



EU EMERGENCY RESPONSE UPDATE KEY POLICY & REGULATORY DEVELOPMENTS

No. 101 | 19 April 2023

This regular alert covers key regulatory developments related to EU emergency responses, including in particular, to COVID-19, Russia's war of aggression on against Ukraine, and cyber threats. It does not purport to provide an exhaustive overview of developments.

This regular update expands from the previous COVID-19 Key EU Developments – Policy & Regulatory Updates (last issue [No. 99](#)).

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COMPETITION & STATE AID

Competition

European Commission publishes 2022 Report on Competition Policy (see [here](#))

On 4 April 2023, the European Commission published the 2022 Report on Competition Policy, presenting key policy developments and legislative initiatives undertaken in 2022, as well as selected key enforcement actions.

The Report, in particular, sets out the Commission's view of its role in mitigating external economic shocks during the upheavals of 2022 through initiatives such as the following:

- The Commission adopted the [Temporary Crisis and Transition Framework](#) (TCTF) for State aid measures on 23 March 2022 (as subsequently modified and most lately replaced on 9 March 2023 by the new [Temporary Crisis and Transition Framework](#)), enabling Member States to remedy the liquidity shortage faced by undertakings directly or indirectly affected by the serious disturbance in the economy created by the Russian aggression against Ukraine.

In 2022, under the TCTF, the Commission adopted 195 decisions, approving 182 national measures notified by 27 Member States. The overall budget that Member States notified to the Commission for such State aid measures amounted to some EUR 670 billion.

- The Commission phased out the [COVID Temporary Crisis Framework](#) (with certain exceptions, see below). The Framework was adopted on 20 March 2020 to support the economy in the context of the coronavirus outbreak.

By end-2022, the Commission had adopted 217 COVID-19-related decisions in all Member States, including decisions under the COVID Temporary Crisis Framework. This was significantly less compared to 2021, when 1180 COVID-19-related decisions were adopted.

- Implementation continued in 2022 of the [Recovery and Resilience Facility](#) (RRF), established on 18 February 2021 in response to the COVID-19 pandemic to support faster and more resilient Member State recovery. The RRF is the core instrument of the €800 billion NextGenerationEU recovery plan for Europe's green and digital transformation.

The Commission indicated that most measures financed by the RRF do not constitute State aid. For the measures that do qualify as State aid, Member States can implement the majority of these either under a block exemption regulation or under a *de minimis* regulation. Still, various measures were notified for the Commission's prior authorization. In 2022, the Commission adopted State aid decisions on nearly 80 RRF-funded measures.

An accompanying Staff Working Document (see [here](#)) to the Report further details (i) the main legislative and policy developments in 2022 across the three competition instruments: State aid, Antitrust (including cartels) and Mergers, as well as (ii) specific enforcement actions in a sectoral overview.

The Commission also released an infographic of key milestones for 2022 (see [here](#)).

State Aid

European Commission welcomes political agreement on European Chips Act (see [here](#))

On 18 April 2022, the Commission welcomed the political agreement reached between the Council of the European Union and the European Parliament on the proposed Regulation establishing a framework of measures for strengthening Europe's semiconductor ecosystem (European Chips Act).

To recall, the proposed Chips Act is part of the Commission's package of measures released in February 2022 (see [here](#)) aimed at ensuring the EU's security of supply and technological leadership in the field of semiconductors (see also [Jones Day COVID-19 Update No. 76 of 9 February 2022](#); and [Jones Day Commentary, EU Chips Act: The EU's Push for Semiconductor Autonomy, March 2022](#)). (Micro-)chips or semiconductors are described as the "DNA of modern technology", with chip demand anticipated to double between 2022 and 2030, and the semiconductor industry's value expected to reach some \$1 trillion by 2030 (see [Council infographic on proposed Chips Act](#)).

The Commission has contended that the COVID-19 crisis exposed vulnerabilities in certain sectors in Europe due to high dependency on an allegedly narrow range of non-EU suppliers, especially for raw materials. The Commission believes that this is particularly the case for EU industry confronted by semiconductor supply disruptions and shortages, particularly in strategic sectors such as health, defence, and energy.

Responding to these perceived critical dependencies, the proposed Chips Act contains three main pillars:

(i) The [Chips for Europe Initiative](#) aims at supporting large-scale technological capacity building. The political agreement reached between the Council and Parliament, in particular, reinforces the competences of the planned [Chips Joint Undertaking](#), a public-private partnership involving the EU, Member States, and the private sector that will undertake the selection of centers of excellence as part of its work programme.

(ii) A [framework to ensure security of supply](#) seeks to spur investment and enhance production capacities. The political agreement, in particular, enlarges the scope of "first-of-a-kind" facilities to include those producing equipment used in semiconductor manufacturing. The Commission advocates first-of-a-kind facilities to reinforce the EU's security of supply, and these can benefit from fast-tracked permit granting procedures.

As concerns the funding of "first-of-a-kind" facilities, Executive Vice-President and Competition Commissioner Margrethe Vestager earlier commented that these require large investments that private investors cannot fund on their own, such that the Commission believes that it may be justified to cover up to 100% of a proven funding gap with public resources. She specified the Commission's view that such funding does not require creating new, modified, or "bended" rules. Rather, the Commission must assess projects directly on the Treaty in seeking to avoid any competition distortions and to avoid a subsidy race in Europe and elsewhere.

(iii) A [monitoring and crisis response coordination mechanism](#) will seek to anticipate supply shortages and provide responses in case of crisis.

The Chips for Europe Initiative is expected to mobilize €43 billion in public and private investments, including €6.2 billion of public funds (of which €3.3 billion from the EU budget), which comes in addition to €2.6 billion public funding already foreseen for semiconductor technologies. The Initiative's

actions will be primarily implemented through the above-mentioned Chips Joint Undertaking.

The political agreement reached between the Council and the European Parliament needs to be finalized, endorsed, and formally adopted by both institutions.

European Commission approves further schemes under new Temporary Crisis and Transition Framework to support economy in context of Russia's invasion of Ukraine and accelerating green transition and reducing fuel dependencies (see [here](#))

The Commission approved additional measures under the new State aid Temporary Crisis and Transition Framework (new TCTF) to support the economy in the context of Russia's invasion of Ukraine and in sectors key to accelerating the green transition and reducing fuel dependencies (applied as from 9 March 2023, see also [Jones Day COVID-19 Update No. 99 of 17 March 2023](#)).

Among the most recently approved State aid schemes under the new TCTF (until 19 April 2023):

- €1 billion (approximately HUF 379 billion) Hungarian scheme to support companies facing increased energy costs in the context of Russia's war against Ukraine.
- €1.4 billion Dutch scheme to support energy-intensive small and medium-sized enterprises (SMEs) facing increased energy costs in the context of Russia's war against Ukraine.
- €120 million Austrian scheme to support producers of the agricultural and aquaculture sectors in the context of Russia's war against Ukraine.
- €70 million Dutch scheme to support SMEs active in the greenhouse horticulture sector in the context of Russia's war against Ukraine.
- €3.5 billion French scheme to support SMEs and microenterprises in the context of Russia's war against Ukraine.
- €2 billion Austrian measure to support the energy supplier Wien Energie GmbH in the context of Russia's war against Ukraine.

European Commission approves further schemes to compensate for damage due to COVID-19 crisis (see [here](#) and [here](#))

The Commission has adopted a significant number of State aid measures under Article 107(2)b, Article 107(3)b, and the State aid COVID Temporary Crisis Framework adopted in March 2020 under Article 107(3)b TFEU. With certain exceptions, the Temporary Crisis Framework applied until 30 June 2022.*

Among the latest schemes (up to 19 April 2023):

- €475,000 in Italian support to compensate Sardinian airport ground-handling service providers for damage suffered due to the coronavirus pandemic. The Commission assessed the measure under Article 107(2)(b) TFEU, which enables the Commission to approve State aid measures granted by Member States to compensate specific companies or sectors for the damage directly caused by exceptional occurrences, such as the coronavirus outbreak.

- €34 million Dutch measure to support organizers of top-level sports events and competitions, which aims at compensating for the damage suffered between 13 November 2021 and 17 January 2022 due to restrictions imposed by the Netherlands to limit the spread of the coronavirus. The Commission also assessed the measure under Article 107(2)(b) TFEU.

** Exceptions notably include the possibility for Member States to (i) create direct incentives for private investments as a stimulus to overcome an investment gap accumulated in the economy due to the crisis (until 31 December 2023) and (ii) provide solvency support measures (until 31 December 2023) aimed at easing access to equity finance for smaller companies.*

The Temporary Framework also provides for a flexible transition, under clear safeguards, in particular for the conversion and restructuring options of debt instruments (e.g., loans and guarantees) into other forms of aid, such as direct grants, until 30 June 2023.

TRADE / EXPORT CONTROLS

Council of the European Union expands sanctions over Russia's military aggression against Ukraine and planned 11th package of sanctions underway (see [here](#))

The EU relies on restrictive measures (sanctions) as one of its tools to advance its Common Foreign and Security Policy (CFSP) objectives, such as safeguarding EU's values, fundamental interests, and security; preserving peace; and supporting democracy and the rule of law.

Sanctions include measures such as travel bans (prohibition on entering or transiting through EU territories); asset freezes; prohibition on EU citizens and companies from making funds and economic resources available to the listed individuals and entities; ban on imports and exports (e.g., no exports to Iran of equipment that might be used for internal repression or for monitoring telecommunications), and sectoral restrictions.

Among the most recent developments to the EU sanctions regimes:

Russia: On 13 April 2023, the Council decided to add the Wagner Group (Russia-based unincorporated private military entity) and RIA FAN (Russian media organization involved in pro-government propaganda and disinformation on Russia's war of aggression against Ukraine) to the list of those subject to EU restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine.

Altogether, EU restrictive measures taken against Russia's war of aggression against Ukraine now apply to a total of 1,473 individuals and 207 entities. Those designated are subject to a freezing of their assets, and EU citizens and companies are forbidden from making funds and economic resources available to them. Natural persons are additionally subject to a travel ban, which prevents them from entering or transiting through EU territories. The list of sanctioned persons and entities is subject to ongoing review and periodic renewals by the Council.

The EU restrictions also concern economic relations (e.g. certain import/export bans; certain bans on advisory/consultancy services) with the illegally annexed Crimea and the city of Sevastopol, the non-government controlled areas of the Donetsk and Luhansk oblasts, as well as Zaporizhzhia and Kherson.

These sanctions, first introduced in 2014 in response to Russia's actions destabilizing the situation in Ukraine, have significantly expanded following Russia's military aggression against Ukraine, starting in February 2022 with the so-called [first package of sanctions](#) (see [here](#)) and now with the [10th package of sanctions](#) (see [here](#)) adopted by the Council on 24 February 2023* (see also [Jones Day COVID-19 Update No. 98 of 1 March 2023](#)).

The European Commission's [Q&A](#) on the 10th package of sanctions provides further details (see [here](#)). The Q&A, in particular, specifies that none of the EU's sanctions adopted against Russia prevent the supply of agri-food, medical equipment or medicines for the general population in Russia. Also, no EU sanctions would prohibit third countries from purchasing Russian fertilizers.

Forthcoming 11th package of sanctions: The European Commission is currently moving ahead with a proposal for an 11th package of sanctions, as confirmed in statements to the press on 13 April 2023 by Mairead McGuinness, EU Commissioner for Financial Services, Financial Stability and Capital Markets Union. Commissioner McGuinness indicated: "*Our information is that the sanctions are working, and we will be doing more but we need to look at full implementation.... We have to make sure [individuals and entities] don't find ways around our sanctions.*"

A consolidated latest version of all Commission FAQs on implementation of sanctions adopted following Russia's military aggression against Ukraine is also available [here](#).

** An in-depth analysis of the 10th package of sanctions against Russia is available from the authors of the COVID-19 Update (see contact details below for Nadiya Nychay (Brussels) and Rick van 't Hullenaar (Amsterdam)).*

Joint Statement on 10th EU-US Energy Council (see [here](#))

On 4 April 2023, the EU and US issued a Joint Statement following the 10th EU-US Energy Council (co-chaired by EU High Representative and Commission Vice-President Josep Borrell, Commissioner for Energy Kadri Simson, US Secretary of State, Antony Blinken, and US Deputy Secretary for Energy, David Turk).

The EU-US Energy Council is the main transatlantic coordination forum on strategic energy issues for policy exchange and coordination. Additionally, the [Joint Energy Security Task Force](#), created in March 2022 by Presidents von der Leyen and Biden, has accompanied the Council in playing a key role in supporting the swift elimination of the EU's reliance on Russian fossil fuels by diversifying its natural gas supplies, taking steps to minimize the sector's climate impact, and reducing the overall demand for natural gas (see also [Jones Day COVID-19 Update No. 92 of 18 November 2022](#) and [Jones Day Newsletter, U.S. and EU Create Joint Task Force, May 2022](#)).

The Joint Statement recognized since the Council's last ministerial-level meeting on 7 February 2022, shortly after Russia launched its war of aggression against Ukraine, an unprecedented intensification of cooperation has occurred between the EU and US. Among the Joint Statement's highlights:

- On responding to Russia's threats to global energy security, the Council affirmed the strong EU-US commitment to directly confront, with adequate measures, all efforts to further destabilize the global energy situation and to circumvent sanctions.
- On bolstering energy security in Ukraine and Moldova, the Council noted that following the successful synchronization of Ukraine and Moldova with the EU electricity grid, the Council intends to continue to support both Ukraine's recovery and reconstruction, as well as the long-term economic and clean energy transition for Ukraine and Moldova.
- On promoting energy security through an accelerated energy transition, the Council recognized the importance of energy relations, and particularly the role of gas and renewable energy supplies to the EU from/through regions such as the South Caucasus, Black Sea, Eastern Mediterranean and North Africa. The significant role of reliable energy partners in these regions calls for mutually beneficial cooperation on security of energy supplies and further cooperation on critical infrastructure.
- On energy policy, technology, and innovation, the EU and US have notably decided to co-host a High-Level Small Modular Reactors (SMR) Forum later this year on transatlantic cooperation in the field of SMRs and other advanced nuclear reactors.

Commissioner Simson's remarks on the 10th EU-US Energy Council noted, in particular, that Russia's aggression triggered "*an unprecedented shift in the EU energy system*" and that "*disengagement from Russian supplies had worked faster than expected.*" The EU reduced its gas consumption by 19%, with new renewables replacing over 11 bcm (billion cubic meters) and alternative sources providing 90 bcm of gas, including imports of US LNG that more than doubled in 2022. Commissioner Simson further stated: "*I believe this is not a temporary situation, but marks a structural change in Europe's energy outlook and trade orientation.*"

Fourth meeting of the Joint Committee under the EU-Japan Economic Partnership Agreement (see [here](#))

On 25 March 2022, Executive Vice-President and European Commissioner for Trade Valdis Dombrovskis and Japanese Minister of Foreign Affairs Yoshimasa Hayashi co-chaired the fourth Joint Committee under the [EU-Japan Economic Partnership Agreement](#) (EPA).

To recall, the EPA is a trade agreement applicable since 1 February 2019 that seeks to further facilitate trade between the EU and Japan, notably by removing tariffs and other trade barriers and assisting in shaping global trade rules in line with both parties' values (see [Jones Day COVID-19 Update No. 80 of 25 March 2022](#) for the third Joint Committee under the EU-Japan Economic Partnership Agreement).

Among the Joint Committee's main takeaways:

- The EPA plays an important role in cultivating resilient EU-Japan trade flows, which rapidly rose to pre-pandemic levels in 2021 (€124 billion) and increased by 13.4% to €140.6 billion in 2022.
- On improving market access, the parties discussed issues such as import conditions in Japan for certain categories of EU agricultural products, as well as the importance of accelerating negotiations on

the inclusion of data flow provisions in the EPA, given businesses' essential need for the free flow of data between the EU and Japan.

Furthermore, the Commission noted the unified EU-Japan response to Russia's illegal aggression against Ukraine, and notably on sanctions against Russia and Belarus.

MEDICINES AND MEDICAL DEVICES

Statement by EU Commissioner Kyriakides on World Health Day on key EU objectives (see [here](#))

On 7 April 2023, the EU Commissioner for Health and Food Safety Stella Kyriakides released a statement on World Health Day, which highlighted the dual crises facing healthcare:

“Three years into the COVID-19 pandemic, we have seen the weaknesses in our healthcare systems and how the world was simply not prepared to face a crisis of this magnitude. These challenges have been exacerbated by the Russian invasion in Ukraine, which highlighted even further the crucial role of well-functioning health systems.”

Commissioner Kyriakides outlined the EU's key objectives in healthcare for the coming year, such as:

- Reforming EU pharmaceutical legislation towards improving access to innovative and affordable medicines for patients, enhancing security of supply to reduce the risk of medicines shortages, and supporting a globally leading and innovative EU pharmaceutical industry (see [here](#)).
- Strengthening the resilience of health systems, including by:
 - Accelerating the broader use of digital health solutions in all care settings and at home. The surge in telemedicine during the pandemic must be more broadly rolled out in health systems. For instance, the proposed European Health Data Space, a key pillar of our European Health Union, will provide wider access to safe health data to healthcare professionals, while spurring research into new and innovative treatments (see also [Jones Day COVID-19 Update No. 84 of 17 May 2022](#)).
 - Investing in the healthcare workforce and addressing current shortages. The pandemic demonstrated the need for a well-trained health workforce, in adequate numbers and with the right skills, including digital skills.

Commissioner Kyriakides further noted that the pandemic demonstrated the importance of working with international partners for stronger health systems and pandemic preparedness worldwide. She expressed the EU's commitment to the WHO and to working with partner countries towards delivering on the universal health targets in the 2030 Sustainable Development Goals to combat health threats more vigorously and reinforce global health governance.

EMA announces new features to strengthen PRiority Medicines (PRIME) (see [here](#))

On 4 April 2023, the European Medicines Agency (EMA) announced the introduction of various new features to the PRiority Medicines (PRIME) scheme to boost its support for developing medicines in areas of unmet medical needs.

The PRIME scheme aims at enabling the earlier availability of life-changing medicines for patients, in particular by facilitating and accelerating the generation of robust and relevant evidence for evaluating a marketing authorization application (see [here](#)).

Among the new features:

- A roadmap for each PRIME development to facilitate continuous dialogue between regulators and developers, alongside the product development tracker, in view of continuously monitoring development progress and critical aspects for further discussion (see [here](#));
- Expedited scientific advice provided specifically for PRIME developments for issues with a specific development programme that already received comprehensive initial advice. Starting as a 12-month pilot until March 2024, this agile setting for scientific advice will enable addressing queries from PRIME applicants in a shorter timeframe;
- Submission readiness meetings will be held approximately one year ahead of the submission of a marketing authorization application with developers of PRIME medicines. These meetings will discuss development status, including the implementation of previous regulatory advice and the resulting data package intended to support the marketing authorization application. Prospective applicants will also be expected to present mature plans for post-marketing evidence generation, as applicable.

Introduction of the new PRIME features follows a review of the first five years of experience with the scheme and how to further strengthen it (see [here](#)).

CYBERSECURITY, PRIVACY & DATA PROTECTION

European Commission proposes Cyber Solidarity Act (see [here](#))

On 18 April 2023, the Commission adopted a proposed Regulation to strengthen solidarity and capacities in the Union to detect, prepare for and respond to cybersecurity threats and incidents (Cyber Solidarity Act).

The proposed Cyber Solidarity Act responds to the Member States' call to strengthen EU cyber resilience (see [here](#)) and implements commitments under the Commission's Joint Cyber Defence Communication of 2022 (see [here](#)). The proposed Act is also part of the EU Cybersecurity Strategy announced in December 2020 (see [here](#)) and will complement the existing European cybersecurity framework, and notably:

- the NIS 1 Directive, soon to be replaced by the NIS 2 Directive, which Member States shall apply by October 2024 (see also [Jones Day COVID-19 Update No. 84 of 17 May 2022](#)), and
- the Cybersecurity Act, which became effective in June 2019 (see also [Jones Day Commentary, The EU Cybersecurity Act is Now Applicable, June 2019](#)).

The higher uptake of digital technologies has increased Member States' exposure to cybersecurity incidents and their potential impacts, such as the

threat of large-scale incidents causing significant disruption and damage to critical infrastructures. For instance, Russia's invasion of Ukraine was preceded and is still characterized by a strategy of hostile cyber-related operations.

In this context, the proposed Act contains the following main features:

- A European Cyber Shield, which aims to detect, analyze and process data on cyber threats and incidents in the EU. It will consist of:
 - National Security Operations Centres (SOCs) designated by each participating Member State and which shall act as a reference point and gateway to other national-level public and private organizations for collecting and analyzing information on cybersecurity threats and incidents and contributing to a Cross-border SOC (below); and
 - Cross-border SOCs would consist of a consortium of at least three Member States, represented by National SOCs, who are committed to work together to coordinate their cyber detection and threat monitoring activities.
- A Cybersecurity Emergency Mechanism, which would seek to improve the EU's resilience to major cybersecurity threats, such as by:
 - Supporting preparedness (e.g., testing for potential weaknesses in entities in crucial sectors such as finance, energy and healthcare);
 - Establishing an EU Cybersecurity Reserve, composed of incident response services from private service providers ("trusted providers") that can be deployed at the request of Member States or Union entities to assist with addressing significant or large-scale cybersecurity incidents); and
 - Creating a mutual assistance mechanism to support a Member State that offers mutual assistance to another Member State impacted by a cybersecurity incident.
- A Cybersecurity Incident Review Mechanism, which aims to assess significant or large-scale incidents, as performed by ENISA in the form of an incident review report to the computer incident response teams ("CSIRTs") network, the EU Cyber Crises Liaison Organisation Network ("EU-CyCLONe"), and with the Commission to support them in carrying out their tasks.

The Proposal will now undergo discussion by the European Parliament and the Council of the European Union.

Further information on the Proposal is also provided in the Commission's accompanying Q&A (see [here](#)).

**EDPB publishes
2022 Annual
Report on
Streamlining
Enforcement
through**

On 17 April 2023, the European Data Protection Board (EDPB) published the 2022 Annual Report on Streamlining Enforcement through Cooperation.

EDPB is an independent European body, established by the General Data Protection Regulation (GDPR), which seeks to ensure the consistent application of data protection rules across the European Economic Area

Cooperation (see [here](#))

(EEA). It promotes this objective by enhancing cooperation between national Supervisory Authorities (SAs) and issuing general, EEA-wide guidance on interpreting and applying data protection rules.

The Report summarizes EDPB activities in 2022, highlights the following in particular:

- Initiatives to streamline enforcement cooperation activities, such as by the creation of a Support Pool of Experts to support and increase SAs' ability to supervise, investigate and enforce;
- Initiatives to further ensure the consistent application of the GDPR across the EEA. In 2022, the EDPB adopted 12 guidelines and recommendations on topics such as personal data breach notifications, data subject rights, deceptive design patterns, calculation of administrative fines, and practical implementation of amicable settlements.

Moreover, the Report provides information on all of the following: (i) binding decisions; (ii) consistency decisions; (iii) guidance and information notes; (iv) the register for decisions taken by SAs and courts on issues handled in the consistency mechanism; (v) legislative consultation and documents addressed to the EU institutions or national authorities (including the EDPS-EDPB Joint Opinion 1/2022 on the extension of the Covid-19 certificate Regulation (see [Jones Day COVID-19 Update No. 79 of 16 March 2022](#))); (vi) GDPR cooperation and enforcement activities; (vii) plenary meetings and subgroups; and (viii) stakeholder consultation activities.

The Report also illustrates the activities carried out by national SAs, including on COVID-19 and Russia-related issues. For example:

- In Belgium, the SA found that the Brussels Airport and Ambulance Rescue team did not have a legal basis under GDPR while carrying out temperature checks on passengers and for the processing of special categories of personal data (health data) in the context of the COVID-19 crisis.
- SAs of EEA Member States with close economic and historic ties with Russia are examining the lawfulness of data transfers to Russia, including in the context of ongoing investigations, taking into account the increased impact on the rights and freedoms of data subjects that may arise from such data processing operations. These SAs will coordinate within the EDPB, as appropriate.
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Andrea Jelinek, outgoing Chair of the European Data Protection Board, further remarked on the Report: *"What is also abundantly clear from this report is how the role of the EDPB has changed. Today, we are much further than we were in 2018.... EDPB is a major player in the European Economic Area (EEA) digital economy. It does not just ensure that data protection law is applied consistently across the EEA, but it helps shape Europe's digital future."*

European Commission launches European Centre for Algorithmic

On 17 April 2023, the Commission launched the European Centre for Algorithmic Transparency (ECAT) to support enforcement of the Digital Services Act (DSA).

Transparency (see [here](#) and [here](#))

To recall, the DSA (see [here](#)) introduces a uniform framework across the EU of rules and obligations on digital services that act as intermediaries in their role of connecting consumers with goods, services and content (e.g., online marketplaces, internet service providers, cloud services, messaging, social networks). It complements other existing rules, and in particular, the GDPR.

The DSA entered into force on 16 November 2022, and certain provisions also became applicable on the same day (e.g., certain transparency obligations for online platforms, the Commission's obligation to designate very large online platforms/search engines and to charge these an annual supervisory fee, and enforcement provisions concerning such very large online platforms/search engines). Most DSA provisions will be applicable as of 17 February 2024 (see [Jones Day COVID-19 Update No. 89 of 14 October 2022](#), [Jones Day COVID-19 Update No. 90 of 28 October 2022](#) and [Jones Day COVID-19 Update No. 92 of 18 November 2022](#)).

ECAT will provide the Commission with in-house technical and scientific expertise to ensure that algorithmic systems used by very large online platforms and very large online search engines comply with the risk management, mitigation and transparency requirements. Under these requirements, designated platforms must identify, analyze and mitigate a broad range of systemic risks on their platforms (e.g., how illegal content and disinformation can be amplified through their services and the impact on the freedom of expression or media freedom). In this respect, among other tasks, ECAT will undertake technical analyses and evaluations of such algorithms.

ECAT scientists and experts will cooperate with industry representatives, academia, and civil society organizations to improve the understanding of how algorithms work by evaluating transparency, appraising risks, and proposing new transparent approaches and best practices.

European Commission adopts procedural rules on implementation of Digital Markets Act (see [here](#))

On 14 April 2022, the Commission adopted the Implementing Regulation on procedural rules for implementation of the Digital Markets Act (DMA) (*Commission Implementing Regulation (EU) 2023/814 of 14 April 2023 on detailed arrangements for the conduct of certain proceedings by the Commission pursuant to the DMA*).

To recall, the DMA (see [here](#)) entered into force on 1 November 2022 and is applicable as of 2 May 2023. The DMA aims to prevent the imposition of unfair conditions on businesses and end users by those designated as "gatekeepers" (i.e., large digital platforms deemed as significantly impacting the internal market, serving as an important gateway for business users to reach their end users, and which enjoy, or will foreseeably enjoy, an entrenched and durable position) that provide a "core platform service" (e.g., online search engines; online social networking services, web browsers, virtual assistants) (*see also COVID-19 Update No. 89 of 14 October 2022*, [Jones Day COVID-19 Update No. 90 of 28 October 2022](#) and [Jones Day COVID-19 Update No. 92 of 18 November 2022](#)).

The Implementing Regulation sets out the terms and conditions for applying the DMA, aiming to ensure the efficiency of procedures and to provide legal certainty with regard to the procedural rights and obligations of the undertakings concerned. Among its detailed rules, the Implementing Regulation provides for:

- The form and content of notifications and submissions related to, e.g.: (i) the gatekeeper designation process; (ii) gatekeepers' reasoned requests concerning compliance with or exemptions from certain obligations; and (iii) the obligation to notify certain concentrations (concerning core platform services or any other services in the digital sector or enable the collection of data); and
- The right to be heard and identification and protection of confidential information.
- Access to the file. In particular, the Implementing Regulation reflects a simplified procedure for such access, which takes into account comments received during the one-month public consultation on the draft Implementing Regulation that closed on 9 January 2023 (see [here](#)).

The Implementing Regulation enters into force on 2 May 2023.

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