

## Digital Services Act

### Main messages

- The Digital Services Act will include a single set of horizontal rules on the content moderation practices of online platforms, in particular the removal of illegal content, and their interaction with freedom of speech and a healthy, well-informed public debate.
- In this way, the Digital Services Act will be a gold standard that ensures transparency and accountability of the online space, enforced by effective democratic oversight across Member States, and by the Commission.
- The Digital Services Act takes an asymmetric approach, to ensure that very large online platforms and search engines (45 million EU users) which have become 'public spaces' of expression are open and fair. The Digital Services Act requires more from these platforms concerning the organisation and design of their systems: they will need to assess, and address risks their systems pose to freedom of expression and other fundamental rights.
- This includes equipping citizens to understand and interact with the information they see online, and giving them rights where currently they are at the discretion of private actors – in particular the large online platforms. This includes measures related to online advertising, recommender systems, but also core content moderation processes and ensuring users are appropriately informed.
- The DSA aims at facilitating cross-border enforcement of the specific DSA obligations through a structured system of public supervision, based on independent authorities in the country-of-origin principle and tools for cooperation cross-border and at EU level.
- The DSA also includes specific obligations for marketplaces to ensure a better traceability and accountability of their sellers (e.g. Know Your Business Customers (KYBC) rules) as well as the products sold on their platforms (compliance-by-design, random checks, notices of the illegality of former purchases).
- The DSA prohibits online platforms from presenting advertisements to children based on profiling, as well as advertisements to any user based on profiling using special categories of personal data (e.g. personal data revealing racial or ethnic origin, data concerning health, etc.).
- We are monitoring the situation in Ukraine very closely. We have the dual objective of effectively limiting Russian war propaganda in the EU, while allowing access to trustworthy information to reach Ukrainian and Russian audiences.
- The DSA contains a range of measures that are useful in a crisis like the one we are in today. It contains a dedicated risk management framework to counter, among others, also risks related to intentional manipulation of the service, supported by comprehensive transparency and accountability tools that will shed greater light on the dynamics of information operations and allow the design of adequate response and mitigation measures.
  - The DSA's crisis response mechanisms can essentially be seen as a faster trigger for the risk assessment and risk mitigation protocols previously included in the DSA, to make sure that these protocols are conducted in an ad hoc manner during specific crises.
  - Having a clear mechanism in place will ensure that the crisis response is balanced, proportionate and efficient. It will also allow platforms to hold the Commission accountable for the measures that it might require from them.

- The Commission will have the exclusive competence for the designation of very large online platforms (VLOPs) and the enforcement of systemic obligations against them. The Commission will be able to charge VLOPs an annual supervisory fee, its amount will be capped to 0.05% of the worldwide net income of platforms.

## **Defensives**

### ***What measures do search engines need to take?***

- The political agreement confirms that search engines are online intermediaries. They will continue to benefit from liability exemptions, with a case-by-case assessment.
- A particular attention is given to very large search engines, those reaching more than 10% of the EU population. They will bear similar obligations as very large online platforms, for example in conducting risk assessments, adopting appropriate risk mitigation measures and being subject to independent auditing.

### ***How will the Commission finance costs associated with the new supervisory and enforcement competences?***

- In order to ensure effective compliance with the DSA, it is important that the Commission has at its disposal necessary resources, in terms of staffing, expertise, and financial means, for the performance of its tasks under this Regulation. To this end, the Commission will charge supervisory fees on such providers, level of which will be established on an annual basis. The overall amount of annual supervisory fees charged will be established on the basis of the overall amount of the costs incurred by the Commission to exercise its supervisory tasks under this Regulation, as reasonably estimated beforehand.
- The annual supervisory fee to be charged on providers of very large online platforms and very large online search engines should be proportionate to the size of the service as reflected by the number of its recipients in the Union. To this end, the individual annual supervisory fee should not exceed an overall ceiling for each provider of very large online platforms and very large online search engine taking into account the economic capacity of the provider of the designated service or services. Such ceiling is set at 0,05% of the annual worldwide net income of the provider concerned.

### ***When will the DSA start applying?***

- The precise time-table depends on the legal finalisations and subsequent translations, as well as the timing of the final approval in the European Parliament and Council.
- After this, the rules will start applying in two steps: the rules for very large online platforms and search engines supervised by the Commission will kick-in earlier – approximately the second half of 2023, while Member States will have a maximum of 15 months or 1 January 2024 (whichever is later) to empower their national authorities for the rules on smaller platforms.
- Specifically, the Commission is expected to designate providers some six months after the publication of the rules in the Official Journal [REDACTED] and providers of large platforms and search engines will then have four months to comply.

## **Background**

### ***Microsoft position – DSA***

#### Points of support

- Maintaining the basic principles of the e-Commerce Directive on country of origin, conditional liability and prohibition of general monitoring obligations.
- [REDACTED]

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Points of criticisms / recommendations

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