



The EU Digital Services Act:

What should you be asking to begin prepping your business for compliance?

The Digital Services Act (DSA) is moving ahead at high speed. EU institutions have reached a political agreement and the Act is expected to become applicable in 2023. The Act includes an impactful package of requirements that intermediaries, and online platforms in particular, need to start preparing for. Now is the time to evaluate current workflows, perform impact assessments and gap analyses, and plan all steps for tomorrow's compliance.

We have been advising clients extensively on the draft EU Digital Services Act since its inception in 2020 and have compiled a few of the key questions intermediaries need to consider for future compliance.

Scoping your products and services

- What service classification (and regime) will apply to each of my services?
- Do some features of my product - or planned product evolutions - change the classification and the applicable obligations?
- How to seek the best qualification possible for a specific service?
- When a service classification depends upon the number of product users (e.g. online platform vs. very large online platform in the DSA depending on the number of average monthly active users), what are the calculation rules?
- To what extent can this regulation apply to the hybrid operational models of app stores?

Obligations and implementation

- What do I need to do to comply with new obligations?
- To what extent do I need to adjust my services to meet the new obligations?
- The obligations corresponding to the applicable service classification don't make sense for my products. What can I and should I do?
- How does this implementation affect my business model (and e.g., the way to advertise)?
- How do I integrate these new regulations into my overall compliance workflows?
- Do I need to conduct audits?
- Are there transparency obligations requiring me to publish information on how I implemented the requirements?

Overlap with other regulations

- How do I reconcile these new obligations with the data privacy requirements that already apply to my services?
- To what extent do these obligations overlap with consumer protection laws and other (pre-existing) online regulations?
- These new obligations will largely intersect with some other (more specific) recent or upcoming pieces of regulations (e.g. regulations over hate speech, fake news, terrorist content, minors safeguarding and the like). Is there a way I can only conduct compliance efforts that cover all of these areas?

Enforcement risks and procedures

- If I'm not 100 percent compliant on day one, what is the risk and how can I mitigate it?
- Who will be in charge of enforcing this regulation?
- Is there a leniency period to allow for compliance development?
- What type of sanctions can they apply to my products?

Interactions with other stakeholders

- How can I have an impact on the development of online service regulations?
- Should I reach out to other stakeholders like industry associations?

Our dedicated online services task force

Online services are subject to a growing number of rapidly evolving legal requirements and regulations – and substantial enforcement penalties. Our global team can help you navigate these complex frameworks to support and grow your business. We work closely with you to assess the requirements and provide practical, commercially oriented solutions in a collaborative way.

Online services are global in nature, but the legal frameworks vary widely. We bring a cross-border perspective to help you navigate the fast-changing environment and help you anticipate upcoming regulatory developments

And should you face an enforcement action, investigation, or litigation, our team can support you with a proper response and help ensure cross-border consistency.



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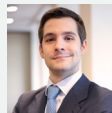
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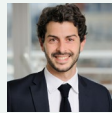
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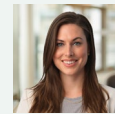
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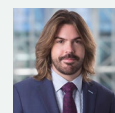
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