Digital Services Act: Questions and Answers

The Digital Services Act is a comprehensive set of new rules that regulate the responsibilities of digital services. Find out more about what this means below.

Online platforms and e-commerce

Digital Services Act
What is the Digital Services Act (DSA)?

Proposed by the European Commission, the Digital Services Act is a comprehensive set of new rules regulating the responsibilities of digital services that act as intermediaries within the EU to connect consumers with goods, services and content. Digital services in this context includes online platforms, such as marketplaces and social media networks. The Commission's proposal will ensure that companies can scale up at home without unnecessary legal burdens. The rules will equally protect all users in the EU, both in regard to their safety from illegal goods, content or services, and to their fundamental rights. Once adopted, the Regulation will apply directly to all intermediary services in the Union. The proposal for the Digital Services Act sets out clear due diligence obligations for online platforms and other online intermediaries. For example, under the new rules any user will be able to flag illegal content, and will also have a clear means of contesting platforms' content moderation, both to the platform and through out-of-court mechanisms in their country. The proposal also includes measures for cooperation with specialist trusted flaggers and competent authorities, and measures to deter rogue traders from reaching consumers. It offers greater transparency requirements for online
platforms about decisions on content removal and moderation, and advertising. Recognising the
particular impact of very large online platforms on our economy and society, the proposal sets a
higher standard of transparency and accountability on how the providers of such platforms moderate
and intermediate information. It sets supervised risk management obligations for online platforms
that reach the largest audiences and pose the largest societal risks. Very large online platforms are
those that reach 45 million users or more in the EU, which represents around 10% of the EU
population. The Digital Services Act is a foundational proposal for a truly European governance
system for internet services. The supervision and enforcement mechanism seeks to reinforce the
single market and to enable efficient cooperation between Member States. It also ensures that fast
EU-level intervention addresses EU-wide problems through the network of Digital Services
Coordinators and the European Board for Digital Services.
How will the DSA address the growing societal importance of online platforms?

Online platforms have become integral parts of our daily lives, economies, societies and democracies. However, the current rules are no longer adequate to ensure transparency and accountability of the systematic impact these platforms have. The proposed Digital Services Act will create horizontal rules to ensure accountability, transparency and public oversight around how online platforms shape the information space in which our societies thrive. The Digital Services Act proposes a horizontal framework for regulatory oversight, accountability and transparency of the online space in response to emerging risks. It will propose rules to ensure greater accountability on how platforms moderate content, advertise, and use algorithmic processes. Very large platforms will also be obliged to assess the risks their systems pose, regarding not only illegal content and products but also systematic risks to the protection of public interests, fundamental rights, public health and security. They will need to develop appropriate risk management tools and measures to protect the integrity of their services against the use of manipulative techniques. The DSA will provide users with meaningful possibilities
to challenge the decisions of platforms to remove or label content. The new proposal also provides the opportunity for independent scrutiny of these decisions through audit reports and through facilitating access to key platform’s data to researchers.
Which stakeholders were included in the public consultation process?

Over the past years, the Commission has consulted a wide range of stakeholders using an array of targeted consultation steps in preparation of the proposed Digital Services Act. Stakeholders that were consulted include, among others, providers of intermediary services, small and large businesses trading online, media publishers, brand owners, users of intermediary services, civil society organisations, national authorities, academia, the technical community, international organisations and the general public from all Member States and beyond. The Commission received almost 3000 replies to the open public consultation, including over 2000 replies from citizens.
Will the DSA replace the e-Commerce Directive?

The proposed Digital Services Act will not replace the e-Commerce Directive, which remains the cornerstone legal framework for all digital services. However, in order to provide greater harmonisation, it incorporates the existing rules exempting online intermediaries from liability of the content they host under certain conditions to ensure innovative services can continue to emerge and scale up in the single market.
What kind of arrangements will help ensure the independence of national regulators in regards to platforms?

The proposal sets out a high standard and includes explicit requirements for independence for the designation of the Digital Services Coordinators by Member States. Member States will need to ensure the Digital Services Coordinator has adequate financial, technical and human resources to carry out their tasks. Under this proposal, the Digital Services Coordinators should remain fully independent in their decision-making and not seek instructions from their governments or other bodies, particularly online platforms.
How will you ensure that one regulator does not stall the entire process, effectively preventing it to be enforced?

The proposed Digital Services Act puts in place a robust mechanism for supervising digital services, in particular online platforms and very large online platforms that present the highest risks for our society. The mechanism includes a flexible combination of assistance, transparency and EU-level intervention to make sure the challenging supervision of digital services remains effective under any circumstance. A joint investigation mechanism will be available to authorities. For example, when a Member State needs assistance to correct information asymmetries and technical expertise in investigating a complex recommender or advertising system of a very large online platform, or where risks and infringements concern a different Member State in particular. Each Member State will have a direct channel to report issues emerging on their territory and request assistance from the competent Digital Services Coordinator in the Member State where the online platform is established or has a legal representative. For infringements by very large online platforms, the Commission can ensure direct supervision and sanctioning. Furthermore, the day-to-day cooperation under the European
Board for Digital Services will play an important role in guaranteeing the flow of information among Member States and the Commission, and in ensuring that the policy learning from enforcement experiences and emerging issues supports all the Member States.

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