




DIGITAL SERVICES ACT

The background of the image is the European Union flag, featuring a blue field with twelve five-pointed gold stars arranged in a circle. The flag is shown with a slight ripple, giving it a three-dimensional appearance.

A single set of **rules** for the whole EU.

New landmark rules for online platforms in the EU.

Digital **Services** Act & Digital **Markets** Act

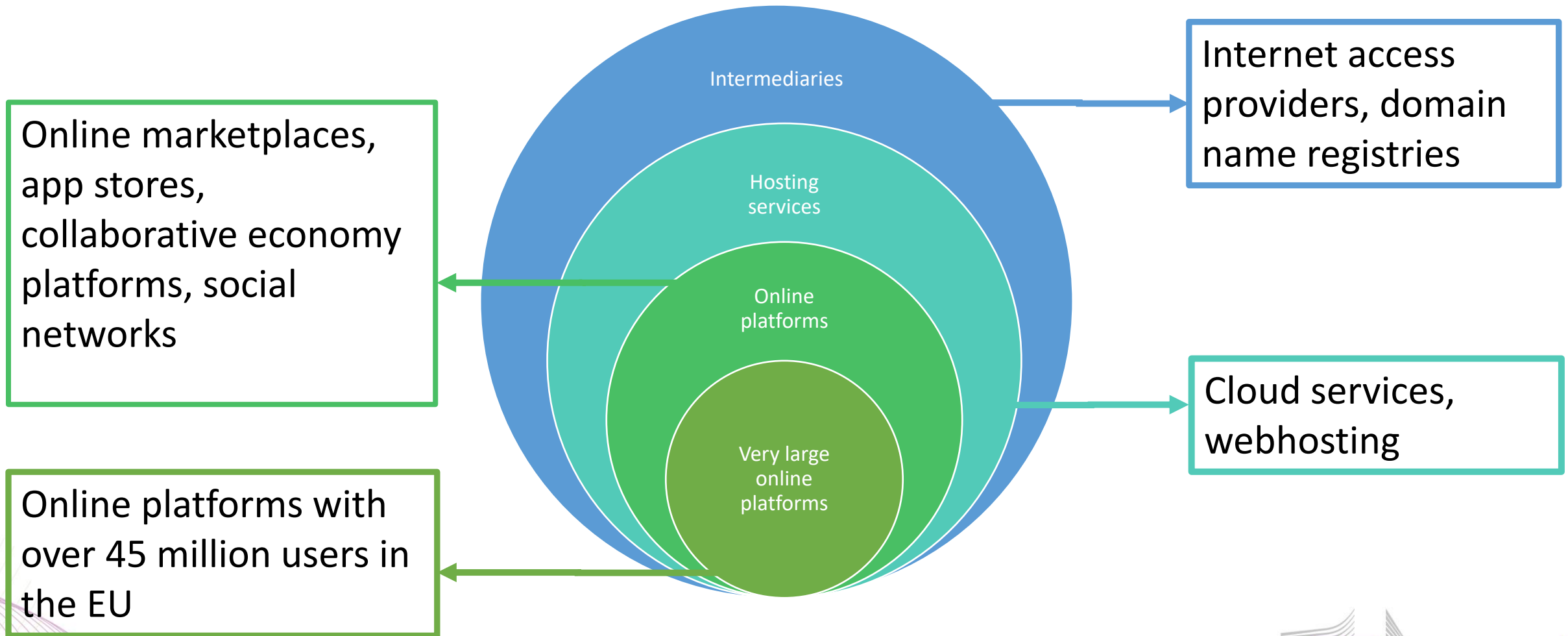
[#DigitalServicesAct](#) [#DigitalMarketsAct](#) [#DigitalEU](#)

OBJECTIVES



1. to create a **safer digital space** in which the **fundamental rights** of all users of digital services are protected
2. to establish a **level playing field** to foster **innovation, growth, and competitiveness**, both in the European Single Market and globally

Intermediary services in scope



DSA: new rules for online intermediaries



Liability regime for intermediaries



Due diligence obligations



EU governance and enforcement

Liability provisions

DSA harmonises **liability exemptions**, not liability

Maintains the principles of the **eCommerce directive**

Does not attribute liability. The contrary would mean to harmonise tort or criminal law

Maintains the prohibition on general monitoring.

DSA is **neutral**

Does not define what is illegal

Illegality is defined by national or EU rules

DSA is **horizontal**

All types of **illegal content**, civil and criminal liability

Some provisions can also cover **harmful content** (transparency & safeguards for decisions under terms of service, systemic risks on very large platforms)

DSA **applies to services**, not to actors

Not *"Platform 'X' is an intermediary"*, but *"'X' provides intermediary services"*

A provider can provide many different services (mere conduit + caching + hosting services which are not intermediary services or not even ISS)

Voluntary own-initiative investigations

Providers of intermediary services conducting voluntary own-initiative investigations to **detect, identify, remove, disable access** to illegal content



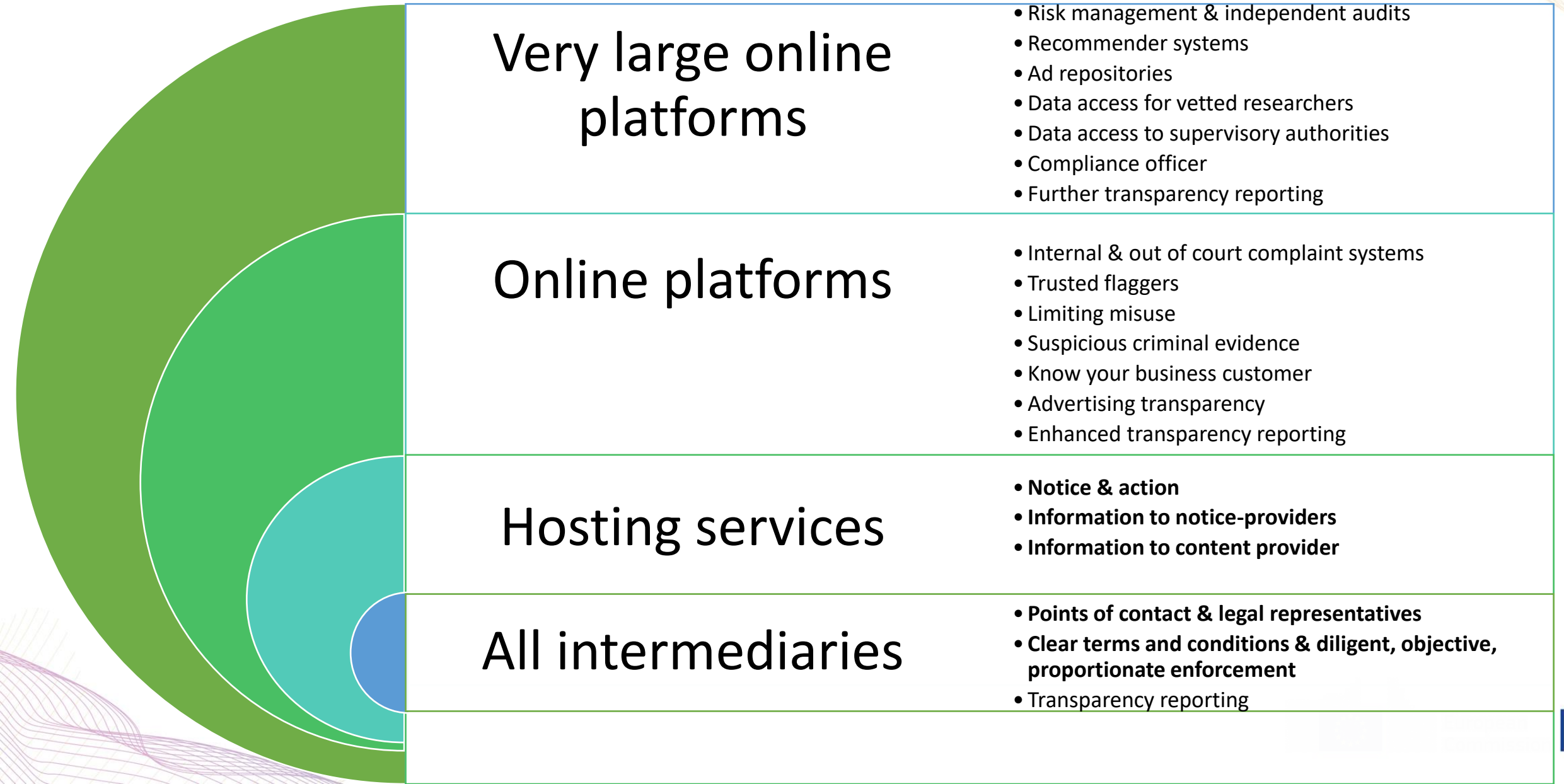
They can still benefit from liability exemptions (Art.3, 4, 5)

Prohibition of general monitoring obligations

- Same principle as in e-Commerce Directive
- No general obligation on providers:
 - **to monitor the information which they transmit or store**
 - **to actively seek facts or circumstances indicating illegal activity**
- Still possible to impose a monitoring obligation in **a specific case**
- Still possible for Member States to issue orders in accordance with national legislation, in accordance with conditions in DSA.



Due diligence obligations



EU governance for supervising digital services

National level:

Digital Services Coordinators (DSC)

- Independent authorities
- Direct supervision and enforcement (by default)
- Coordination with other national competent authorities and exchanges of views

European Board for Digital Services

- Ad-hoc independent advisory group
- Composed by national Digital Services Coordinators
- Chaired by the Commission
- Advises DSCs and COM, recommends actions

European Commission

- Direct enforcement powers vis à vis very large online platforms
- Advises on cross-border disputes
- Intervenes following DSC requests

Breaches of DSA obligations => Digital Services Coordinators and the Commission can impose various sanctions and fines up to 6% of the provider's turnover

Thank you!

Agne KAARLEP

Policy officer @ DG CONNECT

Agne.Kaarlep@ec.europa.eu



© European Union 2020

Unless otherwise noted the reuse of this presentation is authorised under the [CC BY 4.0](https://creativecommons.org/licenses/by/4.0/) license. For any use or reproduction of elements that are not owned by the EU, permission may need to be sought directly from the respective right holders.

