



Data Access under the EU Digital Service Act

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Joint
Research
Centre

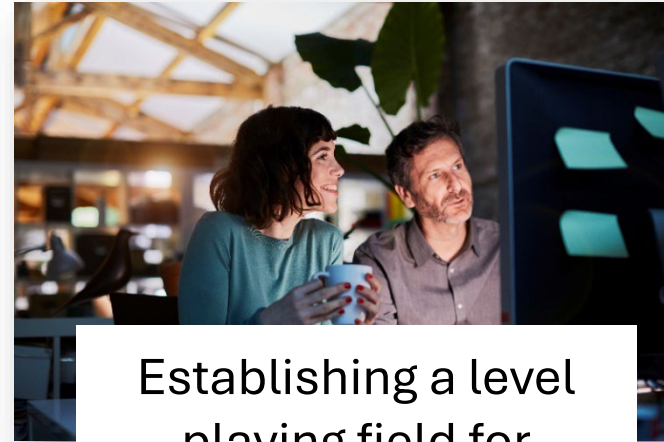
What is the Digital Services Act (DSA)?



- EU Regulation aiming to create a safer digital space and mitigate legal fragmentation
- A binding legislative act that applies directly and uniformly in all EU member states

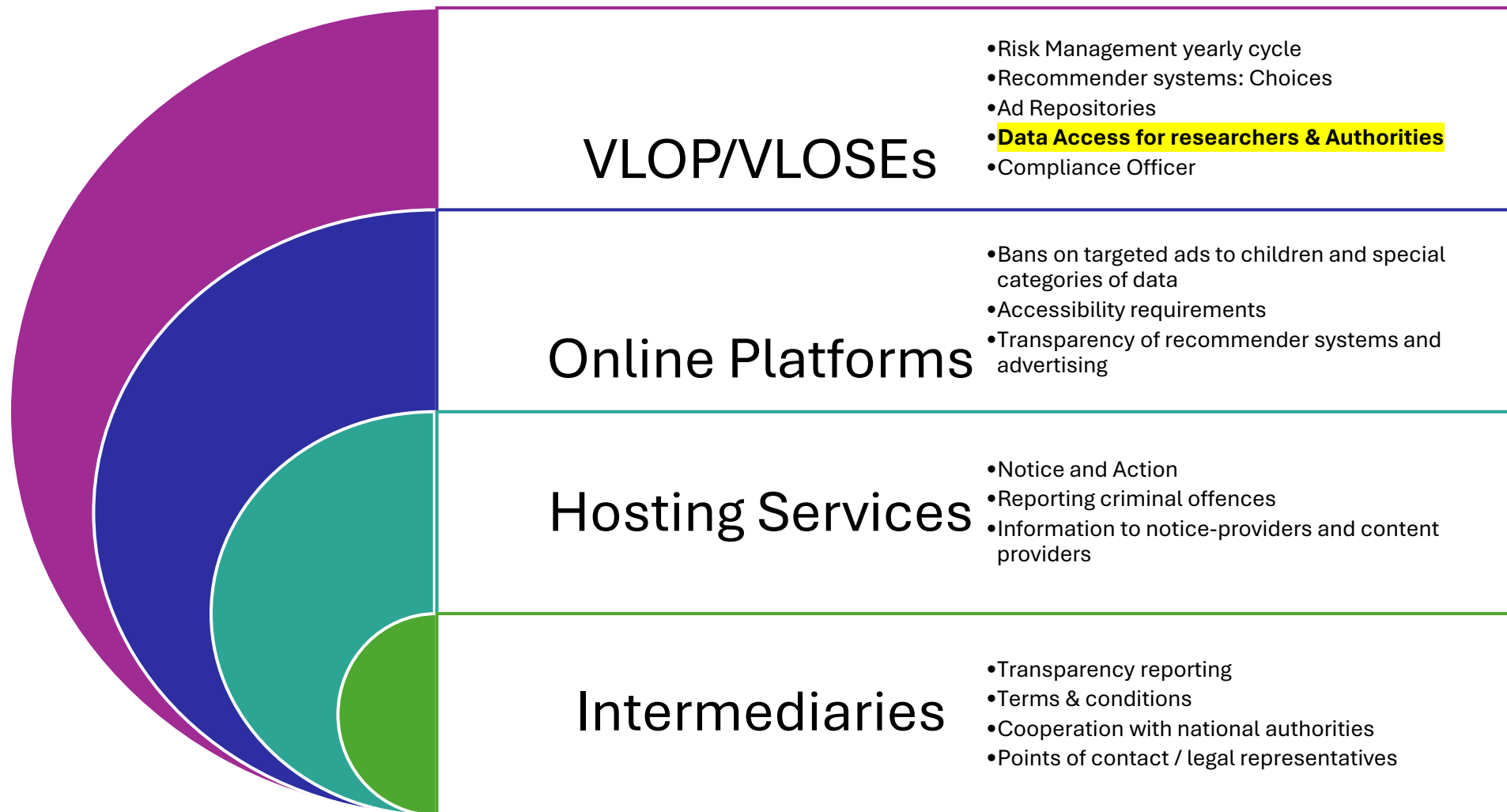


Protecting the
Fundamental Rights of
Union citizens and
other persons



Establishing a level
playing field for
businesses

What obligations for what services?



Designated Very Large Online Platforms and Search Engines*

- AliExpress
- Amazon Store
- Apple App Store
- Booking.com
- Google Search
- Google Play
- Google Maps
- Google Shopping
- LinkedIn
- Facebook
- Instagram
- Bing
- XNXX
- Pinterest
- Pornhub
- Snapchat
- Shein
- Stripchat
- TikTok
- X
- Temu
- XVideos
- Wikipedia
- Youtube
- Zalando

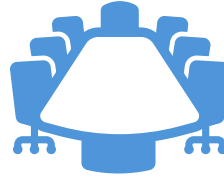
* <https://digital-strategy.ec.europa.eu/en/policies/list-designated-vlops-and-vloses>

Who enforces the DSA?



Digital Services Coordinator in EU Member States

- Independent authorities
- Direct supervision and enforcement of platforms with less than 45 million monthly users in the EU
- Coordination and exchanges with other national authorities



European Board for Digital Services

- Ad-hoc independent advisory group
- Composed by national DSCs
- Chaired by the EC
- Advises DSCs and EC, issues recommendations
- Ensures consistent application of the DSA



European Commission

- Direct enforcement of the rules for VLOPs and VLOSEs
- Advises on cross border disputes
- Intervenes following DSC requests

Transparency obligations in the DSA

Transparency Reports



Bi(annual) statistics on content moderation, incl. accuracy, speed & human resources

Transparency Database



Near real time content moderation seismometer

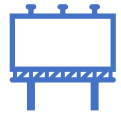
Terms & Conditions



OPEN TERMS ARCHIVE

**Clear and
Transparent
Language of the T&C**

Ad Library



**Repository of the ads
hosted by VLOPs &
VLOSEs**

Risk Assessments



Analysis of algorithmic risk factors

Independent Audits



Test of algorithmic systems

Data Access



Study of systemic risks in the Union

Whistleblower tool



Employee and stakeholders can anonymously report bad practices and infringements

Data access

Three types of access in Article 40

EC and DSC of
establishment (40.1)

VLOPSEs to provide data
for monitoring and
assessment of
compliance with DSA
obligations

Vetted researchers
(40.4)

Reserved to **researchers
fulfilling specific
conditions**, gives access
to non-public data, only
for research projects that
contribute to the
understanding of
**systemic risks in the
EU.**

‘Qualified Researchers’
including Civil Society
Organisations (CSOs)
(40.12)

For researchers and
CSOs, provides access
to tools such APIs with
public data, and
protects those who use
automated access
means (e.g. scraping) to
study **systemic risks in
the EU**

What counts as a systemic risk according to the DSA?

- Dissemination of illegal content
- Negative effects for the exercise of fundamental rights*
 - Human dignity
 - Respect for private and family life
 - Protection of personal data
 - Freedom of expression and information
 - Non-discrimination
 - Respect for the rights of the child
- Negative effects on civic discourse and electoral processes, and public security
- Negative effects in relation to
 - Gender-based violence
 - Protection of public health and minors
 - Serious negative consequences to personal physical and mental well-being.

*Charter of Fundamental Rights of the European Union

Access to publicly
available data

Conditions for accessing public data (art. 40.12)

Researchers have to demonstrate that they:

- Are independent from commercial interests
- Disclose their funding of the research project
- Have the capacity to protect personal data, data security and confidentiality requirements
- Demonstrate the proportionality & necessity of the request and the contribution to the general objective
- Use the data for the sole purpose of contributing to the understanding of EU systemic risks

Accessing publicly available data

Request data
directly to the
platform

VLOPs and VLOSEs have the obligation to **take active steps** to give access to data “without undue delay” and “where technically possible, to real-time data” or, to data in **specific formats** (aggregated, anonymised or pseudonymised). These active steps can take different forms, such as **data transfers, Application Programming Interfaces (APIs), libraries, etc.**

Access data
independently

Independent data access techniques, such as **scraping, crawling** and some types of user **data donations** cannot be prohibited for eligible researchers.

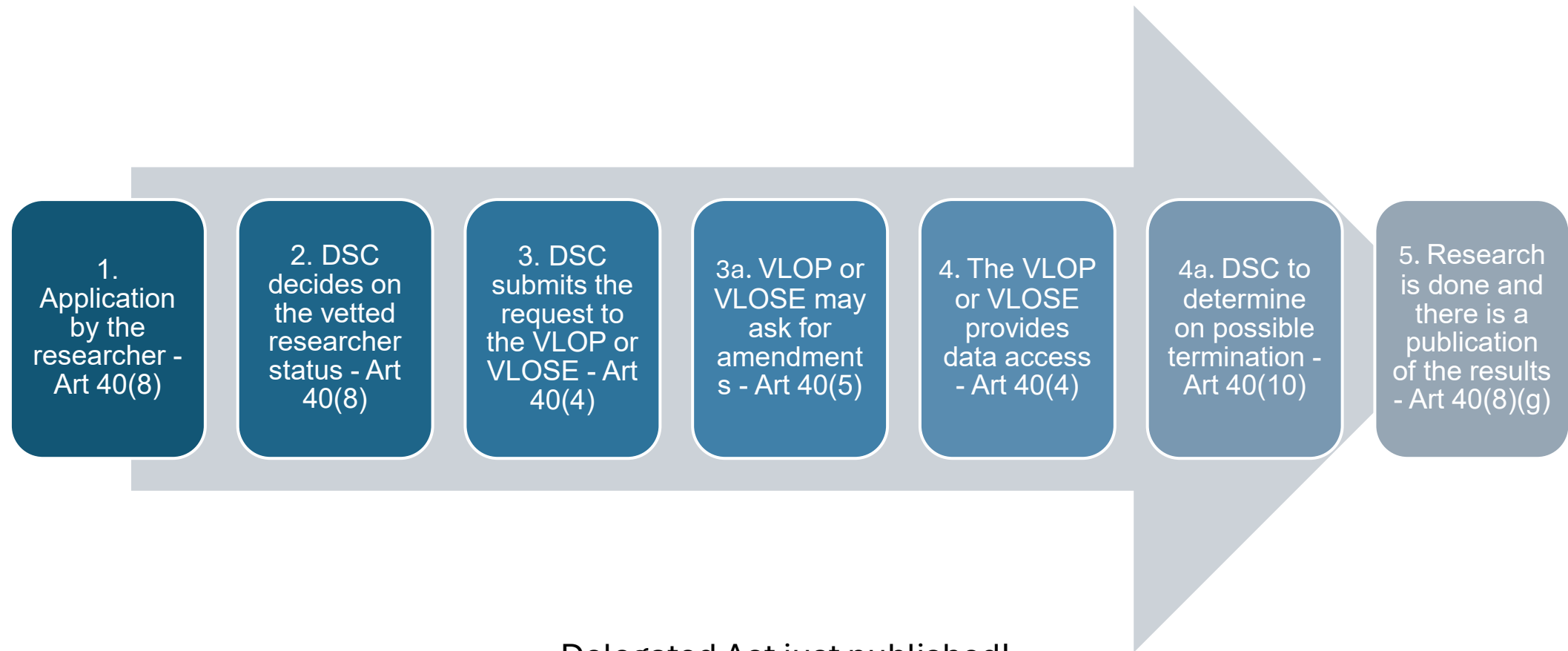
Access for vetted
researchers

Conditions for becoming a vetted researcher (art. 40.4)

Researchers have to demonstrate that they:

- **Are affiliated to research organisations (cf. Copyright Directive)**
- Are independent from commercial interests
- Disclose their funding of the research project
- Have the capacity to protect personal data, data security and confidentiality requirements
- Demonstrate the proportionality & necessity of the request and the contribution to the general objective
- **Commit to making the research results publicly available**
- Use the data for the sole purpose of contributing to the understanding of EU systemic risks, **and to the assessment of the adequacy, efficiency and impacts of the risk mitigation measures**
- **Commit to making research results publicly available free of charge**

How to get data as a vetted researcher in the DSA?



Delegated Act just published!

DSA data access portal

Developed and hosted by the Commission

One-stop-shop for information, contact points and procedures on access to data

Entry point for the submission of data access applications and exchanges with DSCs and data providers

List of reasoned requests to data providers in the DSA data access portal public interface

Application process



One application for each project and each VLOP/VLOSE



Researchers can apply in group (1 main applicant + team) but all must fulfil the conditions:

Affiliated to research organisation (as defined in copyright directive)

Independence from commercial interest

Disclosure of funding of the research

Capability of fulfilling data security and confidentiality requirements through adequate technical and organisational measures

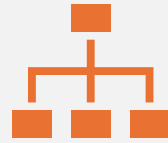
Commitment to publish results



Where to find information on what data can be requested?

VLOPs and VLOSEs to publish DSA data catalogues related to systemic risks in the EU, including attributes, metadata and suggested access modalities in their online interface

Submission and assessment of data access applications by DSCs



Researchers can submit applications either to:

DSC of establishment of VLOP/VLOSE,

OR

DSC of the research organisation of the researcher



DSC of organisation of the researcher will forward to DSC of establishment of VLOP/VLOSE after initial assessment



If all conditions are met, DSC of establishment grants the **vetted status** to applicants and sends a **reasoned request** to the VLOP or VLOSE to provide the data

How to determine the conditions for accessing the data requested?

What elements to consider for researchers and DSCs?

Protection of personal data

Protection of confidential information, including trade secrets

Security of the service

What conditions for accessing the data?



Technical: clean rooms/data vaults, differential privacy, activity logging etc.



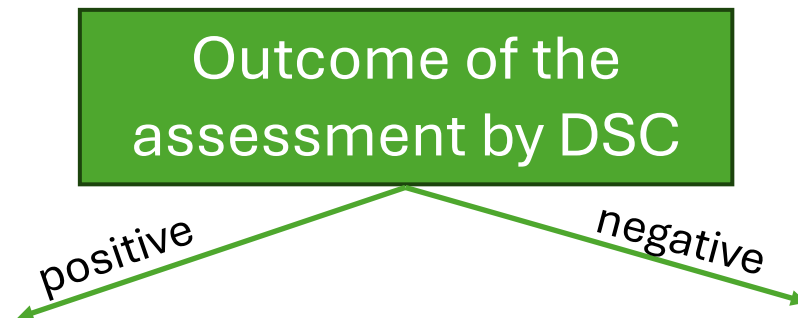
Organizational: restricting access to few individuals, no right to subcontract/add people to the project, oversight by [Data Protection Officers/ethics board/other]



Legal: case-by-case Non-Disclosure Agreements between provider and researchers

Amendment requests by VLOPs/VLOSEs

- Notification about the request for amendment and possible involvement of researchers
- VLOPs and VLOSEs to substantiate requests, explaining the grounds for amendments
- Deadlines established in the basic act (15 days)



- Revision of reasoned request
- Update of the public overview
- New transmission to data provider and notification of researcher

- Reasoned request unchanged
- Justification to the data provider and confirmation of reasoned request

Mediation on a specific reasoned request



Voluntary mechanism to be carried out in good-faith, judicial proceeding may start at any moment



Non-mandatory participation for all parties: DSC of establishment, vetted researcher, DSC of MS.



[if not involved] Vetted researcher to be informed of the initiation and outcome of the mediation process.



Maximum 65 working days to reach an agreement



Mediation outcomes:

Successful agreement
within the timeframe (non-binding): the DSC of establishment should take into account the agreement reached via the mediation

Mediation failure / No agreement within the time / Earlier termination by the mediator – Original reasoned request remains relevant for further proceedings.

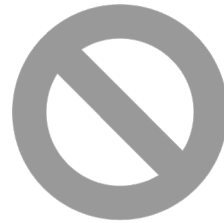
Independent expert consultation

- Support mechanism for Digital Services Coordinators to carry out tasks in relation to the data access process
- Requirements for the expert consulted
 - Impartiality (no conflict of interest)
 - Proven skills and expertise on the subject matter of the consultation
 - Capacity and resources to perform tasks, without undue delay
- Request and outcome of the consultation to be shared among all DSCs

Provision of access, termination and publication of results



Providers have to facilitate the access to the data and cannot impose additional restrictions



DSC may determine access termination if conditions for vetting are no longer met



Researchers are required to publish results free of charge