2019)
DMA and DSA meetings (EC)	16	11	0	2	0	0
Contributions to DSA and DMA feedbacks	3 (DSA)	3 (DSA)	0	0	0	0
Number of people lobbying	25	39	10	3	6	3
Memberships	23	45	26	5	Not clear	1
Financial data (2021)	€6,000,000- 6,499,999	€6,000,000- 6,499,999	€909,516	€1,865,183	€13,600,000 (2020)	€12,212

Source: Own creation (based on European Commission – Register on ALTER-EU, 2022; European Commission – Register on Corporate Europe Observatory, 2022; European Commission – Register on Global Witness, 2022; European Commission – Register on Google, 2022; European Commission – Register on LobbyControl, 2022; European Commission – Register on Facebook, 2023).

The dataset on Google displays that the Big Tech had 103 meetings since 2019 with director generals or their cabinet members from the European Commission. 16 of these meetings were either about the DSA, DMA or both. The first meeting about the DMA and DSA was on 4 May 2020, and the latest one was on 30 March 2022. Google has publicised that they have had three public consultations with the European Commission. These are '*Digital Service Act: deepening the Internal Market and clarifying responsibilities for digital services*' that occurred twice, and '*Digital Services Act package: ex ante regulatory instrument of very large online platforms acting as gatekeepers*'. There are 25 EU lobbyists from Google. They are members of 23 associations and other bodies. During the financial year 2021, Google used at least €6,000,000 on the EU lobbying. It has not been possible to retrieve numbers from other years (European Commission – Register on Google, 2022).

The dataset on Facebook (Meta) displays that the Big Tech had 180 meetings since 2019 with director generals or their cabinet members from the European Commission. 11 of them were either about the DMA, DSA or both. The first meeting was on 2 December 2019, and the latest one was on 7 June 2022. Facebook has publicised that they have had three public consultations with the European Commission. These are '*Digital Service Act: deepening the Internal Market and clarifying responsibilities for digital services*' that occurred twice, and '*Digital Services Act package: ex ante regulatory instrument of very large online platforms acting as gatekeepers*'. Facebook has more lobbyists than Google with 39 people. They also have members in more associations and other bodies than Google with 45. They also publicised that they spent at least €6,000,000 in the financial year 2021 (European Commission – Register on Facebook, 2023).

The dataset on Corporate Europe Observatory (CEO) illustrates that it is categorised as other than business groups. As mentioned earlier in this thesis, CEO and the three other interest groups are categorised as CSOs. CEO's level of lobby activities and goals is unlike Google and Facebook as CEO uses a more limited approach since it is on a European level. CEO had fewer meetings with the members from the European Commission with 10 meetings since 2019. None of them were publicised about the DSA, DMA or both. There was no information about whether CEO had public feedback on the DSA and DMA decision-making process. CEO has 10 lobbyists in the EU and is member of 26 associations and other bodies. CEO's financial means were €909,516 in 2021, but it is not clear whether it is CEO's total income or financial resources used on EU lobbying. CEO publicised their grants and donation incomes since they are funded by these. It illustrates that CEO has gained much less access to the European Commission, which is the EU institution proposing

the laws, and has fewer material resources compared to the two Big Techs above (European Commission – Register on Corporate Europe Observatory, 2022).

The dataset from LobbyControl works at both a national and a European level. It had even fewer meetings with members from the European Commission with only four meetings since 2019. Half of them were about the DSA and DMA. The first meeting was on 15 June 2021 and the latest one on 21 October 2021 on the two laws. There was no information about if they had public feedback on the DSA and DMA decision-making process. Even though LobbyControl has less EU lobbyists than the other CSO, CEO, with three people, it has more material resources with €1,865,183 in 2021. The bigger resource is based particularly on membership contributions and donations. But the total budget of LobbyControl's financial means is not clear whether it is the total income or financial resources used on EU lobbying (European Commission – Register on LobbyControl, 2022).

The dataset from Global Witness displays that it is working both on a European and a global level and therefore its lobby activities are broader geographically than those of the two other CSOs, CEO and LobbyControl. Global Witness also had more meetings with the members from the European Commission, with 36 meetings since 2019, than the other two CSOs. However, none of these meetings were publicised in relation to the DMA, DSA or both. There is no information on public contributions from Global Witness on DSA and DMA. It has six lobbyists in the EU and has only publicised its use of financial means for 2020, which amounted to €13,600,000. However, it is not clear whether it is the total income or financial resources used on EU lobbying (European Commission – Register on Global Witness, 2022).

Lastly, the dataset from Alliance for Lobby Transparency and Ethics Regulation (Alter-EU) also displays that it is also a CSO like CEO with the focus on the European level. There is no information published on meetings with members from the European Commission since 2019 because only six meetings, all held before 2019, were announced and all together there were no mention of the DSA, DMA or both in these meetings. It has three lobbyists in the EU lobbying, and the lobby expense in 2021 was €12,212. ALTER-EU is member of one association or other bodies (European Commission – Register on ALTER-EU, 2022).

The variation in tables 1 and 2 on the six different interest groups' lobby activities, resources, and group category impacts the role to achieve successful influence in the DSA and DMA decision-making process. This indicates a power imbalance between the six interest groups in the DSA and DMA lobbying and issuing the relevance of transparency issues that are also involved in the research

question. In the theoretical approach from Dür & Mateo on *lobbying insiders* and *lobbying outsiders*, the tables illustrate that the two Big Techs, Google and Facebook, are using *lobbying insiders* strategies and resources to influence the EU decision-making process of the DMA and DSA. *Lobbying insiders* is about resource-rich businesses that are using strategies to come ‘inside’ to influence and gain access to executive institutions. Google and Facebook are, therefore, using the lobby strategy as *inside lobbying*, meaning direct contacts with bureaucrats and politicians. This is done by having most meetings with the European Commission compared with the four CSOs, by having public consultations with the European Commission unlike the four CSOs having none of this, and by using many more lobbyists than the four CSOs (table 2). In terms of *type of interest groups*, meaning the main characteristics of an interest group’s goals, strategies, kinds of access and influence, Google and Facebook are categorised as *business associations*, which means type of interest groups that are associations of firms or individual firms. This is because they are individual firms interpreted as Big Tech and have used a lot more resources on lobbying both in general on EU lobbying in 2021 (table 2), and more specifically on the DSA and DMA lobbying since 2019 (tables 1 & 2).

The four CSOs, CEO, LobbyControl, Global Witness, and ALTER-EU, are considered as *lobbying outsiders*, meaning citizens groups that use strategies from the ‘outside’ to influence and get access to particularly the legislative institutions. They are lobbying outsiders since they have much more success on meetings with the European Parliament than with the European Commission (tables 1 & 2). The four CSOs are categorised as *type of interest groups* as *citizens groups*, meaning having broad memberships and representing different interests, since they are categorised as NGOs, platforms, networks, or others by the EU, and they are not as resource rich as Google and Facebook (tables 1 & 2). Moreover, the data illustrate that some of the six interest groups were already lobbying in the DSA and DMA decision-making process before the DMA and DSA proposal by the European Commission in December 2020. Already a year before, December 2019 (table 2), Facebook met with the European Commission. Google, Facebook, and CEO began lobbying the European Parliament on the DSA and DMA as far back as November 2019, January 2020, and March 2020, respectively (table 1). The dates are also the earliest data found on DMA and DSA lobbying from the six interest groups.

To gain an in-depth explanation and understanding of the two lobbying insiders, Google and Facebook, the following section presents the analysis of their lobbying strategies and resources used in the DSA and DMA lobbying.

4.2 The DSA and DMA lobbyism from the Big Tech: Google and Facebook

This section presents the analysis of what Google and Facebook have said about the Digital Services Act (DSA) and the Digital Markets Act (DMA), and how they have been lobbying in the EU. The analysis begins with Google and then, afterwards, Facebook is analysed.

4.2.1 Google

4.2.1.2 Google's statements and opinions

In the analysis, Google's position on the DMA and DSA laws displays a general support of the EU's new democratic and digital regulation:

“As we look to the future, it's important that regulation keeps pace with change, and Google supports Europe's effort to create a more responsible, innovative and helpful internet for everyone” (Google, 2020a).

Google acknowledges the need of updating the regulation of the E-Commerce Directive from 2000, which has been positive for the digital businesses, easy flows of sharing information, and for the customers' use of different tools. This is due to the last two decades where there has been a rapid growth of digital tools that are used by governments, businesses, in societal debates, in economic development, and for the daily use by the citizens (Ibid., 2020a). However, Google is also criticizing the EU for being too strict with rules. This is especially with the critique on the DSA:

“The DSA could prevent Google from developing such user-centric features. That would clearly have an impact not just on how people use our services, but also on the thousands of restaurants which welcomed millions of diners in Europe using this free feature this year” (Google, 2020b).

With the critique, Google argues that there is a reason for millions of people using their many digital tools that are based on a more flexible and easy access for the customers. The DSA is therefore needed but it also does not help businesses to continue being innovative and having easy investment in new

digital tools (Ibid., 2020b). This is a *lobby strategy and target*, meaning the interest group's use of tactics and resources on how to survive and pursue their goals, since Google tries to maintain its business model of being an open and global digital business of innovation and growth. This has also given Google its success of helping customers to use its digital services that at the same time support other businesses. For that reason, Google therefore warns the European Commission about the consequences:

“As the Commission updates its regulations, it should ensure new rules don't add undue cost and burden for European businesses in ways that make it harder to scale quickly and offer their services across the EU and around the world” (Google, 2020a).

Google argues that limiting the bigger technology companies' services would limit the developments of more entrepreneurs and startups (Ibid.). Google is suggesting that the European policymakers must create clearer rules to gain a *“more responsible internet”*, ensure better focus on economic growth to create *“more innovative internet”*, and more focus on rules to increase the competition that supports growth of digital tools, better data control for the users, and products innovations to create a *“more helpful internet”* (Ibid.). This approach to the EU is interpreted as *access and influence*, meaning that an interest group offers its resource as 'better' than others and tries to make it attractive to the decision-makers to gain more influence on a policy. This is the case since Google directly addresses the European Commission to convince them that the resources Google has been using for years are also attractive for the EU, other businesses, and citizens. With the three suggestions, Google also uses this as a resource of *technical information*, meaning the strategy to limit the uncertainty for the decision-makers on the consequences of a policy choice. This is due to Google's technical experience of creating digital innovation and being a Big Tech with many digital services, hence, also the resource of *expertise*, meaning expertise in a specific issue or sector, because Google are interested in the DSA decision-making process. This is due to:

“(...) we are submitting our response today to the consultation for the European Digital Services Act (DSA), drawing on our 20+ years experience in building technology that both helps people and creates greater economic opportunity” (Ibid., 2020a).

Therefore, Google has the people with competences in the issue of updating rules on the digitalization and innovation with focus on respecting business growth. This includes quick information access with Google Search and Google Maps, and fundamental rights of the users such as with the tools My Account and Google Takeout with flexible private settings and choice of data export (Ibid.). Moreover, Google also emphasises the role of transparency in the use of its services:

“We are committed to providing greater transparency for our users and governments so that they better understand the content they are seeing and how to notify us of concerns (...) Google has long been a leader in transparency, including disclosing data on content moderation, content removal requests and blocking bad ads” (Ibid., 2020a).

This is a resource that is interpreted as *legitimacy*, meaning lobbying for an issue with public support, since Google knows this is something that the governments and many users are concerned about, but it is also a strategy from Google to maintain or gain more users as well as influencing and getting access to the European Commission and European Parliament on the DSA.

4.2.1.3 Google’s activity in the DSA and DMA public consultations

Google took the opportunity to involve itself in lobbying directly to the European Commission with the first public DSA consultation six months before the DSA was proposed in December 2020. Google argued that the company is qualified to contribute evidence and ideas to modernising the digital rules in the EU (Google – Feedback I, 2020:1). Google expressed:

“We think the Commission's consultation should consider how new rules could accommodate that case-specific analysis, since it may be necessary to differentiate good and bad acts” (Ibid., 2020:3).

With its influence on the decision-making process up to the final DSA proposal, Google suggests that it is important to ensure a balanced regulation. Google also expressed thankfulness to have the opportunity to offer its feedback to the European Commission (Ibid.:11). This is interpreted as *inside lobbying*, meaning direct contact with the politicians or bureaucrats in the decision-making process, as the whole purpose with the feedback is to directly influence the European Commission’s politics

on the DSA. Google brings its resources in terms of *technical information* and *expertise* by expressing the trade-off having strict rules to protect users' data and the company's desire to continue being competitive and innovative:

“Google has been a long supporter of open source and open ecosystems. However, it is important to ensure that standards are based on quality, so that users benefit from higher quality services. Strict open standards could leave consumers with lower-quality, more basic products online” (Ibid.: 5).

For that reason, Google proposed several technical recommendations on the importance of protecting and fostering innovations through big platforms' large investments in research and development, big platforms' significant role on contributing to the digital economy in Europe (Ibid.:2-3) and avoiding free-ride from rivals if algorithms are not protected and at the same time protecting the user's private data (Ibid.:7). These are also interpreted as *material resources*, meaning financial resources, because Google emphasizes its economic strength by explaining its economic role in contributing to society, hence Google is using a powerful lobby strategy to influence the European Commission.

In the second public consultation, which occurred in the same period as the first public consultation, Google emphasized the same recommendations mentioned in the first feedback with a more clear expression of what Google believes is important to adjust in the DSA:

“ We also acknowledge that regulatory changes may be needed in light of the digital transformation of the last two decades. As such changes are considered, we must be careful to not unravel the benefits the current framework has delivered” (Google – Feedback II DSA, 2020:1).

By this Google again expresses the balance issue of EU's ambitions on stricter regulations on Big Tech and having a healthy business. Google continues using its *access and influence* by suggesting the role of fostering and protecting economic growth and positive impacts on society. This is done, for example, by maintaining free barriers across the member states with more harmonised rules, on how to gain more clear rules for business to achieve legal certainty, having shared responsibility for,

for instance, removing illegal contents and educating users, and a “*balanced framework*” of user transparency and trust (Ibid, 2020: 1-3). Google elaborates:

“How rules appropriate for one type of service may be inappropriate for others. What makes sense for content-sharing platforms may not be appropriate, or technically feasible, for a search engine or for a platform that hosts mobile apps” (Ibid.: 7).

Therefore, Google is suggesting a flexible approach in the DSA to develop and modernise rules on technology firms and their connection to the online users. This is done by acknowledging the European Commission’s concerns about the issues of trust, accountability, and transparency (Ibid.:8). Google, therefore, uses its resource of *technical information* to achieve this balance in the DSA-decision-making process.

Google has also made a public consultation on the DMA-decision-making process. This feedback is very new (January 2023) and, therefore, not updated yet in the EU’s Transparency Register. It is about Google’s position on improving the implementation of the DMA. The reason is that Google criticises the EU on several aspects, especially the period to implement the rules and obligations from the DMA:

“We commend the Commission for taking steps to establish a new procedural framework for the DMA from scratch, in such a short time period” (Google – Feedback DMA, 2023:1).

This is interpreted as *access and influence* since Google is clearly expressing disappointment with the DMA framework that the European Commission has planned. Google is instead suggesting more time to implement the obligations as the law is technically very complex. This is due to issues such as the need of better access to documents about the decisions concerning which data make an online platform a gatekeeper, clarity of what information should be sent in its defence, and that the European Commission cannot alone decide what information is of use (Ibid.: 2-5). This is also considered as the resource to *hinder or facilitate implementation* due to Google wanting to cooperate with the European Commission on the DMA implementation. This requires that there are circumstances that Google wants be fulfilled if it is going to practically apply the DMA.

4.2.1.4 Google's direct communication with the EU: Internal EU documents

The lobby strategies Google used in the DSA and DMA decision-making process, those that were possible to get access to for this thesis, display a high activity with the members of the European Commission. Google had six meetings or correspondences with the European Commission or with the Swedish government during 2021-2022.

The first meeting was held on 17 November 2021 where Google and Alphabet met with members from the European Commission: Margrethe Vestager who is the Executive Vice-President for Europe (EVP) in the Digital Age, and members of the Vestager's cabinet. Other details of whom were not possible to read since there were places in the meeting note that was crossed out. They were discussing the DSA and DMA as one of the subjects, and Google expressed its support for it and is preparing for applying the DSA obligations (CEO – Google lobbying I, 2021:1). This is considered as *lobbying and target*, since Google using the strategy to maximise the influence on members of the European Commission who has very high positions. Although, Google did also issue that it wants adjustments in the DSA for applying the rules:

“Within the DSA negotiations Google is concerned about discussions on misinformation and the possibility of a blanket ban on targeted advertising. Such a ban, XX argued, would be detrimental also to SMEs” (Ibid., 2021: 1).

This is part of what Google has said earlier in that year with its public consultations, about targeting the Big Tech would also have consequences for small and medium-sized enterprises. Google is with this meeting directly trying to change the opinion from the leading members in the European Commission to achieve its goal. Google also wants in the DMA a guarantee of privacy protection for the users but with respect for effective competition:

“XX said that Android embraced interoperability but is exposed to competitors' allegations pointing to lack of privacy. His company, he argued, is striving to strike a balance, giving people more choice. According to a malware study that Google has conducted, less than 1% of Android devices had security issues” (Ibid.: 1-2).

This is categorised as *technical information* due to Google is using its own evidence as a resource to put pressure on the European Commission on whether it is relevant to have stricter rules. EVP Vestager argued that the DSA and the DMA were still in process, the referred study should be publicised to the EU, and that interoperability is desired by the European Parliament (Ibid.: 2). Yet it is difficult to know whether XX is representing Google and hereby referencing to for instance Google Play as Android Appstore or is one of the smaller companies that uses Google's services. Nevertheless, XX is in this thesis considered as having a position favouring Google's view.

The second meeting was held on 12 December 2021 where Google met once again with the Cabinet Vestager. Google demonstrated its concerns about implementing the DSA:

"(...) need for regulatory dialogue and the opportunity to individually justify certain practices. They outlined their ambition to ensure compliance with the rules" (CEO - Google lobbying II, 2021).

Google had communicated this concern to the European Parliament as well and this shows that Google is considered using the resource *hinder or facilitate implementation* due to the will to cooperate, but there are technical and practical issues to be solved before DMA is applied by Google (Ibid., 2021). There were also repeated concerns about the plan in the DSA on banning targeted advertising and the trade-off between competition and privacy:

"Google highlighted that its advertising system was already very advanced in giving users transparency and control. The trend goes away from the need for big data and towards the need for smart data" (Ibid.).

This is categorised as *access and influence* since Google emphasises the same requirements both to the European Commission and the European Parliament and suggests a different approach than banning or limiting data collection as a better idea.

The third meeting was held on 11 January 2022 where Google met with the Cabinet Breton from the European Commission. The meeting note is short, especially due to that half of the document is crossed over. This illustrates the issue of transparency about what is said and agreed in the DMA and DSA lobbying. However, Google repeated its concerns about how to apply with some

of the rules in the DMA, and the European Parliament's proposal on more obligations such as banning targeted ads (CEO – Google lobbying III, 2022). This is interpreted as *lobby strategy and target* since Google uses tactics to improve its chances of influence by repeating concerns and focusing most on the European Commission. Though some new concerns were also expressed:

“Google is concerned about fragmentation of the legal framework cause by legislative proposals on the national levels” (Ibid., 2022).

The DMA and DSA are complicated for Google to practically comply with the rules because they are not just on a European level but also on a national level. This is considered as the resource of *hinder or facilitate implementation* since Google is not sure on this can be successfully implemented.

The fourth meeting was held on 2 February 2022 where Google met with members from the Swedish government about the DSA. This strategical approach is interpreted as *focus*, meaning what level the lobbying is happening, in which Google now also intensifies the DSA lobbying on a national level in maximising its goals (CEO – Google lobbying IV, 2022:1). Google suggests that it is better to work nationally since there are several parts of the DSA that Google is critical about. This is simply stated that the *“EP proposals for further measures to be protested against - too broad”* (Ibid., 2022:1), and *“(…) the restriction of targeted marketing, they consider that the DSA is not the right forum to deal with these issues”* (Ibid.:2). This is categorised as *lobby strategy and target* because Google reveals its actual opinions and goals about the DSA and frustrations with lobbying on EU level. Lobbying with Sweden on the DSA is a strategy to gain easier influence with less strict regulations and that could challenge the EU's plan.

The fifth interaction was a document to the decision-makers in the EU (European Commission, European Parliament, and Council of the EU) on 28 February 2022 in which Google wanted to influence in the last part of the decision-making process of the DSA and DMA. Google repeated and clarified its many concerns and emphasises:

“We support the Commission and Council texts. The Parliament significantly expands the risk assessment obligation in ways that could harm innovation in Europe without adding protections for users” (CEO – Google lobbying V, 2022: 2).

Google clearly is using what is considered as *lobby strategy and target* to gain optimal influence on what is most rational for Google to accept of regulations. This includes the critiques of adding rules for allowing non-profit organisations to get data access from the online platforms because it is “(...) *a category so broad it puts user data and privacy and confidentiality of information at risk*” (Ibid., 2022: 2). Hence, Google’s business model would also be challenged since it is based on earning on data collection.

Finally, the sixth interaction was a mail from Google to members of the Swedish government on 23 March 2022. Google’s lobbying is categorised as *focus*, because of its desire to gain influence on a national level with contacting and lobbying about the DSA and DMA (CEO – Google lobbying VI, 2022: 1). Google thanks for the cooperation and continues to suggest about several rules that if of interest to be adjusted. This includes sensitive data:

” (...) *When it comes to the Parliament’s proposals around consent and a ban on sensitive categories of data, we believe these matters are best governed by GDPR and the enforcement by Data Protection Authorities (DPAs)*” (Ibid., 2022: 2).

Google was still trying to convince another approach to regulate and not at least who is practically capable of enforcing the DSA and DMA rules. This is interpreted as *access and influence* due to Google suggests this as a better idea to the members of the Swedish government.

4.2.2 Facebook

4.2.2.2 Facebook’s statements and opinions

In the analysis, Facebook’s position on the DMA and DSA laws displays a general support of the EU’s new democratic and digital regulation by praising Europe and the EU:

“*Europe has long been a pioneer in internet regulation — as the General Data Protection Regulation has demonstrated — and much of what it does will be followed*”

elsewhere. So getting this right matters not only to the EU but to the future of the wider internet, especially as US-China rivalry intensifies” (Facebook, 2020).

The EU has therefore a big responsibility to continuing being pioneers of democratic and digital regulations. Especially, because “*much of what the EU aims to do is admirably rooted in values like free expression, privacy, transparency and the rights of individuals*” and this is something that the DSA and DMA should continue to protect (Ibid.). But, at the same is Facebook also warning the EU about not to be too strict with the rules of the new DSA and DMA laws:

“But as the web fragments, Europe faces a fundamental choice: does it design rules to keep the internet open and global; or does it build barriers for the bloc alone?” (Ibid.).

The statements are considered as *lobby strategy and target*, since Facebook believes that the EU is threatening the positive development that has benefitted both the users and companies like Facebook. Therefore, is the goal to influence the EU members is also to respect the interest of the big companies’ survival and growth (Facebook, 2021).

4.2.2.3 Facebook’s activity in the DSA and DMA public consultations

Facebook also took the opportunity to involve itself in lobbying directly to the European Commission with the first public DSA consultation six months before the DSA was proposed in December 2020.

In the first public consultation, Facebook expressed its support for the DSA since “*(...) the internet has entered a new phase*” and for that reason it is necessary to have updated regulations (Facebook -Feedback I DSA, 2020:1). At the same time, Facebook also expressed that is it important that the new regulations are flexible:

“One-size-fits-all regulatory approaches may not be the most appropriate for such environments. After all, we are convinced that a regulatory framework that allows for as much ‘permissionless innovation’ as possible will be in the interest of everyone” (Ibid., 2020: 10).

Facebook is, just like Google, also emphasising the role of individual firms and protection of innovation. This strategy towards the European Commission is categorised as *lobby strategy and*

target, due to Facebook wants to maintain its goals of being a big and innovative company. Therefore, is Facebook also interested in the decision-making process of the DSA in order to protect and develop its business model.

In the second public consultation, Facebook continued to be supportive to the development of the DSA. Though Facebook had some ideas of improving it:

“In our view, the ideal policy action would combine some elements (...) Better harmonised definitions; Recognition that both illegal and harmful content require action but that they are distinct and require different approaches” (Facebook – feedback II DSA, 2020: 1).

This is interpreted as *access and influence* due to that Facebook has gain influence on the European Commission and suggests some ideas that could be of interest for the decision-makers.

In the third public consultation, which was about the DMA-decision-making process. This feedback is very new (January 2023) and, therefore, not updated yet in the EU’s Transparency Register. Facebook suggested several issues with the DMA implementation that it believe must be improved. This is such as the role of gatekeeper designation. Therefore, Facebook wants more clear definitions and better guide of how to practically understand the DMA rules. This is due to that *“Meta believes that this flexibility will allow for a more efficient process”* (Facebook -Feedback DMA, 2023:1). This is considered as *lobby strategy and target* because of suggesting ideas that fits more to what Facebook believes the right to do if a company like Facebook as to apply these rules.

4.2.2.4 Facebook’s direct communication with the EU: Internal EU documents

The lobby strategies Facebook (Meta) used in the DSA and DMA decision-making process, those that were possible to get access to for this thesis, also display a high activity with the members of the European Commission. Facebook had five meetings or correspondences with the European Commission during 2020-2022.

The first interaction was a mail correspondence with the Dombrovskis Cabinet on 10 December 2020. Facebook expresses support to the then upcoming DSA and DMA proposals. The

timing and direct contact to a high member from the European Commission is categorised as *access and influence* since Facebook is using the strategy to gain much influence on those decision-makers that formulated the DSA and DMA (Global Witness – Facebook Lobbying I, 2020). Facebook points out the relevance that DSA and DMA:

“(…) will inevitably have an impact on economic recovery following the pandemic, and on efforts to bolster the open rules-based multilateral order” (Ibid., 2020).

Facebook is therefore offering its resource of *technical information*, meaning the strategy to limit uncertainty for the decision-makers, by implying it has both interest and capacity to develop the new DSA and DMA.

The second interaction was also a mail correspondence but with a member from the Cabinet of the Von der Leyen, which is the team from the President of the European Commission, on the 14 October 2021 about a meeting request from Facebook. But half of the content was not available to read since that part is crossed over (Global Witness – Facebook lobbying II, 2021a). However, this directly approach to the highest position in the European Commission, is considered as *access and influence*, because of Facebook’s strategy to maximise its lobbying “(…) to catch up on various digital priorities, including data flows as well” (Ibid, 2021a). Another document on 27 October 2021 about minutes of the meeting was completely crossed over (Global Witness – Facebook lobbying II, 2021b). The secrecy indicates transparency issues about the lobbying due to that it is not known of what this highly profile meeting was about and therefore which eventual lobby consequences there have been.

The third interaction was also a mail correspondence. Though, this was a correspondence on 14 December 2021 between the CSO Global Witness and the European Commission (through Secretariat-General Transparency, Document Management & Access to Documents). Global Witness was requesting publicity of documents about a meeting between a member of the European Commission and Facebook on the DSA (Global Witness – Facebook lobbying III, 2021). Yet, the European Commission did not accommodate this request and therefore some parts of the documents were blanked out due to:

“The risk of disclosing sensitive information regarding the Commission services’ preliminary views during the ongoing inter-institutional negotiations on the legislative proposals at question would deter them from freely expressing their opinions and having frank, internal discussions” (Ibid, 2021).

Therefore, the opinions and suggestions in that meeting is not for public access. This of course illustrates the question about transparency issues since, there is no possibility to gain access about the content of the meeting between a Big Tech and the European Commission.

The fourth interaction was a meeting note publicised on 17 February 2022 between Facebook and a member from the European Commission. Facebook expressed its support for the DSA and DMA and that it is doing more for fact-checking to limit disinformation, moderation of data collection and more openness to inform the users about the contents (Global Witness – Facebook lobbying IV, 2022), This is interpreted as the resource of *legitimacy*, meaning if an issue have public support, due to that Facebook wants to accommodate the public’s and EU’s request of more openness of data collection. This is also a *lobby strategy and target* by Facebook to keep or gain more customers in order to let its business model survive. But Facebook also said:

“(…) that FB should not act as a referee or a democratic watchdog, and do not intend to do the legislators job, but are ready to comply with any legal requirements” (Ibid., 2022).

This is considered as the resource to *hinder or facilitate implementation* because Facebook is supporting the DSA and DMA as long they are not undermining its free and competitive approach of being a company.

Lastly, the fifth interaction was some meeting notes publicised on 15 June 2022 where Facebook and a member from the European Commission met. It can only be considered as *access and influence* since Facebook once again is strategically lobbying with the European Commission on adjusting the DSA and DMA. However, it is not possible to analyse the content of this meeting due to that all the documents are blanket out (Global Witness – Facebook lobbying V, 2022). This is illustrating the lack of openness to the public, also researchers, to get insight into the DSA and DMA lobbying.

The next section is an analysis of the four CSOs lobbying in the DSA and DMA decision-making process.

4.3 The DSA and DMA lobbyism from the CSOs: Global Witness, CEO, LobbyControl, and ALTER-EU

Corporate Europe Observatory (CEO)

Chapter 5: Conclusion

It was the purpose to analyse in this thesis about how the relation in the lobbying have been between the six interest groups of two Big Tech, Google and Facebook, and four CSOs, Global Witness, Corporate Europe Observatory, Alliance for Lobby Transparency and Ethics Regulation and LobbyControl. The focus in this thesis has been how these lobby activities in the EU's decision-making process of the Digital Services Act (DSA) and Digital Markets Act (DMA) had of influence and consequences for the transparency issues. The research question was:

What are the transparent limitations in the EU decision-making process of the multimedia package Digital Services Act and Digital Markets Act?

It is concluded that the many of the documents used in this thesis illustrated issues about getting access to what has been discussed in the lobby meetings. This is due to crossed out or blanked out texts.

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Appendix

Codebook of the six interest groups (Nvivo) – Thesis. 3 February 2023: 2. Part Analysis: *Transparency Issues in the EU's DSA and DMA Lobbyism*