

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:

- protect consumers rights through encouraging a safe and responsible online environment;
- create a unified framework across the EU to govern and regulate all online platforms and intermediaries operating across the European [single market](#);
- maintain an environment which fosters innovation and competition in the digital economy.

It establishes new rules to regulate the monitoring and management of harmful online content such as disinformation, hate speech and illegal content, including child sexual abuse material. This regulation comes with large fines for companies that fail to act and remove illegal content online.

The DSA builds on the Electronic Commerce Directive 2000 (e-Commerce Directive) and concerns online platforms and 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 [Artificial Intelligence Act](#) and the [Regulation Proposal on Child Sexual Abuse Material](#).

Child sexual abuse material is already illegal across the EU and the DSA requires it to be removed by digital platforms. 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, the scale and pace at which child sexual abuse online is growing has provoked the European Commission (EC) to initiate additional legislation. This proposal could build on the GDPR’s privacy framework, as well as the DSA, to put additional measures in place.

How can the Digital Services Act better protect children online?

The progression from voluntary detection and takedown to mandatory monitoring and removals is a step towards ensuring that children and young people have safer experiences online. It comes at a time where there are increasing global fears about the impact and effect new technologies can have on children and young people in terms of safety and mental health.

In terms of legal clarification, the DSA recognises that the rights of the child – as set out in [the Convention of the Rights of the Child and General Comment No. 25](#) – 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:

- New requirements will be introduced for the **mandatory removal of illegal content online**, which includes child sexual exploitation and abuse, illegal hate speech, terrorist content and the sale of illegal products. Large fines of up to 6% of global turnover will be handed out to companies that fail to remove illegal content. Additionally, 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 more than 45 million EU users per month must follow stricter rules since their platforms are used widely and they therefore hold greater responsibility in this sphere. **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](#). More specifically, the charter highlights the right to protection and care as necessary factors for children's well-being. Under the DSA, private institutions must act in the child's best interests and companies must consider potential effects of their products on the physical and mental health of children. Measures against non-consensual distribution of intimate images have been added in the assessment of systemic risks that VLOPs are now obliged to implement.
- The DSA takes a **tougher stance on targeted algorithms and algorithmic content** promotion that target children. The new rules strictly prohibit the use of algorithmically promoted content that could be harmful for 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 are understandable to child-users**. This should make it easier for children to understand how their data is used and stored by providers.



Timeline

