

A new digital safe space – How does the EU Digital Services Act affect insurers?

26 September 2023

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Many [tech companies](#) face legal inspection due to the EU's implementation of the Digital Services Act. The Act applies to providers that offer 'intermediary services' or online search engines in the EU. Notably, the Act holds providers accountable for a wide variety of content from misinformation, criminal activity, and user-targeted activity. The Act also increases consumer transparency as some providers must supply their targeting criteria and performance metrics used for advertisements. Similarly, large online platforms will also be subject to additional data rules and auditing.

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The Act presently applies to Big Tech platforms including Google services and Apple's online App Store. However, from 17th February the Act will apply to many other online platforms, irrespective of size. The success of its implementation highlights the potential introduction of similar regulations globally. This is evidenced in the [Online Safety Bill in the UK](#), which is currently being debated in Parliament.

Consequences of non-compliance are significant, including fines of up to 6% of the business' turnover. Further, repeat offenders may be banned from operating in Europe altogether.

The Digital Services Act has also sparked legal challenges from companies such as [Amazon](#), arguing that it should not be considered as a large online platform nor subject to the toughest requirements. As such, classification remains a grey area whilst we await legal clarification regarding which providers are subject to which requirements.

Considerations for insurers

[Insurers](#) may want to review their wordings and exposure considering the new requirements. A particular focus should be given to [policies](#) providing cover for the dissemination of illegal content, transparency in online advertising and data sharing, such as many cyber policies.

Insurers could also consider introducing or strengthening obligations on policyholders to comply with the Digital Services Act. This could include the implementation of technology solutions such as proactive content filtering systems, data management systems and advertising transparency tools.

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