The DSA's Scope Briefly Explained

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This is an excerpt from a draft of Chapter 9 from my forthcoming book (Husovec, *Principles of the Digital Services Act* (OUP, [May] 2024)). It describes the main digital ecosystem of services that are regulated by the DSA as infrastructure services, hosting services, online platforms, very large online platforms (VLOPs), and very large online search engines (VLOSEs). It summarises the first disclosures made by companies on the 17th of February 2023, the first batch of designation by the European Commission in April 2023 and explains why certain companies likely fall in or outside the DSA's regime.

Contents

Digital Services in the EU

It is hard to think about digital services in the abstract. This chapter, therefore, outlines the EU's DSA regime and how it will likely apply to specific services in the coming years. The goal is not to be exhaustive, and it is possible that services change after we publish this book, however, this gives you, the reader, a more plastic view of the rich ecosystem we are talking about.

DSA discriminates based on size. Midsize firms have more obligations in content moderation. Digital services with the biggest foothold in Europe are subject to the most extensive risk mitigation regime. For proper qualification, three important criteria matter:

a) Technical functionality embedded in a digital service
b) Size of a company offering a digital service
c) Average monthly users of a digital service in the EU

Very few due diligence obligations apply to *infrastructure services* (mere conduit and caching), such as internet access providers. Some of the DSA's content moderation obligations apply to all digital services

that simply store other people's information as an economic activity (*mere hosting*). However, transparency and other more resource intensive content moderation provisions (e.g., on dispute resolution) apply only to those mid-sized companies that store it and distribute to the public as a main functionality (*online platforms*). These same companies are also subject to specific fair design obligations concerning their recommender systems, advertising, and user interfaces. If they serve children, they owe a specific due diligence obligation to children. Finally, online platforms that have 45 million average monthly users in the European Union must comply with all the previous rules and their special obligations as *very large online platforms*. The most far-reaching among them is a general risk management obligation.

Technical functionality / Size of firms or impact	Firms with *less* than 50 employees and turnover below 10 million euros	Firms with *more* than 50 employees or turnover above 10 million euros	Firms providing services that are used by 45 million users in the EU
Infrastructure services (caching, mere conduit)	*Very few* obligations	*One* annual transparency obligation	*No* extra obligations.
Storage of other people's information without public distribution function (mere hosting)	*Small* notice and action obligations	*One* annual transparency obligation	*No* extra obligations.
Storage of other people's information with public distribution function (online platforms)	*No* extra obligations.	Bi-annual reporting of average monthly user numbers, *many* content moderation obligations and *some* fair design obligations (advertising, recommender systems, user interfaces, and children)	*All* DSA's risk mitigation obligations, including content moderation and fair design obligations
Generalist search engines	*One* obligation to bi-annually report monthly users	*No* extra obligations.	*Most* of the DSA's risk mitigation obligations

The size of companies is crucial for their key status as *online platforms*. If companies do not have 50 employees or an annual turnover of 10 million euros, they might perform the crucial technical function, but they will not be regulated as such unless they grow the size of their companies or user base. However, even small or micro companies operating such services can be requested to provide their numbers by the European Commission or the Digital Services Coordinator.[1] Generalist search engines must report their numbers regardless of their size.[2] The size of the company does not matter if the user base for its services is very large. Even companies with less than 50 employees, or an annual turnover below 10 million euros, will be regulated as online platforms, and VLOPs, if they reach 45 million monthly active users in the EU.

[1] Article 24(3)

[2] Article 19(1) only speaks of online platforms, and Article 24(2) speaks of online search engines in general.

DSA's counting of users

The DSA mentions that the Commission will issue a delegated act about how to count of *active monthly recipients of services*. This has not happened at the time of writing this book. Only an FAQ that does not address the methodology has been issued.[3] Article 3 defines the concept as follows:

> (p) 'active recipient of an online platform' means a recipient of the service that *has engaged* with an online platform by either requesting the online platform to host information or being exposed to information hosted by the online platform and disseminated through its online interface;

Thus, the crucial term is one of "engagement" which can take the form of a "request to host information", such as by sellers, or content creators, or being "exposed" to such information. An active user is either a content creator or a consumer of content. As noted by Recital 77, "engagement is not limited to interacting with information by clicking on, commenting, linking, sharing, purchasing or carrying out transactions on an online platform", and is most certainly not limited to registered users. For social media services that allow only registered users to share and see the content, this suggests only registered users count. However, for social media that is public, this includes both content creators who actively post or share content, and those who only read it, even though they do not have an account. A specific complication is whether the readership of content from the service embedded in other services, such as in newspapers, also increases the user count. Article 3(p) speaks of "being exposed to information (..) disseminated through its online interface". Arguably, embedded content which relies on its own interface created for this purpose by the provider should also count these additional readers. However, if the embedding technique does not use the providers' own interface, such users arguably do not need to be counted.

Recital 77 states that the count should "reflect all the recipients *actually engaging* with the service at least once in a given period of time, by being exposed to information disseminated on the online interface of the online platform, such as viewing it or listening to it, or by providing information, such as traders on an online platform allowing consumers to conclude distance contracts with traders".[4] The concept depends on "market and technical developments" (Recital 77).

Article 3 defines the concept differently for search engines:

> (q) 'active recipient of an online search engine' means a recipient of the service that has submitted a query to an online search engine and been exposed to information indexed and presented on its online interface;

For search engines, only the searching side is crucial. Thus, website owners, who benefit from the search, and can be considered recipients of the service, are irrelevant (Recital 77). This is because otherwise any search engine aspiring to be comprehensive would be immediately classified as a VLOSE due to the large number of resources that they can index. The presumption is that they do not "actively engage" with the search engine, although this might not be true for all website owners, particularly those who use dedicated interfaces to communicate with the search engine about their websites. However, in those cases, they can become VLOPs because the content is submitted to them (e.g., Google Shopping).

[3] https://digital-strategy.ec.europa.eu/en/library/dsa-guidance-requirement-publish-user-numbers
[4] Emphasis ours.

When counting, in the first step, bots and scrapers can be excluded to the extent possible.[5] Nothing prohibits companies from overclaiming and thus from counting even users whom they do not have to. Recital 77 clarifies that multi-device use by the same person should not count as multiple users. Thus, the concept tries to approximate the real number of unique human beings using the service. This can be tricky to calculate. The use of proxies (e.g., the average number of devices per person) to calculate the final number of unique users is thus unavoidable. Whatever the final number, it always remains to be only a better or worse approximation of the real user base. That being said, Article 24(2) demands a number.

Furthermore, the counting must be on per-service level (Recital 77). This can be difficult for hybrid services that incorporate several aspects, only some of which constitute platforms, such as marketplaces selling also own goods, video-sharing services also promoting their own content, or messaging services whose chats are not always public. The features that drive user engagement also do not necessarily have to be those that are user-generated. For instance, online maps with user reviews arguably are useful mostly for navigation, however, the user-generated component turns them into a platform. In these cases, the question is how to separate *non-platform activities*. Possibly, the only possible approach is to separate if this is realistic. If such separation is not possible because the components are too integrated, the counting must be done together. The first disclosures suggest that the methodology behind hybrid services might be tested on the example of porn sites which likely heavily discount their "platform-driven" user base.[6]

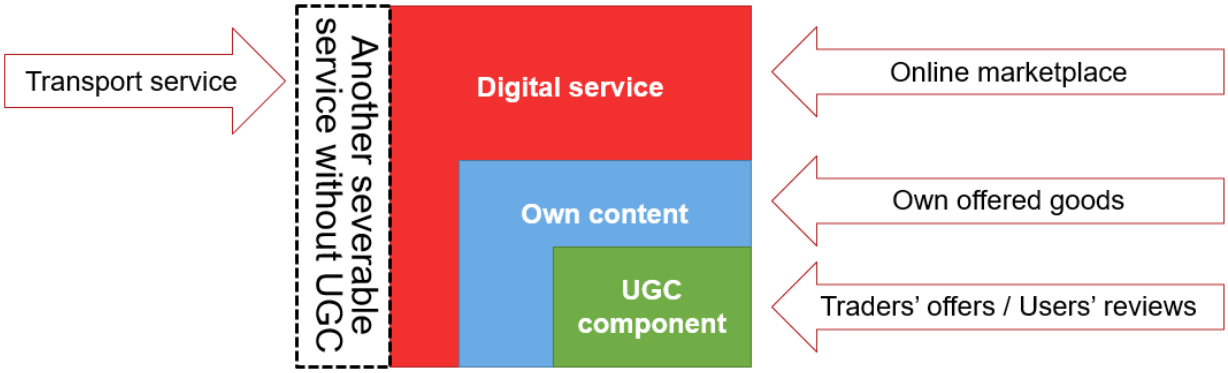
To some extent, an imprecise but justifiable methodology should be an acceptable methodology. Privacy considerations demand that companies not to engage in any additional tracking just to comply with the DSA. Therefore, it should be possible to use proxies when calculating the average monthly users. For instance, DuckDuckGo used survey data to estimate a device-per-person estimate,[7] and Wikipedia used some of the existing device-per-person estimates to approximate the number of unique users.[8] Google, on the other hand, published its data separately for signed and non-signed users.[9] In the first round of disclosures in February 2023, some companies did not publish their numbers, and most did not publish their methodologies. Going forward, the companies should publish actual numbers, not just statements of being above or below the 45 million user threshold, and also their actual methodology. Only this way, one can judge the limits of such disclosures. Statements pay only lip service to the DSA and its provisions.

Digital services vs relevant technical activity

The DSA does not rely on the term digital service. In fact, the entire Regulation is entirely agnostic to the actual service that incorporates the regulated technical activity. What triggers the DSA's application is the integration of technical activity into a broader digital service. If the regulated technical activity – storage and public distribution of other people's information – can be separated from their other activities, particularly, the public distribution of their own information, they do not have to be regulated (and thus

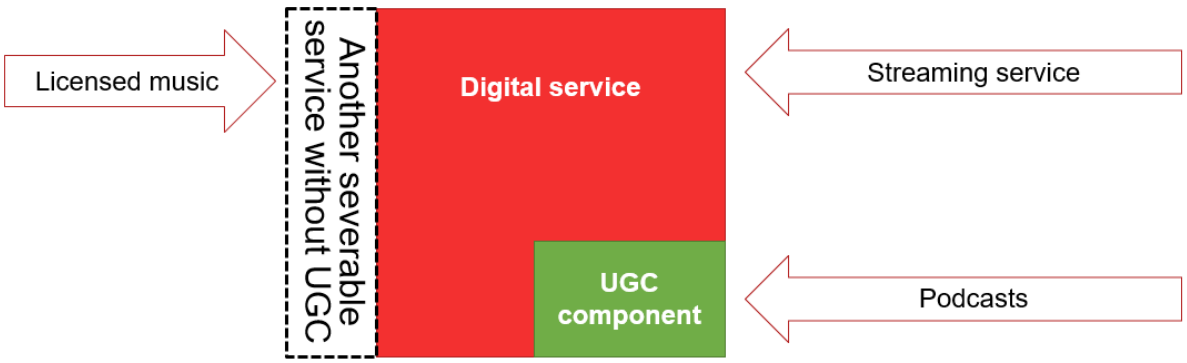
[5] Recital 77: Further, this Regulation does not require providers of online platforms or of online search engines to perform specific tracking of individuals online. Where such providers are able to discount automated users such as bots or scrapers without further processing of personal data and tracking, they may do so.
[6] PornHub disclosed only 33 million active monthly users, see https://www.pornhub.com/information/eu_dsa
[7] https://help.duckduckgo.com/duckduckgo-help-pages/r-legal/regulatory-reporting/
[8] https://foundation.wikimedia.org/wiki/EU_DSA_Userbase_Statistics
[9] https://storage.googleapis.com/transparencyreport/report-downloads/pdf-report-24_2022-7-1_2022-12-31_en_v1.pdf

counted) together. However, if these activities are not severable, they will be regulated as non-UGC design features of the same overall service. The below pictures illustrate this on an online marketplace.



This is the reason why Google Maps is regulated in its entirety even if a lot of content on the service is not user-generated. It explains why marketplaces often must report the number for the entire service because the digital service cannot be easily demarked for its platform and non-platform side. Such hybrid platforms thus end up being more easily regulated, which can be justified by the fact that the user experience is inseparably mixed, and thus the impact is very large anyway. Spotify is an example of a service whose user base can be probably separated and thus counted only for podcasts – its user-generated content – and music – its selected editorial content. While Spotify allows the creation of playlists, their distribution arguably constitutes only an ancillary feature and not the main activity as envisaged by the DSA.

However, even streaming services could become a tricky problem if the licensed music would be uploaded without instructions or due diligence, such as by artists. Such uploaded music could constitute "information provided by a recipient of service". The copyright licensing regime is not determinative from the perspective of qualifying as a hosting service or an online platform.

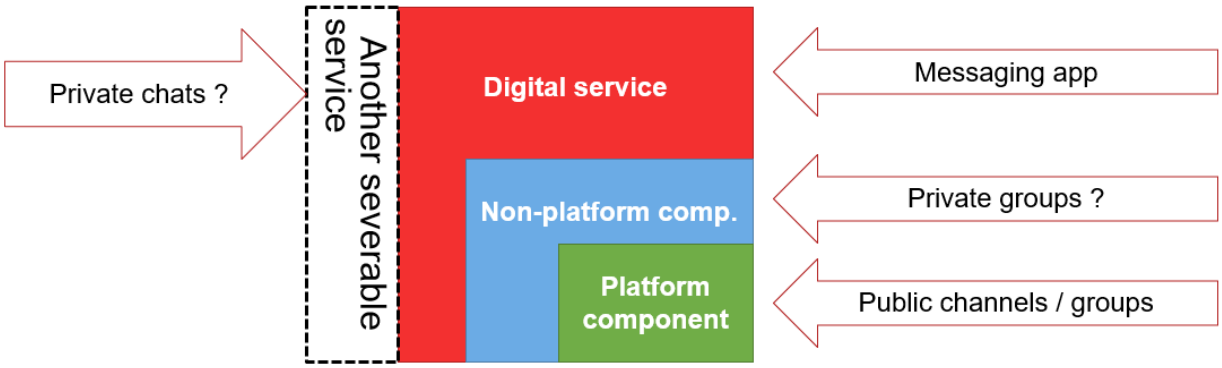


As of this writing, porn websites are very likely trying to use such separation to deflate the actual size of their services. This is clear from the fact that services like YouPorn, PornHub or Xvideos, which are in the

top 20 websites around the world,[10] but either do not report any, or report very low numbers[11] – perhaps to avoid regulation and more scrutiny.

Another set of issues concerns specifically *search engines*. Since search engines and online platforms have the same threshold, the problem only arises if two types of services are combined. Bing's search qualifies as VLOSE. Even its integration of a ChatBot could count as a regulated non-UGC design feature. However, it is less clear whether its advertising intermediation arm constitutes only part of the service or an entirely separate VLOP. Storage of advertising and keywords qualifies as hosting, and the publication of the former should arguably constitute an online platform. If this is the case, the question is whether Bing's search size also elevates its advertising arm into being a VLOP. Arguably, the answer should be yes since the advertising appears in the same search results. This can have consequences for the content moderation side of advertising, and its relationship with advertisers, such as their disputes.

Finally, *messaging services* are regulated differently depending on how they operate. Cloud-based messaging such as Telegram or Messenger constitutes hosting. If the groups or channels are public, they can constitute online platforms. However, in Messenger's case, it is a feature integrated into a social network, so remains regulated along with the main product. In Telegram's or Viber's case, this again begs the question of how to count the users. Arguably, if the user base for two functionalities is severable, the provider can deduce the numbers for non-platform activities, such as private messaging.



Finally, the companies are not prohibited from using methodology that inflates their numbers. While Article 24(2) asks for specific information, as long as more methodologies are acceptable, it is unlikely that the companies will be published for higher than actual disclosures. In absence of common methodology, the numbers thus are not entirely comparable.

One of the difficulties in practice is to determine the borders of a particular service. This will be soon addressed by the General Court in Zalando v European Commission. Zalando argues that it can separate the average number of monthly users for its marketplace from those for its own goods. Such hybrid marketplaces pose several problems. If the separation does not exist in the user experience, can it be created for the purpose of counting users? If the same users can consult their own and third-party products in the same interface, and move seamlessly between them, can we split the user base? My preliminary view is that unless they can show some strong separation in the user experience, they will need to count

[10] https://www.similarweb.com/top-websites/
[11] https://www.youporn.com/information/#eudsa ("7.3 million average monthly recipients")

all user numbers together. While this might over-include some providers which pose fewer systemic risks, the DSA (unlike DMA) does not need interrogation of the actual impact on the markets or society. The "reach threshold" of 45 million monthly active users is an arbitrary yardstick. Thus, all that matters is the presence of users in one interface.

Just to remind, the definition of the recipient of the services in the DSA is very broad (Recital 77):

> Accordingly, the number of average monthly active recipients of an online platform should reflect all the recipients actually engaging with the service at least once in a given period of time, by *being exposed to information disseminated on the online interface of the online platform*, such as viewing it or listening to it, or by providing information (..)

Thus, as long as the interface exposes its own offers to the same users as those of third-party traders, I am sceptical that separation for the purposes of determining the reach of the service can be made.

VLOPs, VLOSEs and runners-up

On April 25, 2023, the European Commission published a list of designated VLOPs/VLOSEs.[12] The designations are based on the first round of disclosures from February 17, 2023. The designation covers 19 separate services, out of which two are search engines, two app stores, five marketplaces, eight social media, one encyclopaedia and one map service. Many of the providers will have their European base in Ireland. This matters particularly for non-systemic violations of regular obligations of the DSA (other than those specifically designed for very large services), where the European Commission has no competence. Zalando, a German marketplace, is currently litigating its designation as a VLOP before the General Court.[13]

	Company	Digital Service	Type	Est. (cc)	Users (mil)
Search	Alphabet[14]	Google Search	VLOSE	IE	332+
	Microsoft[15]	Bing	VLOSE	IE	107
Social media	Alphabet	YouTube	VLOP	IE	401+
	Meta[16]	Facebook	VLOP	IE	255
	Meta	Instagram	VLOP	IE	250
	Bytedance[17]	TikTok	VLOP	IE	125
	Microsoft	LinkedIn	VLOP	IE	122
	Snap[18]	Snapchat	VLOP	?	96+
	Pinterest[19]	Pinterest	VLOP	?	n/a
	Twitter[20]	Twitter	VLOP	?	100+

[12] https://digital-strategy.ec.europa.eu/en/policies/dsa-vlops
[13] *Zalando v European Commission* (Case T-348/23)
[14] https://storage.googleapis.com/transparencyreport/report-downloads/pdf-report-24_2022-7-1_2022-12-31_en_v1.pdf
[15] https://support.microsoft.com/en-au/account-billing/information-on-average-monthly-active-recipients-of-service-in-the-european-union-0515c3e5-e0c9-4471-9e11-cdbe2bb2f4c3
[16] https://transparency.fb.com/sr/dsa-report-feb2023/
[17] https://www.tiktok.com/transparency/en/eu-mau/
[18] https://values.snap.com/en-GB/privacy/transparency/european-union
[19] https://help.pinterest.com/en/article/digital-services-act
[20] https://transparency.twitter.com/en/reports/amars-in-the-eu.html

App stores	Alphabet	Google App Store	VLOP	IE	274+
	Apple[21]	Apple App Store	VLOP	IE	n/a
Wiki	Wikimedia[22]	Wikipedia	VLOP	?	151+
Online Markets	Amazon[23]	Amazon Marketplace	VLOP	LX	n/a
	Alphabet	Google Shopping	VLOP	IE	74+
	Alibaba[24]	AliExpress	VLOP	?	n/a
	Booking.com[25]	Booking.com	VLOP	NL	n/a
	Zalando	Zalando	VLOP	DE	n/a
Maps	Alphabet	Google Maps	VLOP	IE	278+

The above list warrants some explanations.

- Wikipedia is in the scope because it constitutes an economic activity. Its non-profit character is irrelevant.
- For App stores, it is irrelevant that they approve apps, as this is immaterial for their classification as VLOPs.
- Google Maps has a heavy UGC-component even though maps as such might constitute editorial content that is licensed and produced by Google.
- Search engines are subject to regulation as VLOSEs, but some of their components could attract additional status as VLOPs. This classification has little consequence, apart from the fact that content moderation obligations must be followed more closely by their "platform" features.

Next to the above companies, the following major services declared to constitute mid-size or bigger online platforms, and thus likely runners-up to become VLOPs.

[21] https://www.apple.com/befr/legal/more-resources/dsa/befr/
[22] https://foundation.wikimedia.org/wiki/EU_DSA_Userbase_Statistics
[23] https://www.amazon.de/-/en/gp/help/customer/display.html?ref_=hp_left_v4_sib&nodeId=GF4WKPX3G65RNNRJ
[24] https://www.aliexpress.com/gcp/300000414/regulatedinformation?wh_weex=true
[25] https://www.booking.com/content/legal.es.html?auth_success=1

Runners-up and other platforms

Online platforms	Digital Service	Est. (cc)	Users (mil)	User-generated-content components
Social media	BeReal[26]	TBD	18	Videos, sound, photos & text
	Reddit[27]	TBD	10+	Videos, sound, photos & text
Messaging services	Telegram[28]	TBD	38+	Content on open channels/groups
	Viber[29]	TBD	30+	Content on open channels/groups
Marketplace	Airbnb[30]	TBD	30+	Sellers' offerings & users' reviews
	Apple Books[31]	TBD	n/a	Books
	Vinted[32]	TBD	n/a	Sellers' offerings & users' reviews
	Allegro[33]	TBD	23+	Sellers' offerings & users' reviews
	Cdiscount[34]	TBD	19+	Sellers' offerings & users' reviews
	Leboncoin[35]	TBD	26+	Sellers' offerings & users' reviews
	Roblox[36]	TBD	25+	Games offered by users
	eBay[37]	TBD	n/a	Sellers' offerings & users' reviews
Comparison & review sites	Tripadvisor[38]	TBD	n/a	User reviews
	Trustpilot	TBD	n/a	User reviews
	Gutefrage[39]	TBD	30+	Questions and answers of users
	Heureka[40]	TBD	23	Partner's offerings
	Skyscanner[41]	TBD	34+	Partner's offerings
Content sharing services	PornHub[42]	TBD	33	Users' videos
	OnlyFans[43]	TBD	n/a	Users' videos
	Spotify Podcasts[44]	TBD	n/a	Users' podcasts
	DailyMotion[45]	TBD	n/a	Users' videos, comments, etc.
	GitHub[46]	TBD	10+	Software tools posted by users

[26] https://help.bereal.com/hc/en-us/articles/9372185954077
[27] https://www.redditinc.com/policies/transparency
[28] https://telegram.org/faq#q-is-telegram-a-very-large-online-platform-according-to-the-eu-d
[29] https://www.viber.com/en/terms/the-digital-service-act/
[30] https://www.airbnb.es/about/company-details
[31] https://www.apple.com/it/legal/more-resources/dsa/it/
[32] https://www.vinted.fr/our-platform
[33] https://allegro.pl/zobacz/informacje-dla-aktu-o-uslugach-cyfrowych
[34] https://www.cdiscount.com/resources/rwd/other/mentions_legales.pdf
[35] https://www.leboncoin.fr/dc/cgu/0
[36] https://en.help.roblox.com/hc/en-us/articles/13061336948244-Digital-Services-Act
[37] https://www.ebayinc.com/company/digital-services-act/
[38] https://www.tripadvisor.fr/Trust-lsBAfQ4XYMrI-Regulatory_requirements.html
[39] https://www.gutefrage.net/impressum
[40] https://heureka.group/cz-cs/o-nas/
[41] https://www.skyscanner.net/media/regulation-2019-1150-platform-to-business-regulation

[42] https://www.pornhub.com/information/eu_dsa
[43] https://onlyfans.com/transparency/2023/1
[44] https://www.spotify.com/se/legal/digital-services-act/
[45] https://legal.dailymotion.com/fr/transparence/
[46] https://github.blog/2023-02-15-2022-transparency-report/

Maps	Waze[47]	IE	40+	Users' reported ride data

Mere hosting services (non-platform hosting services)

Some providers escape the VLOP status because they do *not* create new audiences for user-generated content. Such "mere hosting services" do not themselves "distribute" information to the public as their main functionality (Article 3(i) DSA). This is emphasized by Recital 13 (emphasis mine):

> cloud computing services and web-hosting services, when serving as infrastructure, such as the underlying infrastructural storage and computing services of an internet-based application, website or online platform, *should not in themselves be considered as disseminating to the public information* stored or processed at the request of a recipient of the application, website or online platform which they host.

The typical examples of such services are *consumer cloud solutions*, such as Dropbox, Google Drive, and Apple's iCloud, or *business cloud solutions*, such as AWS, Stripe, Shopify, classical *web hosting services* like GoDaddy, Ghandi, and Websupport, or even *webmail*, such as Gmail or Hotmail.[48]

Two main considerations keep such providers from tighter regulatory scrutiny. They are less public-facing, which means that create fewer direct risks, and in the enforcement, often they play only a secondary role after their clients — individual shops or websites — fail to play their part. All "mere hosting" services that are run by companies that employ more than 50 employees or have a turnover of more than 10 million euros, must also issue annual reports about their content moderation practices and algorithmic moderation tools that they use (Article 15).

However, the borders of the platform and non-platform hosting services are fluid. Recital 13 mentions that even consumer cloud solutions could become online platforms if the distribution of information becomes more than a minor feature. An open-source content management system, such as WordPress, is arguably only a mere hosting service if the hosted content is distributed independently by websites using its technology (e.g., independent websites using its system, including its hosting). If a WordPress-like system starts also *creating an audience* for websites it helps to host, such as by offering aggregating features, it can easily become an online platform.

For some trading, advertising and content management systems, a further problem consists in their relative closeness. One needs to become a registered user to use a service. For instance, on a content management system, all kinds of plug-ins are offered via a marketplace. Recital 14 explains its notion as follows:

> the making available of information to a *potentially unlimited number of persons*, meaning making the information easily accessible to recipients of the service in general without further action by the recipient of the service providing the information being required, irrespective of whether those persons actually access the information in question. Accordingly, *where access to information requires registration or admittance to a group of recipients of the service, that information should be considered to be disseminated to the public*

[47] https://storage.googleapis.com/transparencyreport/report-downloads/pdf-report-24_2022-7-1_2022-12-31_en_v1.pdf

[48] Recital 14 of the DSA says that email falls outside of the scope of the definition of an online platform because the criterion of the public is not met as "they are used for interpersonal communication between a finite number of persons determined by the sender of the communication".

only where recipients of the service seeking to access the information are automatically registered or admitted without a human decision or selection of whom to grant access.

Thus, the existence of a registration process does not make a service private. Only non-automated registration that is processed individually by humans who actually select whom to admit turns potential services, or their parts, private. This is key for messaging services, which host various groups and channels. It is also why the distribution of plug-ins by content management systems, or marketplaces organised by advertisers, can constitute online platforms.

Infrastructure services

Infrastructure services provide the hidden services that allow the Internet to function. The mere conduit provisions, after clarification in the DSA's language, arguably covers most of them. The caching provision covers content delivery networks whose importance for the security of the Internet is increasing. All these services are subject to only light touch *universal* due diligence obligations, such as points of contact and terms and conditions. The biggest impact is on non-EU-based services which will have to appoint a legal representative (Article 13) if they offer their services in the EU.

Only when providers employ more than 50 people or have over 10 million euros turnover, they also must publish annual transparency reports about how they conduct content moderation (Article 15). This means, for instance, that big emailing or cloudless messaging services, content delivery networks, domain name services, VPN services, and internet access providers will have to start issuing reports about their practices as of February 2024. This also includes transparency about tools used for such content moderation, such as how they operate website blocking measures, de-register domain names, block customers, or filter spam and malicious messages.

Internet "access" providers	Domain name services	Non-cloud messaging	Other	CDNs
Telecommunication companies (O2, VodaPhone, Orange)	Domain registries (.de by DENIC, .nl by SIDN, .sk by SK-NIC, etc.)	Signal	Certification authorities	CloudFlare
Providers of open-WiFi (caffes, hotels)	Domain name registrars (GoDaddy, Gandi)	WhatsApp (parts)	Transit services (Level(3), NTT)	Akamai
VPN providers	Recursive DNS (Google, Open DNS)	Email services (as regards emailing, not storage)	Browsers (Mozilla, Chrome)	
Tor node operators	Authoritative DNS (Dyn, CloudFlare)		Voice over IP services	

Non-regulated digital services

The DSA only applies if a UGC component is integrated into a digital service. On purely editorial services, such as Netflix, Disney+ and Amazon Prime, this might be missing. However, when these services introduce user reviews that are viewed by others, they might start falling into the DSA's scope. The DSA does not apply to some important services, such as some ride-hailing apps due to their EU classification as transport

services.[49] Some uncertainty remains about digital services which have purely non-profit character and business due to the criterion of the economic activity. However, arguably in most cases, such services should remain regulated if their assets can be commercialised.

[49] Case C-320/16, Uber France.

Overview of the DSA obligations

Obligations	Universal *All providers of mere conduit, caching, hosting services*	Basic *all hosting services*	Advanced *medium-to-large[50] online platforms*	Special *VLOPs & VLOSEs*
Content Moderation	**Art 14** (fair content moderation)	**Art 16** (notice) **Art 17** (statement of reasons)	**Art 20** (internal redress); **Art 21** (out-of-court mechanism); **Art 22** (trusted flaggers); **Art 23** (anti-abuse provisions); **Art 30-32** (specific rules on B2C marketplaces)	**Art 34-35** (risk mitigation assessment) **Art 36** (crisis response mechanism)
Fair Design (user interfaces, recommender systems, advertising and other parts)	**Art 14** (fair content moderation)	**Art 16** (user-friendly notice and action)	**Art 25** (fair design of user-experience); **Art 26(3)** (advertising); **Art 27** (recommender systems); **Art 28** (protection of minors); **Art 30** (traceability of traders); **Art 31** (facilitating design for traders)	**Art 38** (recommender systems) **Art 39** (risk mitigation assessment)
Transparency	**Art 15** (annual reporting)	**Art 24(5)** (database of all the statements of reasons)	**Art 22** (reports by trusted flaggers); **Art 24** (content moderation reports); **Art 26** (advertising disclosure)	**Art 39** (advertising archives); **Art 42** (content moderation transparency)
Oversight	**Art 11** (regulator's contact point); **Art 12** (recipient's contact point); **Art 13** (legal representative)	**Art 18** (notification of suspected relevant crimes)	(-)	**Art 37** (auditing); **Art 40** (data access/scrutiny); **Art 41** (compliance function)

[50] As defined in Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36): "a **small enterprise** is defined as an enterprise which employs **fewer than 50 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 10 million**." (emphasis ours)