



European
Commission

DIGITAL SERVICES ACT

Implementation & enforcement of the Digital Services Act (DSA)

IP Key SEA

'Promoting Creativity and Innovation'

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Angélique Monneraye – DG Connect

Disclaimer

"The views expressed are purely those of the speaker and may not in any circumstances be regarded as stating an official position of the European Commission."

This presentation focuses on areas of interest to the IP enforcement community. In this context, it does not provide an exhaustive overview of the supervision and enforcement activities under the DSA.

Key information on the DSA



Which risks does the DSA want to tackle?



Dissemination of illegal content



Negative effects on fundamental rights



Negative effects on civil discourse, electoral processes & public safety



Negative effects on minors, public health, mental & physical wellbeing, gender violence

Main principles of the DSA



- **Main objectives:**

- ✓ Protecting consumers & their fundamental rights
- ✓ Improving safety of citizens & freedom of expression of all
- ✓ Ensuring innovation
- ✓ Preventing legal fragmentation of the EU internal market



- DSA = a **complete toolbox for tackling illegal content**, including products & services



- **Strong enforcement framework**, including a full set of investigative & sanctioning measures that the Commission & national authorities can take

Main principles of the DSA

DSA is horizontal

All types of
illegal content,
civil & criminal liability

Prohibition of general monitoring obligations

To **monitor** or to **actively
seek** illegal activity

Conditional liability regime

- Does **not attribute** liability for content under condition
- **New, self-standing due diligence obligations**; exemption from liability unaffected
- Providers conducting **voluntary-own initiative investigations** still benefit from liability exemptions

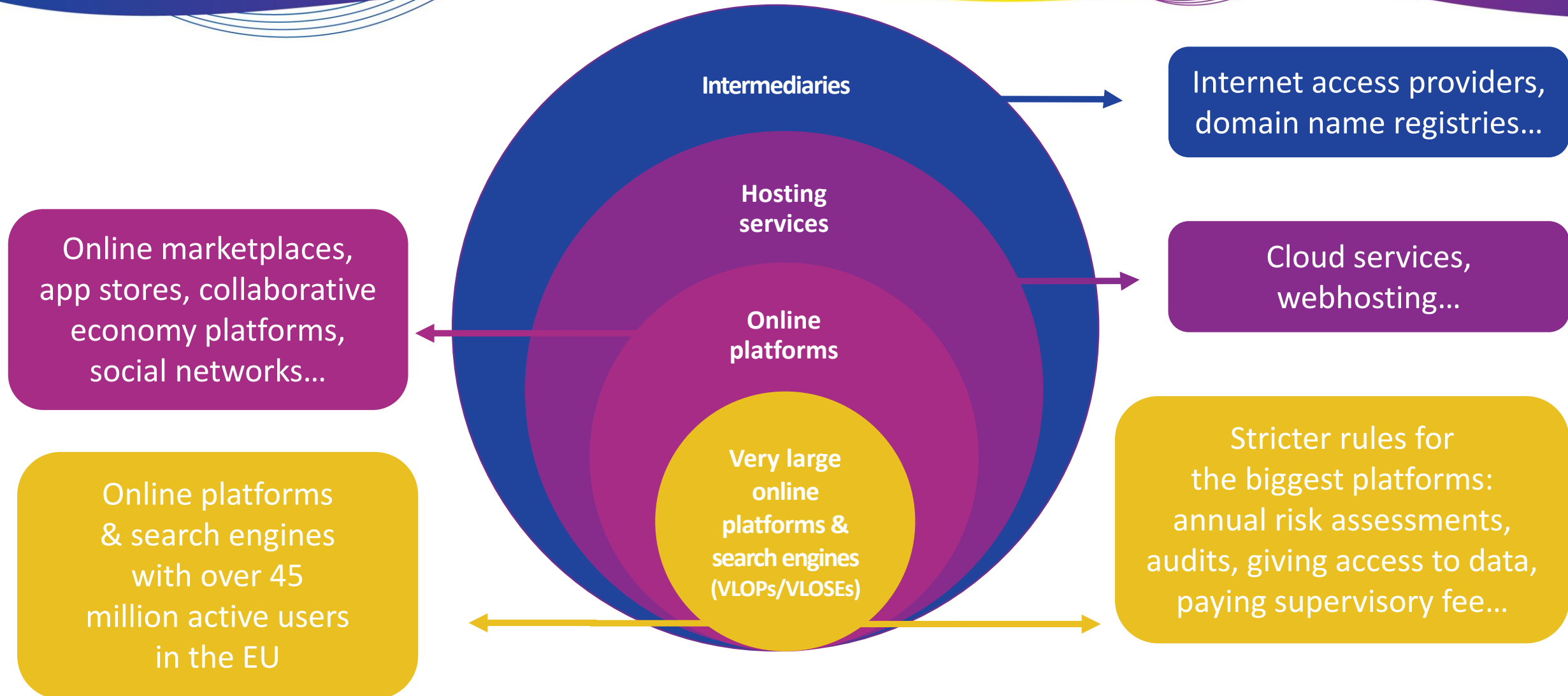
DSA is neutral

Illegality is defined
by **national or EU law**

But injunctive relief is always possible

In line with national legislation &
the conditions set out in the DSA

Intermediary services covered by the DSA



Due diligence obligations under the DSA (summary)

	VERY LARGE PLATFORMS	ONLINE PLATFORMS	HOSTING SERVICES	ALL INTERMEDIARIES
Transparency reporting	•	•	•	•
T&Cs	•	•	•	•
Cooperation with national authorities	•	•	•	•
Points of contact & legal representatives	•	•	•	•
N&A	•	•	•	
Reporting criminal offences	•	•	•	
Complaint & redress mechanisms, OOC dispute settlement	•	•		
Trusted flaggers	•	•		
Prohibition of Dark Patterns	•	•		
Measures against abusive notices	•	•		
Special obligations for marketplaces (e.g. KYBC, random checks)	•	•		
Bans on targeted ads to children and based on special categories of personal data	•	•		
Accessibility	•	•		
Transparency of recommender systems	•	•		
Advertising transparency	•	•		
Risk management	•			
Independent audits	•			
User can opt out of profiling	•			
Data sharing with authorities & researchers	•			
Codes of conduct	•			
Crisis response cooperation	•			

Graduated / asymmetric but cumulative obligations according to the type, size, role, nature & impact in the online ecosystem of providers

Cumulative obligations



How is the DSA protecting consumers? (non-exhaustive list of provisions)

Harmonised
notice & action mechanisms

Transparency &
diligent enforcement
of terms & conditions

Clarification on liability regime
for online marketplaces

Statement of reasons,
access to complaint &
out-of-court dispute
settlement mechanisms

Transparency & users'
empowerment about
recommender systems

Traceability of traders,
compliance by design
& right to information
(for online marketplaces)

Trusted flaggers

Transparency of advertising

Audited risk assessments
& risk mitigation measures
(for VLOPs & VLOSEs)

Supervised risk management for VLOPs & VLOSEs



Governance of supervising digital services



Digital Services Coordinators (DSCs) - national level

- Independent authorities
- Direct supervision & enforcement of intermediary services with less than 45 million active users
- Coordination & exchanges with other national competent authorities



European Board for Digital Services

- Ad-hoc independent advisory group
- Composed by DSCs
- Chaired by the Commission
- Advises DSCs & the Commission, issues recommendations
- Ensures consistent application of the DSA



European Commission

- Direct enforcement of the very large online platforms & very large online search engines
- Advises on cross border disputes
- Intervenes following DSC requests

The background features a vibrant color gradient from blue on the left to purple and yellow on the right. A large, wavy graphic element in shades of orange, yellow, and teal flows across the bottom. The top left corner is filled with a pattern of white dots, and the top right corner has several thin, parallel white lines.

Implementation & enforcement of the DSA

Timeline of the DSA implementation & enforcement



November 2022

Entry into force

17 February 2023

Publication of number of active users by platforms

April-May 2023

First designations of VLOPs & VLOSEs

Sep-Oct 2023

Obligations for designated VLOPs & VLOSEs enter into force. Must carry out & report 1st risk assessment

17 February 2024

DSC appointments, Board & application of all provisions

Sep-Oct 2024

Latest date for full risk management cycle, incl. audit implementation



Risk management yearly cycle

Commission's main supervision & enforcement activities under the DSA: designation of VLOPs & VLOSEs

Designation of VLOPs & VLOSEs (on-going process)



22 VLOPs

- AliExpress
- Amazon Store
- Apple AppStore
- Booking.com
- Facebook
- Google Play
- Google Maps
- Google Shopping
- Instagram
- LinkedIn
- Pinterest
- Pornhub
- Shein
- Snapchat
- Stripchat
- Temu
- TikTok
- Twitter
- Wikipedia
- XVideos
- YouTube
- Zalando

- Bing
- Google Search

2 VLOSEs

Designation decisions: [1st set](#) / [2nd set](#) / [3rd set](#) / [4th set](#)

Commission's main supervision & enforcement activities under the DSA: state of play

Opening of DSA compliance investigations

- 40+ requests for information (RFIs) sent since October 2023
- RFIs related to risk assessments & mitigation measures for risks linked to illegal content & disinformation, consumer & minor protection, generative AI, etc.



Current assessment exercise to determine VLOPs' & VLOSEs' compliance with DSA obligations

- Risk assessment reports
- [Transparency reports](#)
- Replies to requests for information
- Information received from third parties
- etc.



Opening of formal proceedings

- against X in [December 2023](#)
- against TikTok in [February 2024](#) & [April 2024](#)
- against AliExpress in [March 2024](#)
- against Meta (Facebook & Instagram) in [April 2024](#) & [May 2024](#)



Commission's main supervision & enforcement activities under the DSA: tools

Publicly accessible databases to enhance transparency online

- [DSA Transparency Database](#)
- [Digital Services Terms and Conditions Database](#)



DSA Whistleblower Tool

- [Secure avenue](#) allowing employees & other insiders to report harmful practices by VLOPs & VLOSEs
- Guarantees of anonymity and data protection
- Inside information, e.g. reports, memos, email exchanges, data metrics, internal research, decisions, or any relevant context, spanning past, present, or future
- Contributions in any EU 24 official languages



Information-sharing system AGORA

- Reliable & secure information-sharing platform [AGORA](#) for communications relating to the enforcement of the DSA
- Users: the Board, DSCs & the Commission



Keep in touch



European Commission
Directorate-General for Communications
Networks, Content and Technology (DG CONNECT)
Unit F2 Digital Services

Contact points: Angelique.MONNERAYE@ec.europa.eu; CNECT-F2@ec.europa.eu



- [Digital Services Act – policy page](#)
- [Digital Services Act – Q&A Memo](#)
- [Digital Services Act – fact page](#)
- [The enforcement framework under the Digital Services Act](#)
- [The cooperation framework under the Digital Services Act](#)
- [Supervision of the designated very large online platforms & search engines under DSA](#)
- [Trusted flaggers under the Digital Services Act \(DSA\)](#)

Thank you!

Any questions?



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