

Digital Services Act

February 2024

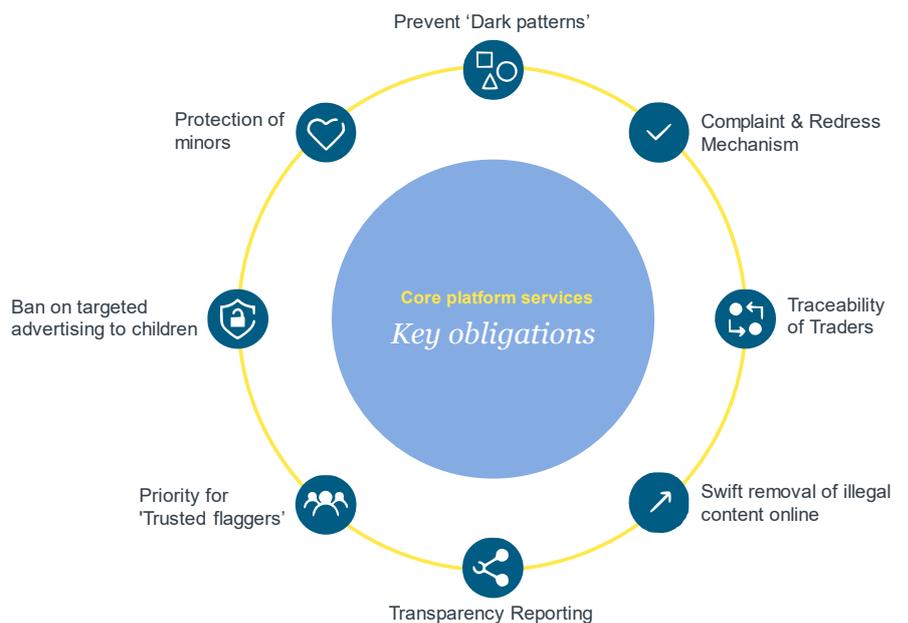
The Digital Services Act (DSA) is a ground-breaking EU instrument regulating the provision of digital services in the internal market. It is designed to set a global benchmark in the field of digital regulation and its level of ambition is clear from its extraterritorial effect.

Key obligations

The DSA applies to service providers, such as social media, hosting service providers, online marketplaces, app stores and collaborative economy platforms.

Very large online platforms (**VLOPs**), and very large online search engines (**VLOSEs**), with more than 45 million monthly active users in the EU, are subject to more stringent rules including the following:

- **Advertising Transparency:** requirement to include information on why a user was targeted with a particular ad and to set out the main parameters used for recommender systems
- **Appoint a compliance officer:** carry out an assessment of systemic risks
- **Carry out an annual independent audit:** at the platform's own expense
- **Algorithm Accountability:** the European Commission and national authorities are empowered to access the algorithms of VLOPs/VLOSEs upon request
- **Inclusion of search engines:** requirement to delist any links leading users to illegal content.



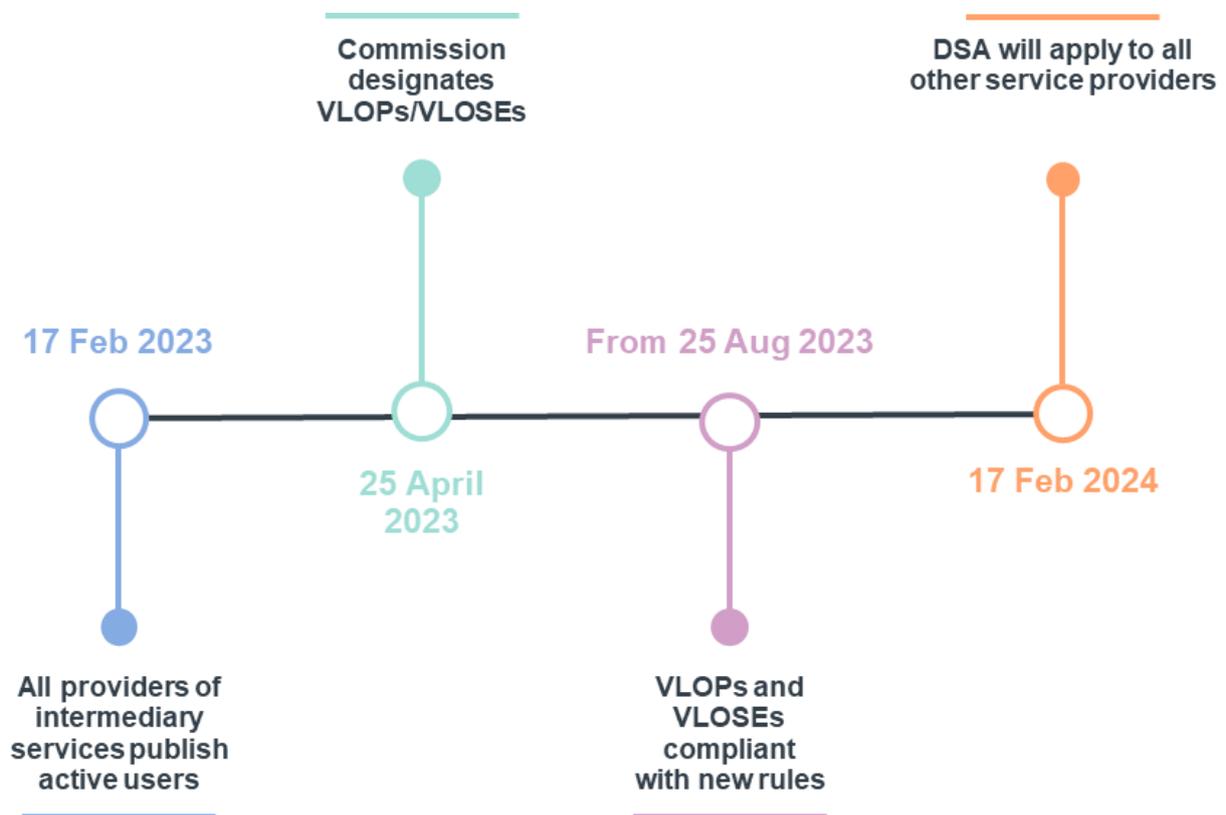
Enforcement

DSA enforcement will primarily rest with national “**Digital Services Coordinators**” (**DSCs**), i.e., the national competent authorities appointed by the EU Member States. The DSCs will meet and coordinate their activities in a **European Board for Digital Services** which will act as an advisory body. However, enforcement of the DSA will primarily lie with the Commission in relation to VLOPs and VLOSEs. Regulators have the power to issue **finances of up to 6% of a company’s annual global revenue** during the preceding year. In the most egregious cases, regulators could temporarily ban a digital company from operating within the EU.

What’s Next?

The Digital Services Act entered into force in November 2022 and will apply to VLOPs/VLOSEs starting 4 months after their designation (25 August 2023) and to all digital service providers from 17 February 2024. In addition, providers of online platforms and search engines have an obligation to publish numbers on their average monthly active recipients at least every six months from 17 February 2023 onwards.

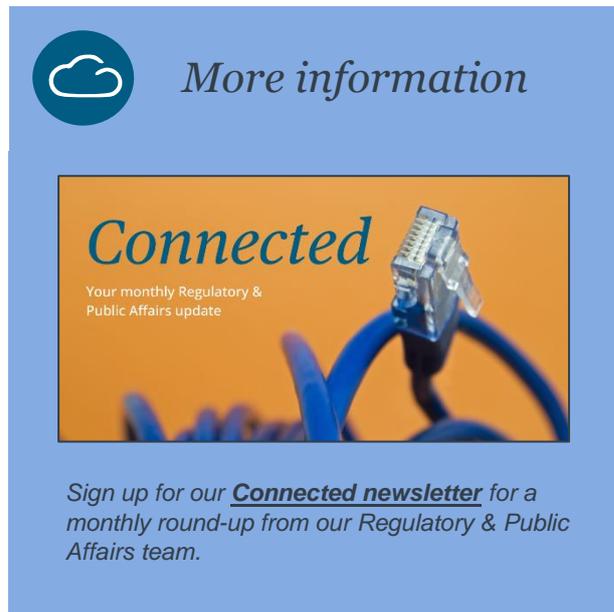
Timeline of DSA implementation



We can support you with compliance

Bird & Bird's team of experts is on hand to help your organisation prepare for compliance with the incoming rules, including by:

- Conducting a **scoping exercise** to determine the applicability of the DSA to your products or services
- Carrying out an **impact analysis** to determine which rules under the DSA applies to your organisation
- **Reviewing current policies, products & strategies** to assess what changes need to be made to align with DSA requirements
- Drafting a **practical compliance plan** with specific target dates & supporting implementation
- **Assessing the DSA guidelines**, Implementation and Delegated Acts as they are published by the Commission
- **Mapping DSA's impact** on IP, data protection, advertising, consumer protection, children's data and any harmful/illegal content laws
- **Identifying risks** & assisting with design of internal processes and **governance framework**
- Reviewing of user interfaces for issues with **dark patterns**
- **Updating terms of service** to reflect user rights and recommender provision
- **Training of DSA compliance officers**, legal, marketing & engineering teams
- **Assisting with enforcement**, litigation & complaints e.g., contacts with regulators, trusted flaggers
- **Updating contracts** to reflect impact on supply, cloud, outsourced services and vendor relationships



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