Update on the DSA package

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DSA

Applicable to very large online platforms (VLOPs) and very large online search engines (VLOSEs) since August 2023, the Digital Services Act (DSA) started applying to all other online intermediaries in the European Union on 17 February 2024. Under Article 49(2) of the DSA, platforms which are not designated as VLOPs or VLOSEs are to be supervised at national level by Digital Services Coordinators (DSCs), in contrast to VLOPs and VLOSEs which are supervised by the European Commission itself. The DSCs are independent regulators that will work with the Commission to ensure the correct application of the DSA in their respective areas of competence.

The European Board for Digital Services, an independent advisory group envisaged in Article 47 of the DSA, met for the first time on 19 February 2024. The board will ensure that the DSA is applied consistently, and that users across the EU enjoy the same rights, regardless of where the online platforms are established. The meeting covered in particular the draft Guidelines for Providers of VLOPs and VLOSEs on the Mitigation of Systemic Risks for Electoral Processes (draft Election Guidelines). A consultation was open for a month until 7 March 2024. These guidelines aim to present VLOPs and VLOSEs with best practices and possible measures to mitigate systemic risks on their platforms that may threaten the integrity of democratic electoral processes. They are to be adopted in March.

On 15 February 2024, the European Commission also adopted the Implementing Act on a data-sharing platform envisaged under Article 85 of the DSA: the AGORA platform. It will support communications between the DSCs, the European Commission, and the European Board for Digital Services.

DMA

The Digital Markets Act (DMA) aims to regulate unfair practices by companies that act as gatekeepers, i.e. large online platforms that provide an important gateway between business users and consumers. Potential gatekeepers had to notify their core platform services to the Commission by 3 July 2023 if they met the thresholds established by the DMA. Following their designation, gatekeepers had six months to comply with the requirements, the obligations starting to apply on 7 March 2024.

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In 2023, six companies were designated as gatekeepers for 22 core platform services (Alphabet, Amazon, Apple, ByteDance, Meta, Microsoft). However, ByteDance, which operates TikTok, challenged this decision before the Court of Justice of the European Union. In February 2024, the Court dismissed the platform's request to suspend the Commission's decision designating it as a gatekeeper. On 1 March 2024, Booking, ByteDance and X notified their potential gatekeeper status to the Commission.

Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act)

https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32022R2065

Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act)

https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32022R1925

Guidelines for Providers of VLOPs and VLOSEs on the Mitigation of Systemic Risks for Electoral Processes

https://ec.europa.eu/newsroom/dae/redirection/document/102324

Order of the President of the General Court, Case T-1077/23 R, 9 February 2024

https://curia.europa.eu/juris/document/document.jsf;jsessionid=D8D13BFCC37D8EABA81AFE359A4982FF?text=&docid=282703&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=1110788

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