

# Digital services act

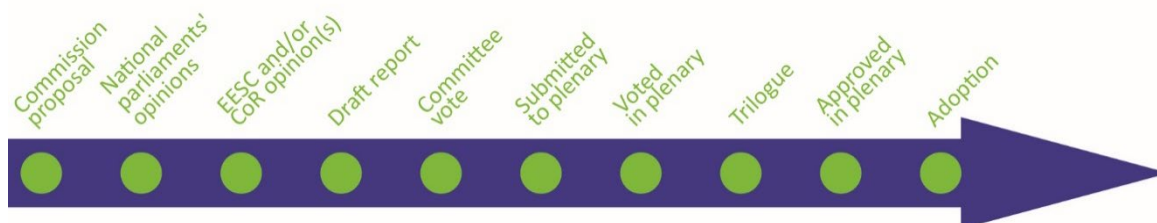
## OVERVIEW

EU lawmakers have agreed on the digital services act (DSA), which aims to ensure fairness, trust and safety in the digital environment. The regulation entered into force in November 2022.

The DSA puts in place a framework of layered responsibilities targeted at different types of online intermediary services, including network infrastructure services (e.g. cloud and webhosting), online platform services (e.g. app stores and social media platforms), and services provided by very large online platforms and very large online search engines that pose particular risks in the dissemination of illegal content and societal harms. All providers offering such online intermediary services in the EU will have to comply with a range of obligations to ensure transparency, accountability and responsibility for their actions according to their role, size and impact in the online ecosystem.

### **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**

<i>Committee responsible:</i>	Internal Market and Consumer Protection (IMCO)	COM(2020) 825 15.12.2020
<i>Rapporteur:</i>	Christel Schaldemose (S&D, Denmark)	2020/0361 (COD)
<i>Shadow rapporteurs:</i>	Arba Kokalari (EPP, Sweden) Dita Charanzová (Renew, Czechia) Alexandra Geese (Greens/EFA, Germany) Alessandra Basso (ID, Italy) Adam Bielan (ECR, Poland) Martin Schirdewan (The Left, Germany)	Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')
<i>Procedure completed.</i>	Regulation 2022/2065 <a href="#">OJ L 277 27.10.2022, pp 1-102.</a>	



## Introduction

Whereas online platforms – such as search engines, social media and e-commerce platforms – are playing an increasingly important role in our social and economic life, the current EU rules on digital services date back two decades and have remained largely unchanged since the adoption of the e-Commerce Directive in 2000 ([Directive 2000/31/EC](#)). On 15 December 2020, the European Commission presented a [digital services act package](#) with two draft pieces of legislation, a [digital services act](#) (DSA) and a [digital markets act](#) (DMA), designed to create a fairer playing field and make online platforms more responsible for the content posted on them.<sup>1</sup> The specific aim of the DSA is to promote a transparent and safe online environment, defining responsibilities and accountability for a range of digital service providers. The new rules, once adopted, will re-shape the rights and obligations of digital service providers, online users, customers and business users in the EU.

## Context

The **e-Commerce Directive's** overarching goal was to foster the development of electronic commerce in the EU. To that end, the EU set up a common legal framework facilitating the free movement of information society services between Member States, legal certainty and consumer confidence in online commerce. The directive was designed to approximate national laws in various fields, including the establishment of service providers in the EU, rules applicable to commercial communications and electronic contracts (e.g. online advertising and unsolicited commercial communications) and the liability of online intermediaries.

The EU rules applicable to online actors currently rest on three key principles. First, the **country of origin principle** requires information society services to comply with the laws of the Member State in which they are legally established when operating across the EU, facilitating those companies' access to the entire EU single market. Second, the **limited liability regime** exempts 'online intermediaries' from liability for the content they convey and host (i.e. the 'safe harbour' principle) if they fulfil certain conditions. Hosting companies must remove illegal content or activity when they have been informed of its presence on their services and cannot be held liable for illegal content or activity on their services unless they have 'actual knowledge' of the illegal content or activity (i.e. 'notice and action' mechanisms). Finally, the e-Commerce Directive prohibits Member States from imposing on online intermediaries a **general obligation to monitor** information that they transmit or store in order to protect their users' fundamental rights.

A number of studies and consultations conducted by the European Commission<sup>2</sup> have demonstrated large **variances** in the way the e-Commerce Directive is implemented throughout the EU. Academics point to **persisting legal uncertainty** regarding the application of national norms and to conflicting court rulings, and have called for clarification of the current rules on these grounds.<sup>3</sup> Furthermore, the current EU rules on digital services have remained largely unchanged since the adoption of the e-Commerce Directive in 2000, while digital technologies and business models continue to evolve rapidly and **new societal challenges have emerged**.

The question of how to tackle the increasing spread of illegal and harmful products (e.g. counterfeit goods) and content (e.g. hate speech, disinformation and misinformation) online has become central to the debate on online platform regulation in the EU. In this area, with the adoption of the [Recommendation on measures to effectively tackle illegal content online](#), a [memorandum of understanding on the sale of counterfeit goods on the internet](#) (MoU) and the development of the [EU code of practice on disinformation](#) in 2018, the Commission initially encouraged platforms to self-regulate. However, the effectiveness of this approach has been questioned. The 2020 [evaluation](#) of the MoU showed that the sale of counterfeit and pirated goods remains problematic. The creation of a harmonised framework for content management and curation in order to tackle the phenomenon of online disinformation and hate speech more effectively at EU level has also been [recommended](#).

## Parliament's starting position

The European Parliament has long [advocated](#) revision of the EU digital rules applicable to digital platforms, and adopted three seminal resolutions on the DSA in October 2020. EU lawmakers [approved](#) an Internal Market and Consumer Protection (IMCO) Committee legislative initiative report calling on the Commission to carry out a comprehensive revision of the e-Commerce Directive. It includes various recommendations to **improve consumer protection** in the digital economy with respect to, for instance, targeted advertising practices. EU lawmakers also [approved](#) a Legal Affairs (JURI) Committee legislative initiative report recommending that the Commission impose **content management and transparency obligations** on platforms (e.g. with respect to algorithms) and **give users more control over content curation**, i.e. the selection, organisation, and presentation of online material. Finally, Members [approved](#) a Civil Liberties, Justice and Home Affairs (LIBE) Committee own-initiative report calling on the Commission to address the challenges posed by new technologies and ensure **legal clarity and respect for fundamental rights**.

The three resolutions coincided, however, in that they recommended maintaining the e-Commerce Directive's general principles (i.e. the country of origin principle, the limited liability regime and a ban on general monitoring obligations). Furthermore, a range of Parliament studies have emphasised the need to revise the e-Commerce Directive,<sup>4</sup> and suggest that taking common EU action to enhance consumer protection and common e-commerce rules, as well as creating an EU framework for content management and curation, would be beneficial for the internal market.<sup>5</sup>

## Council starting position

In its June 2020 [conclusions](#) on shaping Europe's digital future, the Council welcomed the forthcoming digital services act proposal and emphasised the need for clear and harmonised evidence-based rules on responsibilities and accountability for digital services that would guarantee internet intermediaries an appropriate level of legal certainty. Furthermore, in its [conclusions](#) of November 2020, the Council called on the Commission to refine the responsibilities of online platforms in the DSA, taking into account the possible impact on the level playing field and the need to safeguard media pluralism. At Member State level, meanwhile, a broad consensus has emerged in recent years on the need to update and harmonise the EU rules applicable to online platforms.<sup>6</sup>

## Preparation of the proposal

The Commission ran a public [consultation](#) from June to September 2020 to assess how best to deepen the internal market and clarify responsibilities in respect of digital services; it garnered more than 200 replies. Together with a number of legal and economic [studies](#), these replies fed into the Commission's [impact assessment](#).<sup>7</sup> The impact assessment concluded that the core principles of the e-Commerce Directive remain very much valid today and have enabled the growth and accessibility of digital services across borders. However, the Commission also points out three main problems relating to the governance of digital services in the EU: the increasing exposure to illegal and harmful activities online, the lack of cooperation between national authorities, and the risks of legal fragmentation resulting from national initiatives that create new barriers in the internal market – especially for small and medium-sized enterprises (SMEs).

EPRS has published an [initial appraisal](#) of the Commission's impact assessment.

## The changes the proposal would bring

### Legal basis

The Commission put forward a proposal for a [regulation on a single market for digital services](#) (digital services act) on the basis of Article 114 TFEU to prevent divergences from hampering the free provision of cross-border digital services and to guarantee the uniform protection of rights and uniform obligations for business and consumers across the internal market.

## Scope

The DSA proposal set out a horizontal framework for transparency, accountability and regulatory oversight of the EU online space. The new legislation does not replace but complements the e-Commerce Directive and other pieces of legislation, including the [Platform-to-Business Regulation](#) (which already imposes stringent transparency and fairness obligations on platforms) and the sector-specific rules on content moderation already in force in the EU to tackle, for instance, dissemination of terrorist content online, hate speech or copyright infringement.<sup>8</sup>

## Asymmetric obligations

The DSA was framed as a horizontal instrument putting in place a framework of layered responsibilities targeted at different types of intermediary services.

The draft DSA stipulated basic obligations applicable to **all providers of intermediary services** falling within the scope of the DSA to ensure transparency and the protection of fundamental rights.

For **online platforms and hosting services**, the Commission proposed detailed notice and action mechanisms and more adequate appeal mechanisms. In addition, the Commission proposed that online platforms should comply with a new set of requirements to ensure trust in and safety of the products and services they provide. Also, in the field of **online advertising**, the Commission proposed new rules to give users of online platforms meaningful information on the ads they see online, including information on why an individual has been targeted with a specific advertisement.

Under the proposal, **very large online platforms** (VLOPs) were subject to the full scope of the proposed regulation, given the particular impact they have on the economy and society and their potential responsibility as regards the dissemination of illegal content and societal harms. In addition to all the obligations mentioned above, the draft DSA set a higher standard of transparency and accountability for how the providers of such platforms moderate content, on advertising and on algorithmic processes. This included, inter alia, an obligation to: **assess the systemic risks** stemming from the functioning and use of their services at least once a year; take appropriate **mitigating measures**; submit to **external and independent audits**; compile and make publicly available detailed **information on the advertising they display**; and provide regulators and vetted researchers with **access to data** necessary to monitor and assess compliance.

The DSA proposal required Member States to designate independent **digital services coordinators**, who will be granted specific oversight powers, will be entitled to receive complaints against providers of intermediary services, will have to cooperate with digital services coordinators of other Member States, and will be able to take part in joint investigations. Furthermore, a European board for digital services (EBDS) was proposed to be set up to ensure effective coordination and consistent application of the new legislation.

In addition, the Commission proposed that VLOPs be subject to **enhanced supervision by the Commission**, which will be able to intervene if the infringements persist. It will be able to carry out investigations, including through requests for information, interviews and on-site inspections. It will also be able to adopt interim measures, to require VLOPs to make binding commitments, and to monitor compliance.<sup>9</sup> In cases of non-compliance, the Commission will be able to adopt non-compliance decisions, as well as fines and periodic penalty payments for breaches of the regulation and for the supply of incorrect, incomplete or misleading information in the context of the investigation.

## Advisory committees

The European Economic and Social Committee ([EESC](#)) and the Committee of the Regions ([CoR](#)) adopted their opinions on the DSA in April 2021 and June 2021 respectively.

## National parliaments

The deadline for the submission of [reasoned opinions](#) on the grounds of subsidiarity was 7 April 2021. The [Austrian National Council](#), the [Czech Chamber of Deputies](#), the [Danish Parliament](#) and the [Italian Chamber of Deputies](#) submitted reasoned opinions.

## Stakeholder views<sup>10</sup>

### Associations and organisations defending users and consumers

The European Consumer Organisation, **BEUC**, [called on](#) lawmakers to define consumer protection as an explicit objective of the DSA and to fine-tune rules on enforcement and redress. BEUC also supported updating EU law to tackle unfair practices and ensure consumers are not harmed by misleading user interfaces and data personalisation techniques such as [dark patterns](#). **AlgorithmWatch** and other civil society organisations [recommended](#) giving enforcement powers to an independent unit inside the European Commission to oversee VLOPs, preventing platforms from using manipulative design techniques, providing access to platforms' data to vetted not-for-profit bodies, widening the risk assessment to cover all rights and social harms, and empowering users to seek redress.

European Digital Rights (**EDRI**) and a number of other civil society organisations [called](#) to phase out the pervasive online tracking business model and prohibit dark patterns that trick users into sharing personal data they would not otherwise want to. A number of associations for the protection of children [called](#) on the Council and Parliament to require that all providers of digital services falling within the scope of the DSA and likely to be accessed by children ensure a high level of privacy, safety and security by design for all under 18-year-olds. Europe's research [library](#) association (**LIBER**) [asked](#) for clarity on whether and how education and research sectors fall under the scope of the DSA.

### Platforms and media industries

The Computer and Communications Industry Association, **CCIA**, which represents large companies such as Google, eBay, Twitter and Amazon, [raised](#) a series of objections to the current proposal. The CCIA [warned](#) that imposing an outright ban on targeted advertising would limit small businesses' ability to develop new business and would offer European consumers less choice. The CCIA demanded clarity on the safeguards and confidentiality rules applicable when the DSA requires platforms to provide data to 'vetted researchers' and 'vetted not-profit bodies'. Furthermore, the platforms stressed that if the DSA sets disproportionate liability and due diligence obligations, online marketplaces may enable only established third-party sellers to offer products via their platforms, thereby jeopardising SMEs' activities. They also called for clarity as to how due diligence obligations and 'know-your-business-customer' principles work.

While supporting the DSA proposal, **Digitaleurope**, representing the world's largest IT, telecoms and consumer electronics companies, [warned](#) that important definitions (e.g. a very large online platform) should not be left to delegated acts and recommended a 12- to 18-month transition period to leave sufficient time to build and implement new processes.

The **media industry** [wanted](#) to introduce a media exemption that would exempt the sector from the new rules enshrined in the DSA, as they are already subject to editorial obligations. The **European Federation of Journalists** [supported](#) introducing a range of measures in the DSA to better protect online journalistic content from interference by online platforms. The European Regulators Group for Audiovisual Media Services (**ERGA**) and the national media regulators [wanted](#) to be associated with the adoption of guidelines clarifying the DSA's interplay with other legislative acts and with the assessment of systemic risks.



## SMEs and start-ups

Associations representing SMEs and start-ups generally supported the DSA, but asked for the text to be modified to take into account their specific size and scale. **Allied for Startups** [welcomed](#) the proposals but [warned](#) that regulating online platforms on the basis of a threshold may disincentivise the growth of start-ups in the EU – for instance, by unnecessarily restricting targeted ads. The **European Technology Alliance** [asked](#) for an 18-month implementation timeframe to allow the tech sector to enforce the new obligations and to address 'dark patterns' (see box) in other pieces of EU legislation, such as the Unfair Commercial Practices Directive or the GDPR, after an evaluation of potential existing gaps in EU legislation.

## Academic views

### Algorithmic transparency, online advertising and dark patterns

The European Data Protection Supervisor (EDPS) welcomed the DSA proposal but [recommended](#) additional measures to protect individuals better when it comes to content moderation and online targeted advertising. Targeted advertising has allowed marketers using algorithms to present consumers with ads that reflect their online traits, interests and shopping preferences. The EDPS stressed that profiling for the purpose of content moderation should be prohibited unless the online service provider can demonstrate that such measures are strictly necessary to address the systemic risks explicitly identified in the DSA. He also called on EU legislators to consider a **ban on online targeted advertising** based on pervasive tracking and to restrict categories of data that can be processed to enable or facilitate targeted advertising.

A European Parliament [study](#) recommended amending the draft DSA text to, inter alia, inform consumers about being targeted and improve consent mechanisms, provide **guidelines on 'dark patterns'**, ensure that minors are not subject to targeted advertising that exploits their vulnerabilities and improve **consumers' access to redress**.

Other academics [advised](#) that linkages between the DSA and existing consumer legislation should be taken into account during the trilogue negotiations, including for regulating influencers. However, a [report](#) by the Center for Data Innovation [warned](#) that a ban on targeted ads would substantially reduce spending on data-driven ads in the EU and adversely impact advertisers, app developers, media companies, content creators and consumers, by making online advertising less effective.

**Dark patterns.** 'Dark patterns' generally [refer](#) to techniques for designing websites and mobile application interfaces in order to influence users' behaviour and decision-making. The implementation of 'dark pattern' techniques is of particular concern as they are often used to direct users towards outcomes that involve greater data collection and processing and alter consumers' freedom of choice or manipulate their decisions.<sup>11</sup> The European Data Protection Board published its [Guidelines on dark patterns in social media platform interfaces](#) in March 2022, providing recommendations and guidance for the design of the interfaces of social media platforms. Some experts warn that, while manipulation of consumers' online choices using algorithms constitutes a significant risk, both ex-ante regulation and requirements for algorithmic transparency may be insufficient to tackle this phenomenon. They call for co-regulation and compliance schemes to be put in place.<sup>12</sup>

### Very large platforms: Risk assessment and general monitoring

Under the draft DSA, risk assessment was left largely to the companies and no oversight mechanism was introduced to check the accuracy of risk assessments by very large platforms. In this regard, the establishment of a mechanism to coordinate between competent authorities has been proposed to ensure coherent oversight of risk assessment and find a suitable methodology to enable very large platforms to assess the dissemination of illegal content while respecting the prohibition on general

monitoring of their users' online content.<sup>13</sup> Common guidance was called for, particularly regarding the **use of automatic detection and filtering technologies** to detect illegal and harmful content.<sup>14</sup>

## Obligations on online market places

Some commentators were critical of the draft DSA provisions on online market places and [argued](#) that the economic evidence did not support the **magnitude of the counterfeit products problem** as presented by the Commission, and that the proposed measures would not therefore be proportionate to the existing problem.

## Disinformation

Under the draft DSA, large social media platforms have been required to share with the research community data that relate to risks such as the dissemination of 'illegal content' and 'intentional manipulation' of online services. However, there was no provision specifying how this should be implemented in practice. In this respect, academics proposed to set up a **permanent mechanism to facilitate collaborative research between industry and academia**, as researchers need regular (not just one-off) access to data to collect and update quantitative data to facilitate hypothesis testing and the design of intervention strategies to fight disinformation.<sup>15</sup> Disinformation researchers [warned](#) that introducing a **media exemption** would contribute to and increase the spread of disinformation.

## Oversight and compliance

The oversight mechanisms and institutional organisation enshrined in the draft DSA have been questioned. There were question marks regarding: the composition and role of the proposed European board for digital services (EBDS), who should be designated digital services coordinator at national level and how they should function in relation to other national regulators, and how to ensure independent oversight and law enforcement on VLOPs.<sup>16</sup> Lawmakers were also asked to consider enabling regulators to conduct an **ex-ante review/screening of the terms and conditions** of very large platforms given their crucial role in shaping what is and is not allowed on the platform.<sup>17</sup> Centralising enforcement at EU level, as proposed by the Commission, was considered useful for the largest cross-border platforms but only effective if there is strong cooperation and support from national authorities.<sup>18</sup>

Following the adoption of the final DSA text, academics have raised a number of important implementation issues, including the need to clarify the interplay between the DSA and the Copyright Directive,<sup>19</sup> the concept of 'average monthly active recipient',<sup>20</sup> and how to sort out the overlap between the DSA's due diligence obligations (especially the rules on content moderation, recommender systems and advertising).<sup>21</sup> A reflection must take place as well on designing independent oversight and enforcement mechanisms,<sup>22</sup> applying the available redress mechanisms,<sup>23</sup> and avoiding future back-room negotiations between regulators and platforms weakening the benefits of the DSA rules.<sup>24</sup>

## Legislative process

### Negotiation phase

In Parliament, the DSA proposal was assigned to the Internal Market and Consumer Protection (IMCO) Committee (rapporteur: Christel Schaldemose, S&D, Denmark).

Following protracted interinstitutional negotiations, the Parliament and Council reached a provisional political agreement on the DSA in April 2022. Parliament sitting in plenary approved the final text during its July 2022 session (with 539 votes in favour, 54 votes against and 30 abstentions). The Council and Parliament signed the DSA in October 2022.

## Final text

The [DSA](#)'s main provisions are as follows.<sup>25</sup>

### Scope

The DSA rules apply to different **categories of online intermediary services** according to their role, size and impact in the online ecosystem:

- **intermediary services offering network infrastructure**, including 'mere conduit services' (e.g. internet access, content delivery networks, WiFi hotspots), 'caching services' (e.g. automatic, intermediate and temporary storage of information) and 'hosting services' (e.g. cloud and webhosting services);
- **online platform services** by providers bringing together sellers and consumers, such as online marketplaces, app stores, collaborative economy platforms and social media platforms;
- **very large online platforms (VLOPs)** reaching at least 45 million active recipients in the EU on a monthly basis (10 % of the EU population), which could pose particular risks in the dissemination of illegal content and societal harms;
- **very large online search engines (VLOSEs)** reaching at least 45 million active recipients in the EU on a monthly basis (10% of the EU population), and therefore, more responsibility in curbing illegal content online;

Regarding territorial scope, all providers offering their online intermediary services in the EU would have to comply with the new rules, including those established outside the EU (Article 2).

### Main provisions

All providers offering such online intermediary services in the EU will have to comply with a range of obligations to ensure transparency, accountability and responsibilities for their actions according to their role, size and impact in the online ecosystem.

**Measures to counter illegal goods, services or content online:** The DSA strengthens content moderation rules in the EU, clarifies the conditions under which providers of intermediary services are exempted from liability in the EU and imposes due diligence obligations to ensure a safe, transparent and predictable online ecosystem. Online platforms (e.g. social media and marketplaces) and online search engines must take measures to protect their users from illegal content, goods and services. It introduces, inter alia, a new mechanism for users to easily flag such content and for platforms to cooperate with 'trusted flaggers' and new obligations on traceability of business users in online market places. It sets up an EU-wide 'notice and action' procedure, under which users will be empowered to report illegal content online and have it quickly removed. The prohibition on Member States imposing general monitoring obligations is, however, maintained so that platforms will not be forced systematically to police their platforms. Users will be able to challenge platforms' content moderation decisions and seek redress, either through an out-of-court dispute mechanism or judicial redress.

**More transparency on recommender systems and online advertising:** Online platforms must be more transparent and more accountable (e.g. on how their content is recommended to their users) and put in place special measures to ensure their users' safety online. They cannot target advertising based on minors' personal data or on sensitive data (e.g. sexual orientation, religion and ethnicity). They should also not use their online interface to influence users' behaviour, i.e. 'dark patterns'. Online marketplaces are required to make more effort to ensure that the information provided by the online traders using their platforms is reliable, including through random checks.

**Obligations for the largest platforms to address 'systemic risks':** VLOPs and VLOSEs will have to comply with stricter obligations under the DSA and prevent systemic risks such as the dissemination of illegal content including disinformation, adverse effects on fundamental rights, on electoral



processes and on gender-based violence or mental health. They will have to conduct an annual risk assessment of their services and adapt their design or algorithms to limit their impact and be subject to independent audits. Furthermore, they must take action to limit public security or health threats that their operation may pose in times of crisis (e.g. COVID disinformation). They will also have to facilitate access to their data and algorithms to authorities and vetted researchers.

**Micro- and small enterprises** are exempted from some obligations and have more time than other businesses to implement others. The Commission will assess the impact of new rules on small businesses.

**Enforcement** is shared between national authorities, who supervise smaller platforms, and the Commission, which has exclusive competence for VLOPS and VLOSE. Member States have 15 months from the entry into force of the DSA to designate a national Digital Services Coordinator (DSC), an independent authority which will be responsible for supervising the intermediary services established in their Member State and/or for coordinating with specialist sectoral authorities. The DSA also establishes the European board for digital services (EBDS) as an advisory group to DSCs and the Commission on the application of the regulation. In the event of non-compliance, Member States (or the Commission, for VLOPs and VLOSEs) can adopt fines of up to 6 % of the intermediary annual worldwide turnover. In addition, users have a right to seek redress for damages or loss they suffer due to infringements by online intermediaries. Commissioner for the Internal Market Thierry Breton stressed in a [statement](#) that enforcement is key. Accordingly, he announced that the Commission needs to build up specific expertise and will establish a high-profile European Centre for Algorithmic Transparency.

## Implementation

The DSA was [published](#) in the Official Journal on 27 October 2022 and entered into force on 16 November 2022. VLOPs and VLOSEs will start being regulated from mid-2023.

## EUROPEAN PARLIAMENT SUPPORTING ANALYSIS

Policy Department for Economic, Scientific and Quality of Life Policies, [Collection of studies for the IMCO Committee – Digital Services Act](#), European Parliament, March 2022.

EPRS, [Liability of online platforms](#), EPRS study, February 2021.

EPRS, [Digital services act](#), European added value assessment, October 2020.

EPRS, [Digital Services Act: Pre-legislative synthesis of national, regional and local positions on the European Commission's initiative](#), November 2020.

EPRS, [Reform of the EU liability regime for online intermediaries: Background on the forthcoming digital services act](#), May 2020.

EPRS, [Digital services act: Initial appraisal of the Commission impact assessment](#), March 2021.

## OTHER SOURCES

[Single market for digital services \(digital services act\)](#), European Parliament, Legislative Observatory (OEIL).

## ENDNOTES

<sup>1</sup> The focus of this briefing is the digital services act. Please also see the EPRS briefing on the [digital markets act](#).

<sup>2</sup> See European Commission, [E-commerce Directive](#), 2020.

<sup>3</sup> See C. Angelopoulos, 'Beyond the safe harbours: harmonising substantive intermediary liability for copyright infringement in Europe', *Intellectual Property Quarterly*, Vol. 3, 2013, pp. 253-274. See also I. Garrote Fernandez-Diez, [Comparative analysis on national approaches to the liability of internet intermediaries for infringement of copyright and related rights](#), 2014.

<sup>4</sup> See European Parliament, [Collection of studies for the IMCO Committee – Digital Services Act](#), May 2020. See also T. Madiaga, [Reform of the EU liability regime for online intermediaries: Background on the forthcoming digital services](#)

- [act](#), EPRS, European Parliament, May 2020; and [Liability of online platforms](#), Panel for the Future of Science and Technology, European Parliament, February 2021.
- <sup>5</sup> See N. Lomba and T. Evas, [Digital services act](#), EPRS, European Parliament, October 2020.
- <sup>6</sup> See C. Collovà and T. Madiaga with C. Morichon and A. Väisänen, [Digital Services Act Pre-legislative synthesis of national, regional and local positions on the European Commission's initiative](#), EPRS, European Parliament, November 2020.
- <sup>7</sup> In addition, the Commission consulted on adopting ex ante regulatory instruments for [gatekeepers](#) and a possible [new competition tool](#) to address structural competition problems in digital as well as non-digital markets.
- <sup>8</sup> For an overview, see the repository of rules for online content moderation in the EU provided by [DOT Europe](#).
- <sup>9</sup> Before initiating proceedings, the Commission must only consult the EBDS (EBDS, Article 51).
- <sup>10</sup> This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under 'European Parliament supporting analysis'.
- <sup>11</sup> See study, [Online advertising: the impact of targeted advertising on advertisers, market access and consumer choice](#), European Parliament, 2021.
- <sup>12</sup> See de Marcellis-Warin, and others, [Artificial intelligence and consumer manipulations: from consumer's counter algorithms to firm's self-regulation tools](#), 2022. See also OECD, [Dark commercial patterns](#), 2022.
- <sup>13</sup> See B. Martins dos Santos and D. Morar, [Four lessons for U.S. legislators from the EU Digital Services Act](#), 2021.
- <sup>14</sup> For an overview of the issues at stake, see G. Frosio and C. Geiger, [Taking Fundamental Rights Seriously in the Digital Services Act's Platform Liability Regime](#), 2020.
- <sup>15</sup> See A. Wanless, [How Europe Can Tackle Influence Operations and Disinformation](#), Carnegie Europe, 2021.
- <sup>16</sup> See B. Wagner and H. Janssen, [A first impression of regulatory powers in the Digital Services Act](#), VerfBlog, 2021.
- <sup>17</sup> See A. De Streel and M. Ledgere, [New ways of oversight for the digital economy](#), CERRE, 2021.
- <sup>18</sup> See CERRE study, [Improving EU Institutional Design to Better Supervise Digital Platforms](#), 2022. Clarifying the implementation of the DSA with regard to copyright-infringing content would also be useful (see A. [Peukert](#) and others, [European Copyright Society – Comment on Copyright and the Digital Services Act Proposal](#), 2022).
- <sup>19</sup> See J. Quintais and S. Schwemer, [The Interplay between the Digital Services Act and Sector Regulation: How Special is Copyright?](#), 2022.
- <sup>20</sup> See P. ten Thije and J. van Hoboken, [Average monthly active recipients in the DSA: definition, grey areas, and how to calculate?](#), 2022.
- <sup>21</sup> See M. Husovec, [The DSA Newsletter #1](#), 2022.
- <sup>22</sup> See I. Buri, [A Regulator Caught Between Conflicting Policy Objectives](#), 2022.
- <sup>23</sup> See A. Kuczerawy, [Remedying Overremoval - The Three-Tiered Approach of the DSA](#), 2022.
- <sup>24</sup> See [D. Keller](#), [The EU's new Digital Services Act and the Rest of the World](#), 2022.
- <sup>25</sup> For an overview, see European Commission, [Questions and Answers: Digital Services Act](#), May 2022. See also M. Husovec and I. Roche Laguna, [Digital Services Act: A Short Primer](#), 2022.

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