



# Digital Services Act

The **Digital Services Act**<sup>[1]</sup> (DSA) is an EU regulation that entered into force in 2022, establishing a comprehensive framework for digital services accountability, content moderation, and platform transparency across the European Union. It significantly updates the Electronic Commerce Directive 2000 in EU law by introducing graduated obligations based on service size and risk levels,<sup>[2][3]</sup> and was proposed alongside the Digital Markets Act (DMA).

The DSA applies to all digital intermediary services, including hosting services, online platforms (such as social networks, online marketplaces, pornographic platforms,<sup>[4]</sup> app stores), and search engines.<sup>[5]</sup> It establishes a tiered regulatory approach: basic obligations for all services, enhanced duties for online platforms, and the most stringent requirements for Very Large Online Platforms (VLOPs) and Very Large Online Search Engines (VLOSEs) with over 45 million monthly active users in the EU.<sup>[6]</sup>

## Objectives

Ursula von der Leyen proposed a "new Digital Services Act" in her 2019 bid for the European Commission's presidency.<sup>[7]</sup>

The expressed purpose of the DSA was to update the European Union's legal framework for illegal content on intermediaries, in particular by modernising the e-Commerce Directive that had been adopted in 2000. In doing so, the DSA aimed to harmonise different national laws in the European Union that have emerged to address illegal content at national level.<sup>[2]</sup> Most prominent amongst these laws was the German NetzDG, and similar laws in Austria ("Kommunikationsplattformen-Gesetz") and France ("Loi Avia"). With the adoption of the Digital Services Act at European level, those national laws were planned to be overridden and would have to be amended.<sup>[8]</sup>

In practice, this would lead to new legislation regarding illegal content, transparent advertising and disinformation.<sup>[3]</sup>

**Regulation (EU) 2022/2065** (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32022R2065>)

### European Union regulation

#### Text with EEA relevance



<b>Title</b>	Regulation on a Single Market For Digital Services
<b>Made by</b>	<u>European Parliament</u> and <u>Council of the European Union</u>
<b>Journal reference</b>	<u>OJ L 277</u> , 27.10.2022, p. 1–102 ( <a href="http://data.europa.eu/eli/reg/2022/2065/oj">http://data.europa.eu/eli/reg/2022/2065/oj</a> )

### History

**Date made** 19 October 2022

### Preparative texts

**Commission proposal** COM/2020/825 final

### Current legislation

## New obligations on platform companies

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The DSA is meant to "govern the content moderation practices of social media platforms" and address illegal content.<sup>[9]</sup> It is organised in five chapters, with the most important chapters regulating the liability exemption of intermediaries (Chapter 2), the obligations on intermediaries (Chapter 3), and the cooperation and enforcement framework between the commission and national authorities (Chapter 4).

The DSA proposal maintains the current rule according to which companies that host others' data become liable when informed that this data is illegal.<sup>[9]</sup> This so-called "conditional liability exemption" is fundamentally different<sup>[10][11]</sup> from the broad immunities given to intermediaries under the equivalent rule ("Section 230 CDA") in the United States.

The DSA applies to intermediary service providers that offer their services to users based in the European Union, irrespective of whether the intermediary service provider is established in the European Union.<sup>[12]</sup>

In addition to the liability exemptions, the DSA would introduce a wide-ranging set of new obligations on platforms, including some that aim to disclose to regulators how their algorithms work, while other obligations would create transparency on how decisions to remove content are taken and on the way advertisers target users. The European Centre for Algorithmic Transparency was created to aid the enforcement of this.<sup>[13]</sup>

A December 2020 Time article said that while many of its provisions only apply to platforms which have more than 45 million users in the European Union, the Act could have repercussions beyond Europe. Platforms including Facebook, Twitter, TikTok, and Google's subsidiary YouTube would meet that threshold and be subjected to the new obligations.<sup>[14]</sup>

A 16 November 2021 Internet Policy Review listed some of new obligations including mandatory "notice-and-action" requirements, for example, respect fundamental rights, mandatory redress for content removal decisions, and a comprehensive risk management and audit framework.<sup>[15]</sup>

Companies that do not comply with the new obligations risk fines of up to 6% on their global annual turnover. In addition, the Commission can apply periodic penalties up to 5% of the average daily worldwide turnover for each day of delay in complying with remedies, interim measures, and commitments. As a last resort measure, if the infringement persists and causes serious harm to users and entails criminal offences involving threat to persons' life or safety, the Commission can request the temporary suspension of the service.<sup>[16]</sup>

## Large online platforms

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On 23 April 2023, the European Commission named a first list of 19 online platforms that will be required to comply starting 25 August 2023.<sup>[17]</sup> They include the following very large online platforms (VLOPs) with more than 45 million monthly active users in the EU as of 17 February 2023.<sup>[18]</sup>

- Alibaba AliExpress
- Amazon Store
- Apple AppStore

- [Booking.com](#)
- [Facebook](#)
- [Google Play](#)
- [Google Maps](#)
- [Google Shopping](#)
- [Instagram](#)
- [LinkedIn](#)
- [Pinterest](#)
- [PornHub](#) (added 20 December 2023)
- [Shein](#) (added 26 April 2024)
- [Snapchat](#)
- [Stripchat](#) (added 20 December 2023)
- [Temu](#) (added 31 May 2024)
- [TikTok](#)
- [Wikipedia](#)
- [X](#) (formerly Twitter)
- [XNXX](#) (added 10 July 2024)
- [XVideos](#) (added 20 December 2023)
- [YouTube](#)
- [Zalando](#)

Very Large Online Search Engines (VLOSEs):

- [Bing](#)
- [Google Search](#)

Amazon and Zalando both initiated proceedings in the [General Court](#) challenging the designations, claiming unequal treatment compared to other large retailers, and that their core business models are retail not distributing third party content/products. Zalando argued the criteria and methodology lack transparency, for instance in how it counts active users, while Amazon said VLOP rules are disproportionate for its business model and asked to be exempted from transparency around targeted ads.<sup>[19][20]</sup>

As of December 2023, 13 VLOPs have received a request for information (RFI),<sup>[16]</sup> the procedure necessary to verify compliance with the DSA, and one is being subjected to a formal proceedings.<sup>[21]</sup> 3 further platforms, all of them providing adult content, were added on 20 December 2023.<sup>[22]</sup>

## Legislative history

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The [European Commission](#) submitted the DSA alongside the [Digital Markets Act](#) (DMA) to the [European Parliament](#) and the [Council](#) on 15 December 2020.<sup>[5][23]</sup> The DSA was prepared by [von der Leyen Commission](#) members [Margrethe Vestager](#) (Executive Vice President of the European Commission for A Europe Fit for the Digital Age) and [Thierry Breton](#) (European Commissioner for Internal Market).<sup>[24]</sup>

The Digital Services Act builds in large parts on the non-binding Commission Recommendation 2018/314 of 1 March 2018<sup>[25]</sup> when it comes to illegal content on platforms. However, it goes further in addressing topics such as disinformation and other risks especially on very large online platforms. As part

of the preparatory phase, the European Commission launched a public consultation on the package to gather evidence between July and September 2020.<sup>[26][27]</sup> An impact assessment was published alongside the proposal on 15 December 2020 with the relevant evidence base.<sup>[28]</sup>

The European Parliament appointed Danish Social Democrat Christel Schaldemose as rapporteur for the Digital Services Act. On 20 January 2022 the Parliament voted to introduce amendments in the DSA for tracking-free advertising and a ban on using a minor's data for targeted ads, as well as a new right for users to seek compensation for damages.<sup>[29]</sup> In the wake of the Facebook Files revelations and a hearing by Facebook Whistleblower Frances Haugen in the European Parliament,<sup>[30]</sup> the European Parliament also strengthened the rules on fighting disinformation and harmful content, as well as tougher auditing requirements.<sup>[31]</sup>

The Council of the European Union adopted its position on 25 November 2021.<sup>[32]</sup> The most significant changes introduced by the Member States are to entrust the European Commission with the enforcement of the new rules, in the wake of allegations and complaints that the Irish Data Protection Watchdog was not effectively policing the bloc's data protection rules against platform companies.<sup>[33]</sup>

The Data Governance Act (DGA) was formally approved by the European Parliament on 6 April 2022.<sup>[34]</sup> This sets up a legal framework for common data spaces in Europe which will increase data sharing in sectors such as finance, health, and the environment.<sup>[34][35]</sup>

With Russia using social media platforms to spread misinformation about the 2022 Russian invasion of Ukraine, European policymakers felt a greater sense of urgency to move the legislation forward to ensure that major tech platforms were transparent and properly regulated, according to *The Washington Post*.<sup>[36]</sup> On 22 April 2022, the Council of the European Union and the European Parliament reached a deal on the Digital Services Act in Brussels following sixteen hours of negotiations.<sup>[37][38][39]</sup> According to *The Washington Post*, the agreement reached in Brussels solidifies the two-bill plan— the Digital Services Act and the Digital Markets Act, a law regulating competition. The latter is aimed at preventing abuse of power against smaller competitors by larger "gatekeepers".<sup>[36]</sup>

On 5 July 2022, the European Parliament approved both the DSA and the DMA.<sup>[40]</sup> Following this, on 4 October 2022, the European Council gave its final approval to the DSA.<sup>[41]</sup> The DSA was adopted on 19 October 2022 and was published in the Official Journal of the European Union on 27 October 2022.<sup>[1]</sup> It came into force on 16 November 2022.<sup>[42]</sup> Most services were given 15 months to comply with its provisions (until 17 February 2024<sup>[43]</sup>). However, "very large" online platforms and search engines, after their designation as such, had only four months to comply (until 23 August 2023).<sup>[40]</sup>

## Influence of the European Court of Human Rights

The DSA was passed alongside the Digital Markets Act and the Democracy Action Plan.<sup>[44]</sup> The latter of these is focused on addressing the nuanced legal interpretation of free speech on digital platforms, a fundamental right that has been extensively guided by the European Court of Human Rights (ECtHR) and the European Convention on Human Rights.<sup>[45]</sup> Accordingly, the Democracy Action Plan, and subsequently the DSA, were strongly influenced by the *Delfi AS v. Estonia* and *Magyar Tartalomszolgáltatók Egyesülete and Index.hu Zrt v. Hungary* ECtHR cases, which outlined a framework for assessing intermediary liability on digital platforms.<sup>[46]</sup>

In *Delfi AS v. Estonia*, the ECtHR applied proportionality analysis when considering whether the Estonian courts' decision to hold the online platform Delfi liable for hate speech posted by its users was a proportionate restriction on Delfi's right to freedom of expression.<sup>[47]</sup> The court found that, given the serious nature of the hate speech, the Estonian courts' actions were justified to protect the rights of others.<sup>[48]</sup> In other words, the ECtHR upheld the liability of online platforms for hate speech posted by their users, underlining that platforms could be expected to take proactive steps to control content when there is a clear risk of harm from unlawful comments. This case highlighted the responsibilities of platforms to prevent the spread of harmful content.<sup>[47]</sup>

On the other hand, the *MTE and Index.hu v. Hungary* case illustrated the nuanced limits of freedom of speech on digital platforms.<sup>[49]</sup> In its application of proportionality analysis, the ECtHR found that the Hungarian courts had failed to strike a fair balance between protecting reputation and ensuring freedom of expression.<sup>[50]</sup> The Hungarian courts imposed strict liability on the platforms for user comments that were offensive but did not constitute hate speech, constituting a disproportionate interference in the platforms' right to freedom of expression. The ECtHR ruled that imposing strict liability on platforms for user comments, without consideration of the nature of the comments or the context in which they were made, could infringe on freedom of expression. This judgment emphasized the need for a balance between protecting reputation and upholding free speech on digital platforms.<sup>[49]</sup>

These decisions by the ECtHR provided critical legal precedents that shaped the EU's decision-making process on the framework of the DSA. In particular, the DSA drew from the ECtHR's distinction between different types of illegal content, as well as its proportionality analysis in both cases, by incorporating nuanced rules on intermediary liability and ensuring that measures taken by platforms do not unreasonably restrict users' freedom of expression and information.<sup>[51]</sup>

## Reactions

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Media reactions to the Digital Services Act have been mixed, and scholars have begun critically examining the Digital Services Act.<sup>[52][53]</sup> Some academics have expressed concerns that the Digital Services Act might be too rigid and prescribed,<sup>[54]</sup> excessively focused on individual content decisions or vague risk assessments.<sup>[55]</sup> Due to the influence gatekeepers have in selecting and controlling the visibility of certain journalistic articles over others through their online platforms, the European Federation of Journalists asked EU legislators to further increase the transparency of platforms' recommendation systems via the DSA.<sup>[56]</sup> Mike Masnick criticised the act for not including provisions that would have required a court order for the removal of illegal content.<sup>[57]</sup>

The DSA was welcomed by some EU media.<sup>[58]</sup> In January 2022, the editorial board of *The Washington Post* stated that the U.S. could learn from these rules,<sup>[59]</sup> while Frances Haugen stated that it could set a "gold standard" of regulation worldwide.<sup>[60]</sup> Tech journalist Casey Newton has argued that the DSA will shape US tech policy.<sup>[61]</sup> Mike Masnick of Techdirt praised the DSA for ensuring the right to pay for digital services anonymously.<sup>[57]</sup>

Civil Society organisations such as Electronic Frontier Foundation have called for stronger privacy protections.<sup>[62]</sup> Human Rights Watch has welcomed the transparency and user remedies but called for an end to abusive surveillance and profiling.<sup>[63]</sup> Amnesty International has welcomed many aspects of the

proposal in terms of fundamental rights balance, but also asked for further restrictions on advertising.<sup>[64]</sup> Advocacy organisation Avaaz has compared the Digital Services Act to the Paris Agreement for climate change.<sup>[65]</sup>

Following the 2023 Hamas-led attack on Israel, Thierry Breton wrote public letters to X, Meta Platforms, TikTok, and YouTube on how their platforms complied with the DSA regarding content related to the conflict and upcoming elections. The Atlantic Council's Digital Forensic Research Lab reported that Breton's letters did not follow DSA processes, and digital rights group Access Now criticised Breton's letters for drawing a "false equivalence" between illegal content and disinformation.<sup>[66]</sup>

Tech companies have frequently criticized the Digital Services Act (DSA) for its burdensome regulations and perceived lack of clarity.<sup>[67]</sup> They have also faced accusations of lobbying to weaken some of the DSA's more stringent provisions, particularly those related to bans on targeted advertising.<sup>[68]</sup> Notably, Google CEO Sundar Pichai issued a high-profile apology to EU Commissioner Thierry Breton after a leaked internal document revealed Google's 60-day strategy to lobby against the DSA, including efforts to enlist U.S. allies to oppose Breton's regulatory push.<sup>[69]</sup>

A bipartisan group of US senators have called the DSA and DMA discriminatory, claiming that the legislation would "focus on regulations on a handful of American companies while failing to regulate similar companies based in Europe, China, Russia and elsewhere."<sup>[70][71]</sup>

## **Allegations of censorship**

While EU officials maintain that the DSA upholds free expression and targets only illegal content, the potential for overreach and its global impact have raised concerns about its effect on political discourse. The DSA has been criticized for enabling censorship, including shadow banning in search engines, and targeting political dissidents opposing EU Commission policies. Reports from the U.S. House Judiciary Committee,<sup>[72]</sup> ADF International,<sup>[73]</sup> and scholars like Swedish professor Marcello Ferrada de Noli, highlight concerns about vague definitions, one-sided enforcement, and lack of transparency, particularly affecting dissenting voices. In his book *EU's Censorship on Freedom of Speech: DSA Echoes Repression of Fascism for War Propaganda*, Ferrada de Noli argues that the EU's Digital Services Act (DSA) enables censorship of political dissidents, particularly those opposing EU Commission policies, through shadow banning practices imposed on major search engines, such as Google.<sup>[74]</sup>

Swedish member of the European Parliament Jessica Stegrud argued that the DSA's focus on preventing the spread of disinformation and "harmful content" would undermine freedom of speech,<sup>[75]</sup> and a report issued by the Committee on the Judiciary of the United States House of Representatives (25 July 2025), stated:

"Documents obtained pursuant to these subpoenas highlight how the European Union (EU) uses a law called the Digital Services Act (DSA) as a censorship tool. The EU claims that the DSA applies only to Europe and that it targets only harmful or illegal content. Both of those claims are inaccurate. Nonpublic documents reveal that European regulators use the DSA: (1) to target core political speech that is neither harmful nor illegal; and (2) to pressure platforms, primarily American social media companies, to change their global content moderation policies in response to European demands. 4 Put simply, the DSA infringes on American online speech".<sup>[72]</sup>

According to Politico, the document issued by the Committee on the Judiciary of the U.S. House of Representatives describes the flagship social media law as a “comprehensive digital censorship law” that threatens the freedom of speech of American citizens. Politico quotes from the report: "The DSA is bad on paper and worse in practice".<sup>[76]</sup>

The DSA's later stage inter-institutional negotiations, or trilogues, have been criticized as lacking transparency and equitable participation.<sup>[77]</sup> These criticisms mirror past experiences with the drafting of the EU Regulation on Preventing the Dissemination of Terrorist Content Online as well as the General Data Protection Regulation (GDPR).<sup>[78]</sup>

Nevertheless, DSA supporters, like Anda Bologa from CEPA, argue that the DSA is a “balanced shield” against disinformation and illegal content, not censorship.<sup>[79]</sup> They claim it protects democracy by mitigating risks like election interference, though enforcement challenges remain.

## Impacts

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### Feature and content removal

After the first round of the 2024 Romanian presidential election was invalidated due to reports allegedly showing Russian involvement on TikTok in favor of Călin Georgescu, an investigation was conducted to determine whether TikTok had breached the DSA.<sup>[80]</sup>

In August 2024, TikTok agreed to withdraw its TikTok Lite rewards feature after it was investigated under the DSA due to concerns about its "addictive effect", especially for children.<sup>[81][82]</sup>

A 2024 study of deleted Facebook and YouTube comments by the Future of Free Speech think tank at Vanderbilt University suggested that "platforms, pages, or channels may be over-removing content to avoid regulatory penalties" under the DSA.<sup>[83]</sup>

### Outside the EU

*The Washington Post* wrote in 2023 that tech companies may apply features instituted to comply with the DSA to countries outside of the EU, and that researchers have argued that the DSA could provide a framework for the United States to impose stricter regulations on tech companies.<sup>[84]</sup> *The Economist* wrote in 2023 that the Brussels effect, whereby social media platforms implement EU regulations globally to save costs, "is far from guaranteed" with the DSA due to tech companies being unwilling to "[lose] sovereignty over their digital territories everywhere".<sup>[85]</sup>

Among legal academics, Dawn Nunziato of the George Washington University argued in 2022 that the DSA "will further instantiate the Brussels Effect, whereby EU regulators wield powerful influence on how social media platforms moderate content on the global scale".<sup>[86]</sup> Suzanne Vergnolle of the Conservatoire national des arts et métiers stated her belief in 2023 that the DSA would have a Brussels effect, similar to that of the General Data Protection Regulation, but that "it's going to take years".<sup>[87]</sup> Martin Husovec of the London School of Economics and Jennifer Urban of the University of California,

Berkeley wrote in 2024 that "the chances of spontaneous voluntary implementation beyond the EU's borders for four key parts of the DSA — content moderation procedures, transparency and governance obligations, and risk management rules — seem modest."<sup>[88]</sup>

## Similar legislation

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The 2023 Brazilian Fake News Bill, a proposed new social media regulation framework introduced in the National Congress, heavily referenced the DSA and contained similar provisions.<sup>[89][90]</sup>

## See also

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- [Digital Markets Act](#)
- [Trade and Technology Council](#)
- [Big Tech](#)
- [Platform economy](#)
- [Online Streaming Act](#)
- [WeChat](#)
- [Transparency and targeting of political advertising](#)

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## External links

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- "The Digital Services Act" ([https://ec.europa.eu/info/digital-services-act-ensuring-safe-and-accountable-online-environment\\_en](https://ec.europa.eu/info/digital-services-act-ensuring-safe-and-accountable-online-environment_en)). *European Commission*. 27 October 2022.
- "Infographics — Digital Services Act" (<https://www.consilium.europa.eu/en/infographics/digital-services-act/>). 30 September 2022. Retrieved 12 January 2025.
- Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act) (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32022R2065>)
- COM (2020) 825: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC (<https://eur-lex.europa.eu/legal-content/EN/HIS/?uri=CELEX:32022R2065>)
- "Procedure 2020/0361(COD)" ([https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2020/0361\(COD\)&l=en](https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2020/0361(COD)&l=en)). *CEIL*.

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