



COMPETITION & ANTITRUST LAW | E-COMMERCE & DIGITAL MARKETS

Bringing the DSA Home: A closer look at Law 5099/2024 on the adoption of measures for the implementation of the Digital Services Act

Bringing the DSA Home: A closer look at Law 5099/2024 on the adoption of measures for the implementation of the Digital Services Act

BY ANASTASIA DRITSA, VICTORIA MERTIKOPOULOU, AGIA STASINOPOULOU, ANNA-MARIA KAMARA

Introduction

On 5th April 2024, Law 5099/2024 on the 'Adoption of measures implementing Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on the single market for digital services and amending Directive 2000/31/EC ("Digital Services Act") and other provisions' (GG 48/A/05.04.2024) entered into force.

It implements the Digital Services Act Regulation EU 2022/2065 (hereinafter "DSA") which entered into force on 16.11.2022, with the majority of its provisions, however, applying to service providers as of 17.02.2024. DSA aims to create a safer digital space and establish a level playing field to foster innovation and competitiveness in the European Single Market and globally. Digital services include a large category of online services, from simple websites to internet infrastructure services and online platforms. The rules specified in the DSA primarily concern online intermediaries and platforms. In this context, the dissemination of illegal content online and the social risks that the dissemination of misinformation or other content can cause are addressed.

As an EU Regulation, the DSA is directly applicable across Member States safeguarding uniform rules in the internal market. However, the DSA also recognizes member states' diversity and

autonomy, offering flexibility for national adaptation and enforcement, especially in establishing competent authorities, enforcement mechanisms, and procedures for addressing complaints and infringements. Law 5099/2024 specifically addresses these aspects.

Law 5099/2024 is divided in the following parts:

- Part A includes the provisions that enable the implementation of the DSA in Greece (implementation of mainly Articles 9, 10, and 49 to 55 of the DSA), and provides for the establishment of specific structures and databases necessary for effectively monitoring compliance with the DSA's obligations.
- Part B does not concern the implementation of the DSA but provides for measures to ensure the functionality of digital applications, the interoperability between the registers and the information systems of public sector bodies to further reduce bureaucracy, the development of high-speed broadband services, as well as other organizational issues under the responsibility of the Ministry of Digital Governance.
- Part C includes entry into force provisions.

Key points of Law 5099/2024

Part A of Law 5099/2024 provides for the following:

Competent Authorities

The Hellenic Telecommunications & Post Commission (“EETT”)¹ is designated as the Digital Services Coordinator. The Digital Services Coordinator has, *inter alia*, the following powers (Article 11):

- It may request information from intermediate service providers, and any other person acting for purposes relating to the trade, business or profession of the said intermediate service providers who may reasonably be expected to have knowledge of the alleged infringement. Said information must be received without delay and in accordance with the timetable and level of detail it has set.
- Its staff shall undertake investigation and data collection. In the event of a finding of a breach of one or more articles of the DSA, it may invite the intermediate service provider under audit to present its views and comply.
- EETT has the power to take the necessary measures to ensure that the intermediate service provider complies with the DSA and to impose a fine or periodic financial penalty (by a specifically reasoned decision, and after prior hearing of the intermediate service provider). In exceptional cases where the breach poses immediate threats to public safety, order, or health, it may opt for interim measures.
- EETT is the central point for receiving complaints against intermediate service providers.

The Digital Services Coordinator also has the obligation to draft a single annual activity report for the previous calendar year, covering the activities of the competent authorities. The report shall be notified to the European Commission, the European Digital Services Council and all the competent authorities referred to in Law 5099/2024 and shall be published on EETT’s official website.

Moreover, the following competent authorities are designated for the supervision of intermediate service providers and the enforcement of the DSA in accordance with Article 49 thereof:

- the National Council for Radio and Television (“NCRTV”), designated as the competent authority for matters relating to advertising on online platforms, pursuant to Article 26 of the DSA, as well as for the adoption of appropriate measures for the protection of minors on the internet, pursuant to Article 28 para. 1 of the DSA;
- The Hellenic Data Protection Authority (“HDPA”), responsible for monitoring the compliance of the intermediate service providers with the obligation of communicating in a direct and easy manner the important information of advertisements to the recipients of such advertisements, pursuant to Article 26 para. d of the DSA, as well as compliance with the obligations under Article 28 of the DSA concerning the personal data of minors who are recipients of the service.

The Digital Services Coordinator as well as the said competent authorities are deemed to have the necessary expertise and an integrated system of legal tools and mechanisms to fulfil their mission of overseeing and enforcing the rules

¹ As per Article 4 of Law 5099/2024 and in accordance with Article 49 of DSA.

concerning the providers of intermediate services.

The Digital Services Coordinator cooperates with the aforementioned competent authorities as well as other public authorities, as the case may be, for the implementation of the DSA and Law 5099/2024². In particular, the Digital Coordinator and the competent authorities referred to in Article 5 of Law 5099/2024 may exchange and use data and information in their possession, including personal data and information covered by business and professional secrecy, to the extent necessary for the performance of their tasks with the receiving authority ensuring the same level of confidentiality of information. Also, public authorities other than the competent authorities provided for in Article 5 of Law 5099/2024, such as the Ministry of Development, shall respond to the Digital Services Coordinator's requests for information and assistance, especially in cases of the management of complaints received by the Digital Services Coordinator. In case of a report of suspected criminal offences, in accordance with Article 18 of the DSA, the competent authority for the enforcement of Law 5099/2024 is the Cybercrime Division of the Hellenic Police.

Minimum content of action orders against illegal content and information orders

With regard to action orders and information orders issued by competent judicial or administrative bodies, Articles 12 and 13 Law 5099/2024 align with and reference the requirements outlined in the DSA. Additionally, Law 5099/2024 specifies that any orders failing to comply with DSA standards shall be deemed invalid.

Establishment of advisory Committee on Digital Services

To ensure the optimal implementation of the DSA, an Advisory Committee of nine members is

established, with the responsibility to make non-binding recommendations to the Ministry of Digital Governance for the adoption of initiatives and the development of partnerships with other agencies. EETT, the competent authorities of Article 5 and other public bodies and competent Ministries participate in the said Committee, according to Article 14 of Law 5099/2024.

Penalties for DSA obligation violations

Article 16 of Law 5099/2024 defines the penalties for infringements of the DSA and Law 5099/2024, their amount and the procedure for their imposition. The amount of the fine imposed may not exceed six percent (6%) of the provider's annual global turnover in the previous financial year. In calculating the fine, account shall be taken of the following parameters:

- (a) the nature, gravity and duration of the infringement;
- (b) the fraudulent or negligent nature of the provider;
- (c) whether the provider systematically fails to comply with the obligations established by the DSA;
- (d) the type, size and nature of the service provided;
- (e) whether the provider operates in more than one Member State; and
- (f) the degree of cooperation with the Authority in order to remedy the infringement.

In cases involving the provision of inaccurate or misleading information, failure to respond or correct inaccurate or misleading information, as well as failure to submit to an audit, fines may not exceed 1% of the intermediary service provider's annual income or global turnover.

² Articles 8 and 10 of Law 5099/2024.

Judicial Protection

In accordance with Article 17 of Law 5099/2024, appeals against the fines imposed are brought before the Athens Administrative Court of Appeals, while appeals against other individual administrative acts and regulatory decisions are brought before the Council of State.

Establishment of a register of intermediate service providers

Finally, Law 5099/2024 introduces an electronic registry of intermediate service providers established in Greece, or whose legal representative resides or is established in Greece (if in the latter case providers are not established within the European Union but offer services in the European Union including in Greece). Intermediate service providers including hosting services providers must register within three months from the commencement of operation of the Registry. In this context, EETT, as the competent authority for the establishment of the Registry, on 01.05.2024 has launched a public consultation for the corresponding implementing Regulation on Intermediate Service Providers' Registry³. According to the public consultation text, registration of the aforementioned providers will be performed via EETT's Registry of Businesses and Licenses. Providers will select the category 'Intermediate Services' and then will have to specify type of services provided, out of the following categories referred to in Annex A:

- 'Simple transmission services' as defined in Article 3 point (g) of the DSA;
- 'Temporary storage services' as defined in Article 3 point (g) of the DSA;
- 'Online search engines' as defined in Article 3 point (g) of the DSA;

- 'Hosting services' as defined in Article 2 point (1) of EU Regulation 2021/784 and Article 3 point (g) of the DSA. In particular with regard to Hosting services these shall be subdivided in i) 'Web hosting services', ii) 'Online platforms that enable consumers to enter into distance contracts with merchants', iii) 'Online platforms other than the aforementioned online platforms', and iv) 'Other hosting services'.

Final Remarks

The newly introduced law fully implements the DSA within Greece. Effective implementation of the DSA by each Member State is important to provide clarity and consistency for businesses. The recent infringement proceedings by the European Commission against six Member States for failing to appoint Digital Services Coordinators, underscore the importance of effective implementation. With the EU Commission primarily overseeing very large online platforms and search engines, the responsibility for decentralized enforcement of the DSA falls upon national coordinators. Hence, measures at the national level to regulate their powers are essential for safeguarding the digital space.

³ <https://www.eett.gr/diavoulefsis/dimosia-diavoyleysi-kanonismos-leitoyrghias-mitrooy-parochon-endiameson-ypiresion-sympertilamvanomenon-ton-ypiresion-filoxenias/>

Contact Us



Anastasia Dritsa

PARTNER

a.dritsa@kglawfirm.gr



Victoria Mertikopoulou

PARTNER

v.mertikopoulou@kglawfirm.gr



Follow Us

ATHENS OFFICE

28, Dimitriou Soutsou Str.,
115 21 Athens

T +30 210 817 1500

F +30 210 685 6657-8

E kg.law@kglawfirm.gr

THESSALONIKI OFFICE

31, Politechniou Str.,
551 34 Thessaloniki

T +30 2310 441 552

E kg.law@kglawfirm.gr

www.kglawfirm.gr

Disclaimer: This newsletter contains general information only and is not intended to provide specific legal, or other professional advice or services, nor is it suitable for such professional advice, and should not be used as a basis for any decision or action that may affect you or your business. Before making any decision or taking any action that may affect you or your business, you should consult a qualified professional advisor. We remain at your disposal should you require any further information or clarification in this regard.