

## What are European Digital Services Act (DSA) and Digital Markets Act (DMA)?

The European Commission recently proposed the **Digital Services Act (DSA)** and the **Digital Markets Act (DMA)** to update the regulations governing digital services in the EU. These two legislative initiatives were proposed in December 2020 and reached a political agreement in March 2022 for the Digital Markets Act and April 2022 for the Digital Services Act. The DSA and DMA together form a comprehensive set of rules that will be implemented throughout the EU to promote a safer and more open digital environment.

The main goals of these acts are to protect the fundamental rights of digital service users and to create a level playing field that supports innovation, growth, and competitiveness in the EU and around the world. The DSA primarily addresses online intermediaries and platforms, such as social networks, content-sharing platforms, app stores, and online travel and accommodation platforms. Meanwhile, the Digital Markets Act focuses on the regulation of gatekeeper platforms, which are digital platforms with a systemic role in the internal market and control significant digital market ecosystems.

The need for new rules arises from the rapid advancement of digital services, which has greatly impacted our daily lives and opened new opportunities for businesses and traders. However, this transformation has also created significant challenges, such as the spread of illegal goods, services, and content online, the manipulation of algorithmic systems for spreading disinformation, and the concentration of control in a few large platforms. The EU requires a modern legal framework to ensure the safety of online users, protect fundamental rights, and maintain a fair and open online platform environment.

The Commission consulted with a wide range of stakeholders, including the private sector, civil society organizations, national authorities, academia, the technical community, and the general public, in preparing the legislative package. The consultation process was carried out in the summer of 2020 and involved European and non-European citizens and organizations.

After being adopted by the European Parliament in July 2022 and the Council of the European Union, the DSA and DMA were signed by the Presidents of both institutions and published in the Official Journal. The DMA went into effect on November 1, 2022, and the DSA on November 16, 2022. The DSA will be directly applicable throughout the EU and will go into effect on January 1, 2024, or fifteen months after its entry into force, whichever is later. For very large online platforms and search engines, the DSA will be effective four months after their designation.

**Key provisions of the DSA include:**

1. **Platform liability:** The DSA establishes clear rules for online platforms, making them more accountable for illegal content and activities on their sites. This includes illegal hate speech, intellectual property infringements, and consumer protection violations.
2. **Content moderation:** The DSA sets out new rules for the moderation of illegal content online. This includes requirements for platforms to put in place effective and transparent procedures for dealing with illegal content and to cooperate with national authorities in removing illegal content.
3. **Country-of-origin principle:** The DSA applies the country-of-origin principle, which means that a single set of rules will apply to digital services across the EU, regardless of where the service provider is based. This will reduce the administrative burden on businesses and increase legal certainty for consumers and businesses.
4. **Accessibility and transparency:** The DSA requires digital services to be more transparent about how they operate and how they use data. This includes providing clear and concise information about data protection and the processing of personal data.
5. **Increased cooperation between EU Member States:** The DSA promotes increased cooperation between EU Member States to ensure effective enforcement of the rules. This includes cooperation between national authorities, such as consumer protection agencies and data protection authorities, to better protect consumers and businesses online.



### Key provisions of the DMA include:

1. **Definition of Gatekeepers:** The DMA defines “gatekeepers” as digital platforms with significant market power in the EU. These platforms are subject to specific obligations and rules under the DMA.
2. **Prohibitions on harmful business practices:** The DMA prohibits gatekeepers from engaging in certain harmful business practices, such as self-preferencing, bundling, and the use of sensitive data in a discriminatory manner.
3. **Obligations for gatekeepers:** The DMA imposes obligations on gatekeepers, including obligations to provide equal treatment to users and businesses, to allow business users to switch to another service provider, and to provide non-discriminatory access to data.
4. **Independent monitoring and enforcement:** The DMA establishes an independent monitoring and enforcement mechanism to ensure compliance with the rules set out in the DMA. This includes the ability for the European Commission to impose fines of up to 10% of a gatekeeper’s global annual revenue.
5. **Promoting competition:** The DMA aims to promote competition in the digital market by ensuring that dominant platforms do not abuse their market power to the detriment of consumers and businesses.

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