

Fact Sheet on Digital Services Act

The EU's Digital Services Act (DSA) imposes new obligations on digital services companies operating in the EU. The law will enter into force on November 16, 2022, and most companies will have 15 months to comply. However, it will apply to very large online platforms (VLOPs) and very large online search engines (VLOSEs) four months after their designation by the European Commission, which could be as soon as the first half of 2023.

Cumulative obligations for different types of digital services companies

The DSA applies to companies offering digital services to users (both individuals and legal entities) in the EU, regardless of where they are established. Obligations are layered according to the size of the company and the nature of the services they offer. The most regulated companies under the DSA are those that present and share user-provided information to the public, e.g., social media networks. The DSA categorizes regulated companies as follows:



- "Mere conduit" services: Provide communication transmission networks (e.g., internet access providers)
- "Caching" services: Provide communication transmission networks and automatically store the information temporarily solely in order to aid efficient onward transmission (e.g., content delivery networks or reverse proxies)
- "Hosting" services: Store information at the request of a customer (e.g., cloud service provider or website hosting services)
- "Online platforms": A subcategory of hosting services that disseminate information to the public (e.g., online marketplaces and social media networks)
- "VLOPs" or "VLOSEs": Online platforms or search engines that have more than 45 million users in the EU

General provisions applicable to all companies regulated by the DSA



- Act on orders against illegal content or to provide information to national authorities.
- Enforce enhanced terms and conditions (T&Cs) with details about any content moderation activities and relevant complaint procedures in plain language and an age-appropriate format.
- Publish yearly reports on content moderation activities. The information to be provided depends on the type of provider.

Additional obligations for online platforms

- Present clear information about each ad they display and cease targeting ads based on profiling of sensitive data or children's data.
- Refrain from designing their online interface in a way that seeks to shape user behavior in a particular way (prohibition of dark patterns) and disclose information about their use of fully or partially automated systems to recommend specific information to users in their T&Cs.
- Offer notice mechanisms for users to report illegal content and provide affected users with reasons behind action taken over their content. Offer an effective internal complaint-handling system for users impacted by decisions in relation to content or accounts.



New trader-related requirements for online marketplaces

- Collect background information (e.g., identity information and payment account details from traders offering services to customers in the EU).
- Design their interface to allow traders to clearly identify which products and services they offer to customers in the EU, and add relevant product labels (e.g., compliance markings).
- Notify purchasers if they become aware of any illegal products or services offered by traders on their platform.



VLOPs and VLOSEs are subject to the greatest burden

Additional ad transparency requirements and more detailed T&Cs obligations will apply to VLOPs and VLOSEs. They will also need to offer at least one non-personalized option of their service.



Both national and EU enforcement with high fines

Intermediary services will be regulated by national regulators, coordinated by one Digital Services Coordinator in each Member State. VLOPs and VLOSEs will be regulated by the European Commission. The DSA creates a new "European Board for Digital Services" to help ensure consistent enforcement EU-wide. Fines for non-compliance can reach a maximum of 6 percent of a company's annual worldwide turnover.



If you have any questions regarding privacy and the DSA, please contact [Cédric Burton](#) or [Laura De Boel](#) from Wilson Sonsini's [privacy and cybersecurity practice](#).

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