

Regulation of digital services and online advertising – Season 2

The European Commission is consulting stakeholders via a call for evidence on its upcoming DSA guidelines on the protection of minors, open until 30th September 2024. A “public consultation” (questionnaire) is also planned in Q1 2025. These guidelines are expected to be adopted and published as early as H1 2025.

The guidelines and this call for evidence are, as per their legal basis, supposed to stick to the scope of the DSA provisions pertaining to the protection of minors. Therefore, they would fall out of EASA’s remit, with their ad-related components focussing on the prohibition of ads targeted to children based on profiling practices (Article 28(2) DSA). On this ground, EASA will not respond to the current call for evidence. Nevertheless, taking into account the wide topics depicted in the call for evidence, covering inter alia the safety of minors online and “commercial practices” combined with a “5C” approach (incl. Consumer risks), EASA will closely follow any new elements of the Guidelines’ drafting process and determine whether to contribute to the public consultation early next year.

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Furthermore, the European Commission has released in July two calls for tenders pertaining to digital services. The first call is for a study “Online advertising at the crossroad of different regulatory frameworks”, which would look into the online advertising models, their alleged opacity, possible alternative models, the use of AI in online advertising, but also into the legislative framework applying to it (DMA, DSA, GDPR, e-Privacy, CRD, AI Act). Under the second call for tender, the chosen contractor would analyse VLOPS and VLOSE’s implementation and compliance with the DSA to support the enforcement of the DSA. One outcome of this call for tender, under lot 2, would be the production of a report in 2027 analysing the DSA Guidelines on the protection of minors cited hereabove. Lot 3, section a, of the tender concerns specifically online advertising. It aims to obtain an overview of the compliance of all providers of VLOPs and VLOSEs, with the DSA ad transparency provisions, in particular Articles 26 (advertising on online platforms), Article 28 (online protection of minors) and Article 39 (ad repositories). Identifying and analysing any best practices, gaps or weaknesses in compliance, is also among the tasks to be performed.

On their side, the European Parliament’s committees have recently renewed their working groups on the implementation of the DSA and the DMA and validated the creation of the working group on the AI act.

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