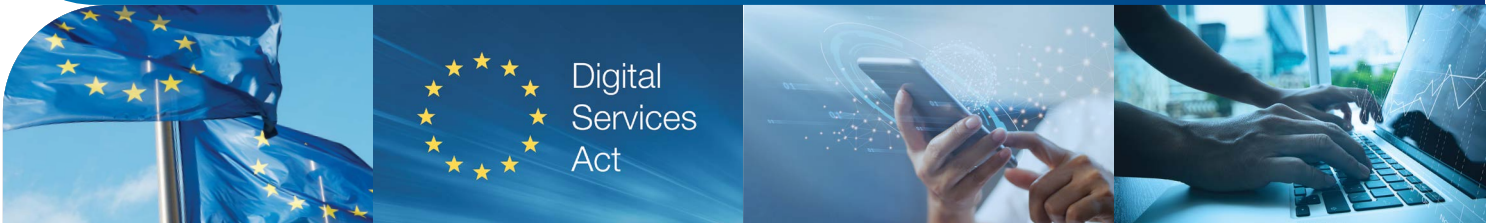


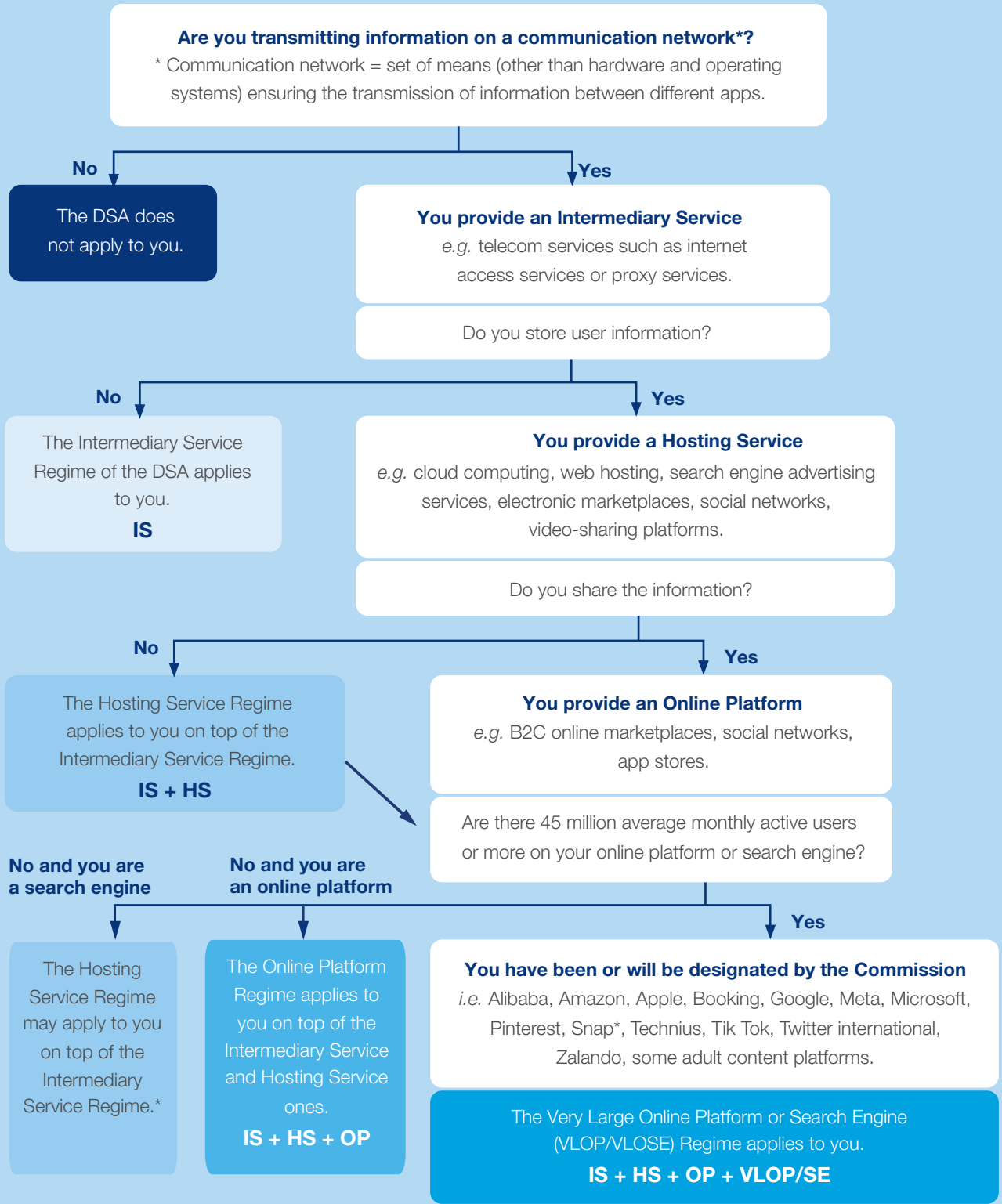
February 2024

The Digital Services Act

Are you impacted and how?



1. Who is concerned?



* Under the Ecommerce Directive, the European Court of Justice has ruled that search engines might be regarded as hosting services in certain cases (judgment of the 23 March 2010, Cases C-236/08 to 238/08, ECLI:EU:C:2010:159, para 111).

2. What are the drastic changes?

The DSA establishes:

- No general monitoring obligation of transmitted and/or stored information; but,
- A set of obligations ensuring content moderation effectiveness toward Intermediary Services.

3. What are the practical implications?

The following obligations apply, among others, with gradual intensity to all providers (IS, HS*, OP**, VLOP/VLOSE***):

DSA obligations	Practical implications	New skills required
<p>Communication with users</p> <ul style="list-style-type: none"> • HS: notification of illegal content mechanisms for users. • OP: dispute resolution mechanisms, special treatment of “trusted flaggers”**** notifications. <p>Content monitoring</p> <ul style="list-style-type: none"> • IS: restrictive measures on illegal content or incompatible content with the Terms & Conditions (T&C). • HS: notification to public authorities of suspicions of criminal offence with a threat to life/safety of a person. • VLOP/VLOSE: assessment and mitigation of risks induced by the service. <p>Transparency obligations</p> <ul style="list-style-type: none"> • IS: reports on implementation measures (particularly when using AI technology), on recommend and advertising systems, on risk assessment. • OP: traceability of traders (when it is relevant), information of users when they have bought an illegal product. 	<p>Identification of the scope of illegal content</p> <ul style="list-style-type: none"> • HS: with regards to the entirety of EU’s and Member States’ law. <p>Implementation of monitoring processes</p> <ul style="list-style-type: none"> • IS: production of recurring reports. • HS: assessment of notifications from users. • OP: assessment of notifications from trusted flaggers on top of those from users. <p>Modification of T&C</p> <ul style="list-style-type: none"> • IS: inclusion of content moderation related restrictions and some implementation results. • VLOP/VLOSE: layout of the main elements in an easily readable summary. <p>Modification of online interface</p> <ul style="list-style-type: none"> • OP: modification of information display (design & content). • HS: introduction of notification, mechanism intended for users. 	<p>Advisory and implementing services</p> <ul style="list-style-type: none"> • Identification of the scope of illegal content - legal advice. • Implementation of monitoring processes - legal advice, IT. • Explanation of the content moderation process - legal advice. • Modification of T&C - legal advice, marketing. • Modification of online interface - legal advice, IT, Marketing. <p>Mandatory points of contact</p> <ul style="list-style-type: none"> • With authorities. • With users. <p>Legal representative</p> <p>Mandatory when the providers are not established in the Union, but offer services in the Union.</p>

* IS obligations also apply to HSs.

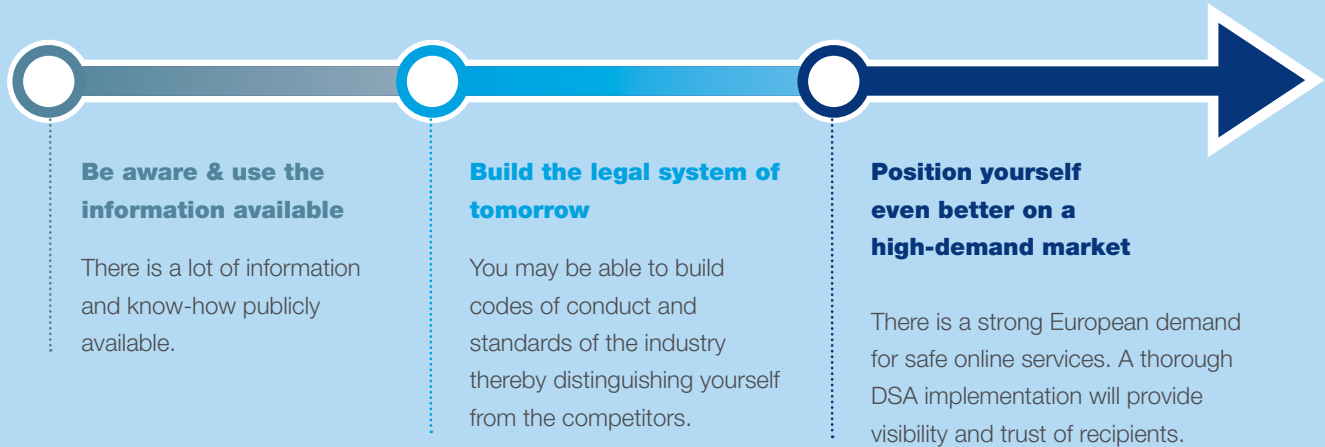
** IS and HS obligations also apply to OPs.

*** IS, HS, OP obligations also apply to VLOPs. IS, HS obligations also apply to VLOSEs.

**** Trusted flaggers = persons designated by the public authorities for their skills and experience.

4. What are the opportunities?

"Every disadvantage has its advantage" – Johan Cruyff



What are the timelines

02/17/2024 – Obligations and liability regimes apply to all IS / HP / OP / VLOP / VLOSE.

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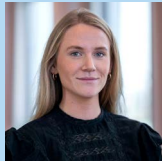
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