



TECHNOLOGY, MEDIA & TELECOMMUNICATIONS

ChatGPT Is Now DESIGNATED AS a “Very Large Online Search Engine”
under the Digital Services Act (DSA)

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The European Commission (the “**Commission**”) has designated ChatGPT, i.e., the artificial Intelligence (AI) system that can engage with and respond to users' prompts and queries, including by searching the web, as a Very Large Online Search Engine” (“VLOSE”) under the EU’s Digital Services Act (“DSA”). This follows OpenAI’s disclosure that ChatGPT now has over 45 million average monthly users in the EU, the threshold that triggers enhanced regulatory oversight for the largest online platforms and search engines. This designation doesn’t mean ChatGPT has broken any rules under the DSA. Rather, it brings the service into a stricter regulatory category with additional transparency, accountability, and risk-management requirements.

What Are the New Obligations?

As a VLOSE, by January 2027, ChatGPT must now meet a range of the following indicative enhanced requirements to manage systemic risks under the DSA:

1. **Systemic risk assessments:** Identify and address risks in the Union stemming from the design or functioning of their service and its related systems, or from the use made of their services, related e.g., to the dissemination of illegal content through their services; public security, elections, gender-based violence, public health, and the protection of minors.
2. **Risk mitigation measures:** Put safeguards in place to manage identified risks, including where applicable, adapting the design, features or functioning of their services,

including their online interfaces and crisis response plans when required by the Commission.

3. **Transparency on algorithms:** Disclose how recommendation systems work and offer users at least one option that isn’t based on personal profiling.
4. **Online advertising and data access:** Be more transparent about advertising practices by making publicly available in a specific section of their online interface of a repository containing information on advertising and provide data access to vetted researchers studying systemic risks.
5. **Annual audits:** Undergo yearly independent audits to verify compliance with DSA obligations.
6. **Compliance function:** Set up an internal compliance team to monitor ongoing adherence to DSA requirements.

What does this mean for other big online platforms ?

The ChatGPT designation can be seen as a signal that the Commission is taking a stricter approach to enforcing the DSA **with respect to the biggest online platforms**. Other similar digital service providers, especially those offering AI-powered tools with search-like functionality, could face closer scrutiny in the EU. Similar services are likely to be classified as search engines under the DSA, which would trigger corresponding obligations.

Providers should proactively assess their regulatory status and prepare for potential designation.

What does this mean for businesses that use ChatGPT?

The VLOSE designation applies to OpenAI as the service provider, not to businesses or individuals who use ChatGPT or similar services .

The significance of the designation is less about ChatGPT itself and more about the Commission's willingness to regulate AI tools according to their functionality. SMEs developing AI-enabled customer-facing products should therefore assess at an early stage how the DSA, AI Act and GDPR may interact with their offering.

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