

New Eurojust Factsheet on the Digital Services Act



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European Law Forum: Prevention • Investigation • Prosecution

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News

On 19 March 2024, Eurojust published a [flyer](#) explaining the new [Digital Services Act](#) (DSA), which became fully applicable in February 2024. The DSA is part of the digital service package that also comprises the Digital Markets Act (DMA) ([→ eucrim 4/2022, 228-230](#)).

The flyer was prepared by the Intellectual Property Crime (IPC) Project at Eurojust, which aims to boost cooperation and ensure a more coherent and robust response against IP infringements across the EU. It provides updated timelines, lists very large online service providers as they were designated by the Commission and highlights the enforcement element of the DSA.

The DSA increases due diligence for providers of online intermediary services with the aim of achieving greater transparency and accountability of intermediary service providers. The rules of the DSA apply to online service providers acting as online intermediaries in the EU - irrespective of the location of their headquarters -, connecting consumers with goods, services, and content. The DSA groups online service providers into different categories: intermediary services, hosting services, online platforms, very large online platforms (VLOPs), and very large online search engines (VLOSEs). Each category is subject to a set of specific due diligence obligations.

As of 25 April 2023, the European Commission designated 17 VLOPs and 2 VLOSEs. VLOPs are Alibaba Ali-Express, Amazon Store, Apple AppStore, Booking.com, Facebook, Google Play, Google Maps, Google Shopping, Instagram, LinkedIn, Pinterest, Snapchat, TikTok, Twitter, Wikipedia, YouTube, and Zalando. VLOSEs include Bing and GoogleSearch. Under the DSA, VLOPs and VLOSEs are subject to new obligations regarding user empowerment, diligent content moderation, protection of minors, transparency and accountability, and risk assessment.

Cooperation obligations under the DSA include an obligation on the part of the intermediary services to inform the authority requesting information of the receipt of the order and any effect given to it. Information service providers are obliged to cooperate with national judicial and administrative authorities by taking down illegal content or providing requested information about a specific user. In addition, the DSA regulates how to set up a notice and action mechanism for individuals or entities to notify online platforms of existing illegal content, and it contains an obligation to install internal complaint handling and dispute settlement mechanisms.

The DSA introduces multiple layers of transparency reporting obligations for intermediaries concerning content moderation, based on the type of service provider. Another area regulated by the DSA is the liability of providers of intermediary services. While the DSA maintains some of the key principles set out in [Directive 2000/31/EC on electronic commerce](#), it also introduces a novelty: intermediaries are not to be held liable for

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Published in
2024, Vol. 19(1) [eucrim p 13](#)
ISSN: 1862-6947
<https://eucrim.eu>



any voluntary actions taken in good faith against certain types of objectionable content (“Good Samaritan Protection”).

The flyer focuses on how the DSA applies to copyright violations. In the area of copyright-protected content, the DSA, together with [Directive \(EU\) 2019/790 on copyright and related rights in the Digital Single Market](#), stipulates new obligations for online content-sharing service providers. While the DSA establishes general rules and mechanisms applicable to service providers, the Directive is sector-specific and applicable in areas not covered by the DSA. For instance, obligations to notify about suspicions of criminal offences are not applicable to intellectual property crimes, except when they involve a threat to the life and safety of persons.

Lastly, the tasks and powers of the European Commission, the European Board of Digital Services (EBDS), and national Digital Service Coordinators to enforce the DSA are explained. For VLOPs and VLOSEs, due to the potential cross-border impact should they fail to comply with the DSA obligations, the European Commission is the primary regulator, equipped with a set of exclusive, investigative, and enforcement powers.

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The project is co-financed by the [Union Anti-Fraud Programme \(UAFB\)](#), managed by the [European Anti-Fraud Office \(OLAF\)](#).



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