

DIGITAL SERVICES ACT – QUICK STATUS CHECKLIST

The EU Digital Services Act applies in full since 17 February 2024. Here is a selection of items to confirm as part of your Day 1 compliance checks.

All intermediary services¹

- 1 Processes are in place to respond to orders from competent authorities on illegal content or service users, and take necessary action.
- 2 Key contacts have been designated for interfacing with authorities and with users, or acting as the organisation's rep in the EU.
- 3 T&Cs have been reviewed and adapted to ensure they are compliant and contain all necessary information.
- 4 Mechanisms and resources are in place to ensure that where content moderation is carried out, it is compliant.
- 5 Processes are in place to effectively collect the information required for the periodic transparency reports on content moderation.

Additional provisions for hosting services (including online platforms)

- 6 A 'notice and action mechanism' has been set up, such that individuals and entities can notify alleged illegal content and provide information, and action can be taken.
- 7 A process is in place to provide statements of reasons on restrictions to users.

Additional provisions for online platforms

- 8 Users can lodge complaints against content moderation decisions via an effective internal complaint-handling system.
- 9 The provision of the service or the processing of notices and complaints can be suspended in the case of misuse.
- 10 The number of average monthly active recipients has been published on 17 February 2024.
- 11 The online interface has been checked to ensure it does not contain dark patterns.
- 12 There are processes to ensure advertising on the online interface is compliant, and a functionality for users to declare where their content is a commercial communication.
- 13 There is a functionality on the online interface for users to choose and modify their preferred options as regards recommender systems' parameters.
- 14 Appropriate and proportionate measures are in place specifically to protect minors.

Additional provisions for online marketplaces²

- 15 All necessary information has been obtained from relevant traders, and checked.
- 16 The online interface enables traders to provide necessary information and comply with their obligations under EU law, e.g. re pre-contractual information.

Additional provisions for VLOPs and VLOSEs³

- 17 Systemic risk assessment measures are in place, and risks assessments are carried out, including for instance regarding electoral processes⁴ in this election-intense year.
- 18 There is an option for each recommender system that is not based on profiling.
- 19 A repository providing additional transparency on advertising is set up and publicly available.
- 20 There is a dedicated and competent compliance function, and a head of the function, with access to management.

And of course, before all that, you have assessed and checked:

- You are in scope.
- Where your different services sit.
- Whether you can rely on any exceptions, e.g. due to the size of your business.

Digital Services Act Refresher

1. Reminder: If you are an online platform for instance, the requirements for all providers of intermediary services, the additional requirements for hosting services, and the additional requirements for online platforms all apply to you. And if you are designated as a VLOP, the additional requirements for VLOPs then also apply.

2. More specifically, the Digital Services Act refers to 'online platforms allowing consumers to conclude distance contracts with traders'.

3. The additional provisions for VLOPs and VLOSEs begin to apply to the relevant VLOP or VLOSE from 4 months after its designation. Note that some of the example requirements below have been challenged.

4. Draft guidelines have been published on the mitigation of systemic risks for electoral processes, and a public consultation is underway.

This publication is highly simplified, and compliance with the Digital Services Act is both critical and complex.

This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.