[NL] The Netherlands Authority for Consumers and Markets publishes the DSA Guidelines for providers of intermediary services

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On 12 September 2024, the Netherlands Authority for Consumers and Markets (*Autoriteit Consument en Markt* – ACM) published its Guidelines on due diligence obligations for providers of intermediary services under the Digital Services Act (DSA). These Guidelines aim to assist Dutch companies in navigating the complex legal landscape introduced by the DSA. They are also expected to facilitate the implementation and enforcement of the DSA in the Netherlands.

The provisions of the DSA have applied to all providers of intermediary services since 17 February 2024. However, much uncertainty regarding its content and practical application persists. In the Guidelines, the ACM clarifies what services are covered by the DSA, the exact obligations that are imposed on each category of provider, and how these providers can comply with their obligations. It covers five categories of due diligence obligations, namely (1) content moderation; (2) accessibility and communication; (3) the protection of minors; (4) influence on users; and (5) the trustworthiness of B2C online marketplaces.

The introduction to the Guidelines (section 1) provides a general overview of the DSA. It highlights its main objectives and explains how it complements the EU legal framework on information society services. Then, it maps and clarifies specific due diligence obligations imposed on providers of intermediary services (section 2), hosting providers (section 3), online platforms (section 4) and B2C online marketplaces (section 5). The asymmetrical nature of the DSA rules is also reflected in the table which accompanies the Guidelines (Annex I).

The draft version of the Guidelines was first published by the ACM on 18 January 2024. Stakeholders were invited to submit their comments by 16 February 2024. In total, the ACM has received 17 confidential written responses. The new version of the Guidelines includes the responses provided. The most important amendments are outlined in the separate document published alongside the Guidelines.

On 21 November 2024, the ACM will also hold an online information session for all interested parties who wish to learn more about the impact of the DSA on their businesses.

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The ACM is intended to act as the national Digital Services Coordinator (DSC) in the Netherlands. While the ACM has been provisionally designated as such by the Decree of the Minister of Economic Affairs and Climate, it is not authorised to exercise all enforcement powers envisioned under the DSA since the Dutch implementing law on the DSA has not been adopted yet. This law is expected to be passed in early 2025.

DSA Guidelines – due diligence obligations of providers of intermediary services

Amendments to the DSA Guidelines following consultation

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