

The European Union Digital Services Act

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What is the Digital Services Act?

The European Union (EU) has passed the Digital Services Act (DSA), which aims to make the internet a safer place for European citizens, including children.

The legislation, which was proposed in 2020, aims to “create a safer digital space in which the fundamental rights of all users of digital services are protected”.

The main objectives of the legislation are to:

- Better protect consumers and their fundamental rights online;
- Establish a powerful transparency and a clear accountability framework for online platforms.

It establishes new rules to regulate against harmful forms of online content such as disinformation, hate speech and illegal content, including child sexual abuse material. This regulation makes provisions for large fines for companies that fail to act and remove illegal content online.

The Digital Services Act builds on the rules of the e-Commerce Directive (2000) and addresses issues emerging around online intermediaries such as social networks, content-sharing platforms, search engines, app stores, online marketplaces, and online travel platforms.

The most basic obligations in the DSA apply to all online intermediary service providers and there are extra rules for the biggest companies in the industry such as very large online platforms (‘VLOPs’) and very large online search engines (‘VLOSEs’). VLOPs and VLOSEs are defined as having 45 million active EU users per month, which accounts for approximately 10% of the EU population.

The DSA has gained attention from governments and regulators worldwide and is expected to influence global tech regulation debates in a similar way to the General Data Protection Regulation (GDPR) in 2016. The DSA will now serve as a foundation for future laws and upcoming legislation in Brussels, such as the [Regulation Proposal on Child Sexual Abuse Material](#).

Child sexual abuse material is already illegal across the EU and, in order to benefit from the exemption from liability for hosting services set out in the DSA, providers should, upon obtaining actual knowledge or awareness of illegal activities or illegal content, act expeditiously to remove or to disable access to that content. However, with [62% of all known global child sexual abuse material being traced to hosts in Europe](#) and NCMEC reporting in 2021 that there had been a [35% increase in reported material](#) compared to the previous year. These increases in the prevalence of child sexual abuse online starkly illustrate the need of pan-EU legislation. In May 2022, the European Commission (EC) initiated additional legislation to detect, report and remove child sexual abuse online.

How can the Digital Services Act better protect children online?

The Digital Services Act is a step towards ensuring that children and young people have safer experiences online. It comes at a time of increasing global concern about the impact and effects new technologies can have on children and young people's safety and wellbeing.

In terms of legal clarification, the DSA recognises that the rights of the child apply to the digital world, and it defines children as those aged 18 or under. The most relevant new rules to improve online safety for children and tackle child sexual exploitation and abuse online are the following:

- **Quick removals of illegal content online**, which includes child sexual exploitation and abuse, illegal hate speech, terrorist content and the sale of illegal products. In addition to acting expeditiously to remove or to disable access to illegal content, platforms will be required to carry out immediate takedowns of sexual material that is reported as being shared non-consensually, reducing the risk of retraumatisation for victims and survivors.
- VLOPs and VLOSEs with average monthly active recipients of the service in the Union equal to or higher than 45 million must follow stricter rules since their platforms are used widely and they therefore hold greater responsibility in this sphere.
- For example, **VLOPs must conduct risk assessments at least once a year** to assess potential negative effects on the freedoms of expression and information, the right to privacy, the prohibition of discrimination and to ensure children's rights are protected as per the [EU's Charter of Fundamental Rights](#). The charter highlights the right to protection and care as necessary factors for children's well-being. Under the DSA, service providers must consider potential effects of their products on gender-based violence, the protection of public health and children and serious negative consequences to the person's physical and mental well-being. Measures against non-consensual distribution of intimate images have been added in the assessment of systemic risks that VLOPs are now obliged to implement.
- **Large fines for VLOPs of up to 6% of their total worldwide annual turnover** in the preceding financial year. Fines will apply where it is found that a platform, intentionally or negligently, has infringed the relevant provisions of the DSA or fails to comply with decisions on interim measures and voluntary measures.
- The DSA takes **a tougher stance on algorithms and algorithmic content promotion** that target children. The new rules strictly prohibit the use of algorithmically promoted content harmful to children and young people, such as videos related to suicide, self-harm and eating disorders.
- **Children will no longer be subjected to targeted advertising** since the DSA requires a rigorous implementation of bans on the profiling and data mining of children and suspected child-users. In addition to these new limits on the use of children's data, targeted ads are also prohibited based on social indicators such as political affiliation, religious belief, gender, health condition, etc.
- With this new law, the EU is also requiring platforms and intermediaries to **make sure that their terms of service and terms of agreement can be easily understood by children**. This should make it easier for children to understand how their data is used and stored by providers.



Timeline

