

SEDLAKOVA

LEGAL

# PLATFORMS, INTERMEDIARY SERVICES AND HOSTING



**DSA  
DAC 7  
P2B**

Three terms  
that may  
concern you.

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# Introduction:



- If you provide a [SaaS](#) or similar service which allows users [to upload user content](#) (e.g. text, photos, data) to the service, you are subject to obligations under the [DSA Regulation](#). You may fall into the category of intermediary service provider and online platform.
- If you operate a [marketplace](#), i.e. your service allows business users to provide their services or sell their goods on the platform, you are subject to obligations under the [DSA Regulation](#) and also under the [P2B Regulation](#). You may fall into the category of online marketplace and online intermediary services.
- And if the services offered on the marketplace relate to the provision of immovable property, a means of transport, a personal service, or the sale of goods for consideration, then you should look at [DAC7](#).
- Specific obligations concerning internet search engines can be found in [DSA and P2B Regulation](#).
- Specific obligations applicable to very large platforms and search engines can be found in [DSA Regulation](#).
- Exceptions apply to micro and small businesses; these may be exempted from certain obligations.

## Please note:

Pay particular attention to the "To whom it applies" section.

Different regulations use similar terminology but affect different subjects.

For example, the platform or scope of traders within the meaning of DAC7 is different from the platform and scope of affected traders within the meaning of the DSA. An intermediary service within the meaning of the DSA is different from an intermediary service within the meaning of P2B

# **DAC 7**

Tax cooperation

## To whom it applies?

**Internet platform operators.** That is, entities that operate a platform (website or application that enables the connection between an end customer and vendor).

However, it must be a platform through which the provision of immovable property, a means of transport, a personal service, or the sale of goods for consideration is offered.

A personal service is defined as activity performed for time or task-based remuneration, which may also be provided online.

## What is the subject matter:

Platform operators must register themselves and file a notification **once a year** with the relevant tax authority.

The notification will include information on the notifiable activities carried out by vendors using the platform, in particular the identification of the vendor, the amount of payments made and the identification of the accounts to which the payments are made.

In this context, platform operators must investigate and determine whether it facilitates the performance of the monitored activities and must provide cooperation to the tax authorities.

## Since when?



See your local legislation for applicable deadlines.

In Czech Republic, data collection begins on 1 January 2023 and platforms are required to report no later than on 3rd April 2023.

## Sanctions:

See your local legislation for applicable sanctions.

In Czech Republic, the tax administrator may impose a fine up to **CZK 1,500,000** on the platform operator for failure to comply with the obligation.



## How can we help?

- We can advise you if the obligations apply to you
- We can help you set up a data collection and reporting process
- We will adjust the terms and conditions and privacy policy accordingly so that you are compliant



**DSA**

Digital  
services act

# To whom it applies?

**Intermediary service providers.** That is, anyone who provides a services of transmission, caching or storing of information at the request of the user.

So, for example, if you provide cloud services, web hosting, or just run a SaaS application that allows the user to store its content, you fall into this category.

There are exemptions from certain obligations for micro and small businesses only.

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**Online platforms.** A narrower category of intermediary service providers that includes hosting services that store and disseminates information to the public at the request of the recipient of the service.

These include social networks, online marketplaces, travel and accommodation portals, etc. Very large online platforms and search engines are a special category.

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**Online marketplaces.** That is, providers of online platforms allowing consumers to contract with traders remotely.

It does not matter what goods or services the merchants offer

# What is the subject matter?

All **intermediary services** must establish a single point of contact and inform in their terms and conditions about their content moderation practices and any restrictions they apply in relation to the use of their service with respect to the information provided to the recipient.

Where the services are aimed at minors, they must express this information in a clear, understandable, easily comprehensible, and user-friendly manner. They must also publish reports on moderated content once a year.

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**Hosting services** must also establish a mechanism for reporting and taking action against illegal content. If they restrict any content or if they suspend or terminate a user account, they must provide a reasoning for such a decision.

And they must inform the police if a crime is suspected.

# Additionally

**Online platforms** must also set up a specific internal complaint-handling system and prioritize notifications from 'trusted flaggers.

They are subject to specific measures and obligations to protect against misuse of the service and must set out their policy in this respect clearly and in detail in their terms and conditions.

They must be much more transparent - the content of their regular reports must contain more information, and they must ensure the transparency of advertising and referral systems.

And they must also be careful about dark patterns - the prohibition to design interfaces in a manipulative way towards users. They must also pay greater attention to privacy, security, and protection for minors.

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**Online marketplaces** can only sell services or goods if merchants provide them with contact details and other required information including a copy of the ID of the trader (know your business customer).

At the same time, they are subject to requirements regarding interface design, the possibility to carry out random checks and detailed consumer information.

## **Lastly**

Very large online platforms and very large online search engines have to assess risks and take measures, carry out audits, create a crisis response mechanism.

At the same time, they must use recommendation systems without profiling, keep an archive of advertisements, charge for supervision.

## Since when?



The obligation to disclose the number of active users applies from 17 February 2023.

However, most of the obligations will not apply until 17 February 2024.

## Sanctions:

Non-compliance is subject to a fine of between 1-6% of annual turnover in the previous financial year.



## How can we help?

- We can advise you if the obligations apply to you
- We can help define product development requirements for compliance
- Advise on what processes to put in place
- Adjust terms and conditions and privacy policy accordingly

**P2B**

Platform to  
business

## To whom it applies?

**Online intermediary service providers.** That is, entities that operate websites or apps to businesses that allow them to offer their goods or services to consumers or facilitate the initiation of transactions with consumers.

## What is the subject matter?

Online intermediary services must draw up their terms and conditions in accordance with the new regulation, with an emphasis on required content and a clear format. New rules are placed on the possibilities to change the terms and conditions and to limit, suspend or terminate the provision of services to the business user.

If they are not complied with, changes cannot be made. Any restriction on the ability of business users to offer the same goods and services on different terms and conditions by different means must be justified and made public.

Providers must establish an internal complaint-handling system for business users and appoint two or more mediators to resolve disputes.

In addition, providers must describe in the terms and conditions the main parameters that determine the ranking of goods or services and describe any differential treatment they apply.



## To whom it also applies?

Internet search engine providers. That is, entities that operate consumer search services on any website.

## What is the subject matter?

Internet search engines must also describe the main parameters that determine search ranking.

Generally, they also have to be more transparent, in particular as regards differential treatment.

## Since when?



The obligations apply from 12 July 2020.

See your local legislation for more deadlines.

## Sanctions:

See your local legislation for specific sanctions.

In Czech Republic, compliance with the obligations is supervised by the Czech Telecommunications Authority, which can impose a fine of up to **CZK 10 million** for breaches.




## How can we help?

- We can advise you if the obligations apply to you
- We can help define product development requirements for compliance
- Advise on what processes to put in place
- Adjust terms and conditions and privacy policy accordingly

# Contact us

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