



DSA: RE-ESTABLISHING TRUST IN THE INTERNET SOCIETY

EVENT REPORT | DEC 2021 - JAN 2022

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EVENT REPORT

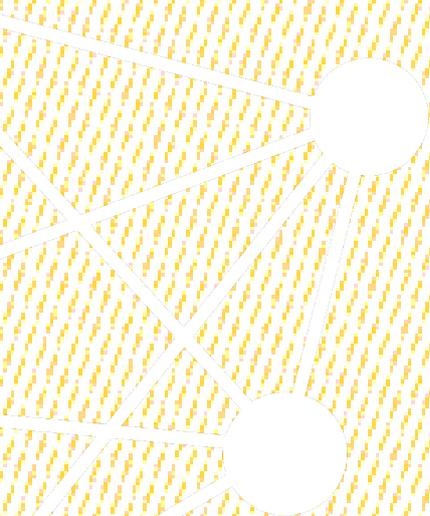
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The Digital Services Act (DSA) is a horizontal legislative proposal to regulate the digital ecosystem at large. By safeguarding the rights of internet users, this new legislative framework will play a key role in rebuilding trust in the internet society.

*The DSA will act as a *lex specialis* to the e-Commerce Directive, which has provided the legal basis for the digital economy in the EU since 2000. The core principle is that what is illegal offline is also illegal online, targeting various activities, from illegal content on social media to unsafe products sold online.*

Internet intermediaries are the most fundamental layer that connects us to the digital world; therefore, a trustworthy online sphere starts with them. While platforms will be responsible for taking down illegal content, networks have so far remained neutral intermediaries.

The distribution of responsibilities across the different digital actors in the DSA will define the digital space in the decades to come, and the level of trust users will have in it.



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INTERVIEW

How the EU law on online services wants to restore trust in the digital sphere

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By Luca Bertuzzi | EURACTIV.com



Mark Boris Andrijanič is the Slovenian minister for digital transformation.

The general approach to the Digital Services Act (DSA) has been one of the major achievements of the Slovenian Presidency, and on 25 November, EU ministers unanimously adopted the mandate to initiate the interinstitutional negotiations on it. The agreement was reached just 11 months after the presentation of the proposal under the leadership of the

Slovenian Presidency.

Mark Boris Andrijanič, Slovenia's minister for digital transformation in charge of the file, told EURACTIV in an exclusive interview how the DSA is meant to foster trust in the digital environment.

What is the Digital Services Act trying to achieve?

The number one objective of the DSA is to create a safer digital space. It does so by protecting consumers rights and setting out clear as well as balanced responsibility for platforms, especially the large ones. It brings more clarity and legal certainty into the system, which will, in the end, strengthen trust in digital services, and the digital space in general, for our citizens.

That's why we need to proceed with this legislation in a timely manner, and we are very satisfied that we reached an agreement swiftly. It's a historic win for European consumers.

There are several signs that trust in the digital environment is declining. How is the DSA intended to restore that trust?

The problem with today's digital space and the citizens' experience with it is that there seems to be a lack of clarity when it comes to the rights and obligations of all the players in the digital sphere, which obviously leads to certain practices that are unfair or unwanted.

Our citizens don't feel safe in cyberspace. With the DSA, we are very firmly implementing the principle that what is illegal offline should also be illegal online. As a result, there will be more transparency and certainty when it comes to what is allowed on the internet and what isn't.

This lack of clarity is not only hurting consumers. It's also something that no business wants. It's also in the interest of the internet businesses that we restore citizens' trust because this will foster the consumption of online services. In the end, it's a win-win situation over the long run and a very necessary move in the short run.

One of the most delicate points the DSA is trying to address is illegal content, which needs to be balanced with freedom of speech. How does the DSA strike that balance?

The DSA is horizontal legislation of procedural nature that doesn't really define what is legal and illegal.

The definition of illegal content remains the responsibility of national legislations, except when it comes to harmonised rules across the EU, as is the case for terrorist content and child sexual abuse.

What the DSA does regulate is the management of illegal content. Meaning how providers of online services deal with this kind of content, setting very clear rules and procedures on what needs to be done in various cases, for instance, notifying the competent authorities.

When it comes to the content that is harmful but legal, that is an area where platforms have more freedom. However, their policies should be defined in their terms and conditions, and these must comply with human rights.

What's important to highlight is that intermediaries have no general monitoring obligation, a principle that was already set out in the e-Commerce Directive in 2000. But, of course, when a platform is informed about the legality of certain content that's been uploaded, then it must react accordingly.

To which services do these obligations apply?

There is a fundamental difference between intermediaries that are mere conduits, such as internet service providers, and very large online platforms. This distinction is at times a bit blurry, but most of the time, you can distinguish intermediaries that are different in nature and their societal impact.

Internet providers are only transmitting communications and are therefore not subject to obligations

to take down illegal content. They are not liable as long as they didn't initiate the communication, haven't defined or selected the receiver, or haven't modified the information.

However, they need to comply with certain conditions such as having a legal representative in the EU, providing compliant terms and conditions, and transparency reporting.

In terms of societal impact, how are the different digital actors meant to address potential risks?

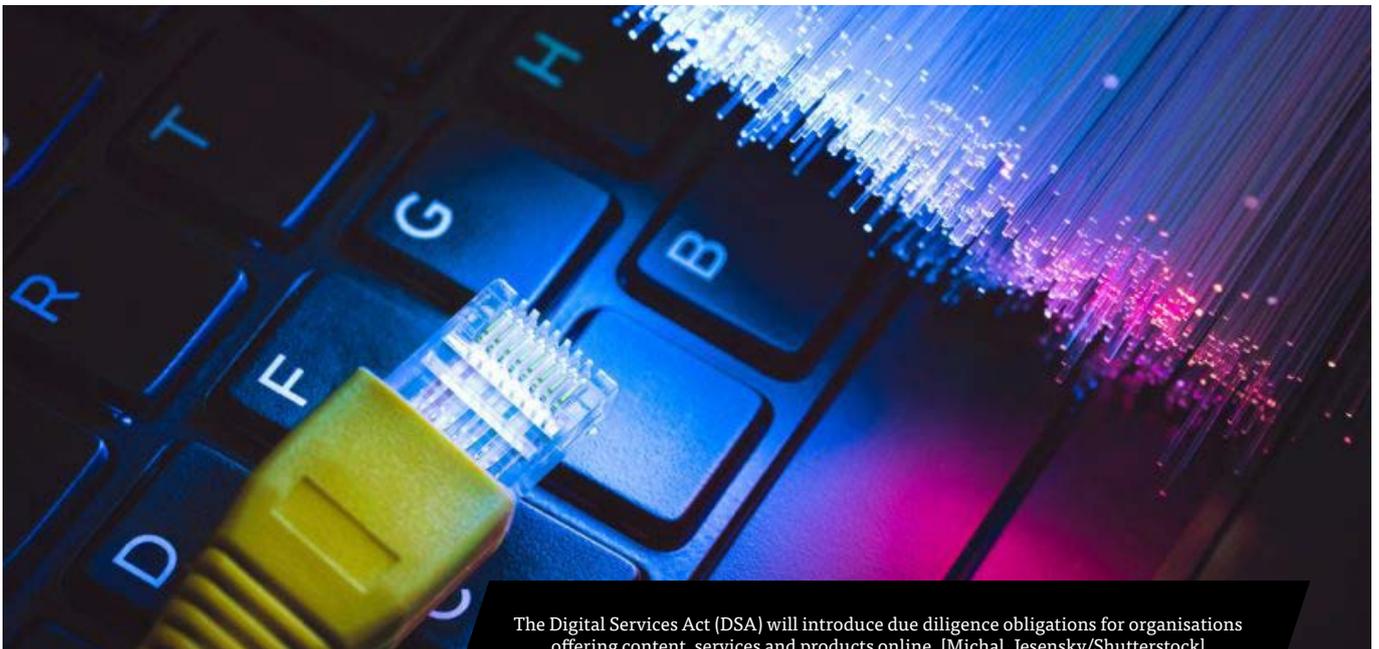
The very large online platform will need to conduct risk assessments. Platforms with a systemic role in the digital space also pose systemic risks to the participants online, which means there needs to be a higher degree of oversight and transparency.

It's really important to notice that these obligations for online service providers are designed in an asymmetric manner, which means that smaller players have far fewer obligations than the big, systemic players.

One of the objectives of the DSA is also to encourage entrepreneurship and innovation, and we do not want to create unnecessary costs or unintended consequences for the small yet growing companies.

Connectivity providers eye redistribution of responsibilities with the DSA

By Luca Bertuzzi | EURACTIV.com



The Digital Services Act (DSA) will introduce due diligence obligations for organisations offering content, services and products online. [Michal_Jesensky/Shutterstock]

For 20 years, internet service providers have been tasked by relevant authorities with taking down illegal content. With the Digital Services Act (DSA), obligations are largely moving to online platforms.

The DSA is a flagship legislative proposal that builds on the e-Commerce Directive to define roles and responsibilities for the players of the digital economy. One of the key points that the regulation is trying to address is the responsibility of online platforms to remove illegal content.

The obligations introduced are proportionate to the size of the company, with very large online platforms considered to have a 'systemic risk' on the digital ecosystem.

"The platform ecosystem is highly centralised with a few commercial actors in control of information flows, content, services and goods, the combination of ranking and rating systems," Slovenia's state secretary for digital, Peter Geršak, told an event organised by trade association GIGAEurope last week.

For Geršak, these platforms have a huge societal impact as citizens are businesses are dependent on them but in turn very little insight into how they function.

According to the Slovenian politician, this lack of transparency and accountability was reflected in treating information as nothing more than a commodity, which has degraded public debate by amplifying disinformation.

"The DSA has the potential to restore citizens' trust and increase

consumer protection by creating harmonised legal framework applicable to all intermediate service providers that are offering their content, goods or services within the EU,” Geršak added.

In relation to content moderation, very large online platforms are considered to pose systemic risks for the key role they have assumed in shaping the democratic debate.

“It would be very limited if very large online platforms only looked at what was happening within their own space within their own users,” stressed Sally Broughton Micova, a research fellow at the Centre on Regulation in Europe (CERRE).

Broughton Micova makes the example of zero-tariffs, commercial offers that do not count the mobile data used for certain platforms. As a result, many people might be able to access the internet only or predominantly through such platforms.

At the same time, Irene Roche Laguna, a European Commission official in charge of digital platforms, noted that the rules of the DSA were not merely designed for the largest actors, as “the internet is more than Google and Facebook.”

The DSA introduces rules intended to clarify the responsibility

of each actor in the digital ecosystem. On content moderation, the idea was to move away from obligations defined on a case by case approach, as they do not provide legal certainty for the platforms nor ensure the rights of the users are respected.

Matthew Allison, a senior policy manager at Vodafone, said the “real impact and the innovation of DSA is to move away from blocking the network level which we think is quite a blunt instrument. And have more responsibility sitting with the online platforms where materials are disseminated to the public”.

Irina Varlan, managing director at GIGAEurope, emphasized that these obligations should not spill over to internet providers to avoid upsetting a delicate balance between containing the spread of illegal content and the rights of businesses and users.

“While the spread of illegal content is a constraint for us all, a crucial element of trusted access and broad participation in the digital economy and society is that users need to know that their connectivity provider protects their private communications when accessing or uploading content,” Varlan said.

So far the DSA has avoided introducing general monitoring obligations, following one of the core principles of the e-Commerce

Directive. In other words, online platforms will have to remove only the illegal content they are aware of.

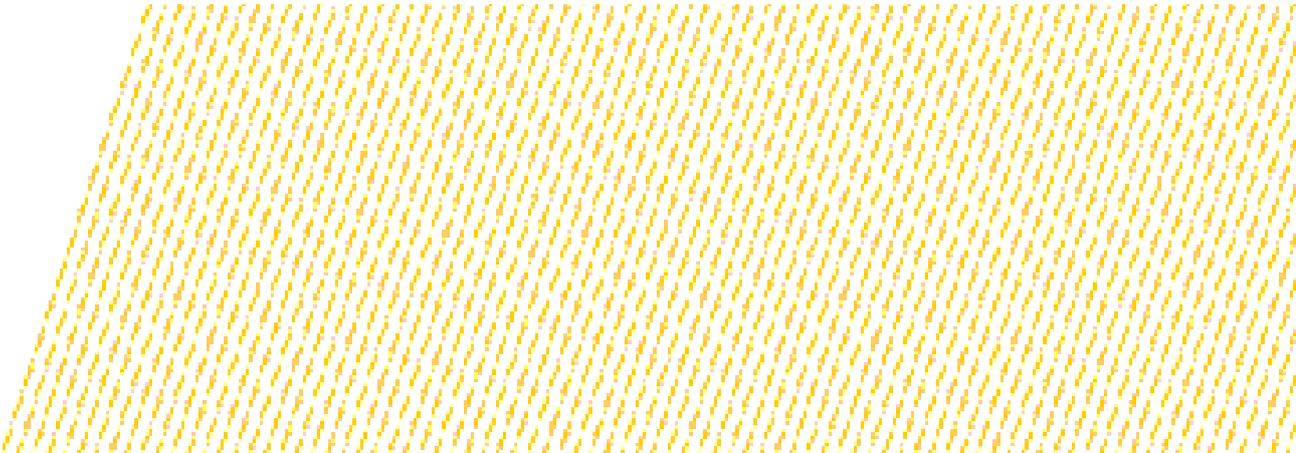
What is illegal content is defined at the national level, except for some sectorial legislation at the EU level, notably on terrorist propaganda and child sexual abuse material.

“The guidance we had when drafting our proposal was to do something that is as horizontal as possible, and only as vertical as necessary,” Roche Laguna explained.

Until now it was only up to the internet providers to block the spreading of illegal content. With the DSA, the lion share of the obligations will now fall on online platforms.

However, some obligations remain on internet providers, which for Vodafone’s Allison still need to be clarified, for instance on the notification obligations for a suspected criminal offence. He also regrets that the Commission did not clarify the distinction between a passive and active role for providers that merely transmit content.

Nevertheless, Allison said the DSA is an “opportunity to have a fair allocation of system obligations. We think that should lead to a safer internet for our customers.”





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