

# About Digital Services

*Overview of eCommerce, P2B and DSA regulations*



MALTA COMMUNICATIONS AUTHORITY

# eCommerce



# The evolution of eCommerce Policy

## KEY MILESTONES

2002 - 2006

eCommerce Directive is transposed into Maltese Law (eCommerce Act)

Minister designates MCA as the competent Authority on eCommerce

eCommerce Regulations (bringing into force all the provisions contained in the ECD 2000/31/EC)

2016 – 2021

- Geo-blocking Regulation (EU) 2018/302
- Cross-border Parcel Delivery Services Regulation (EU) 2018/644
- eIDAS Regulation (EU) 910/2014
- Web Accessibility Directive (EU) 2016/2102
- P2B Regulation (EU) 2019/1150

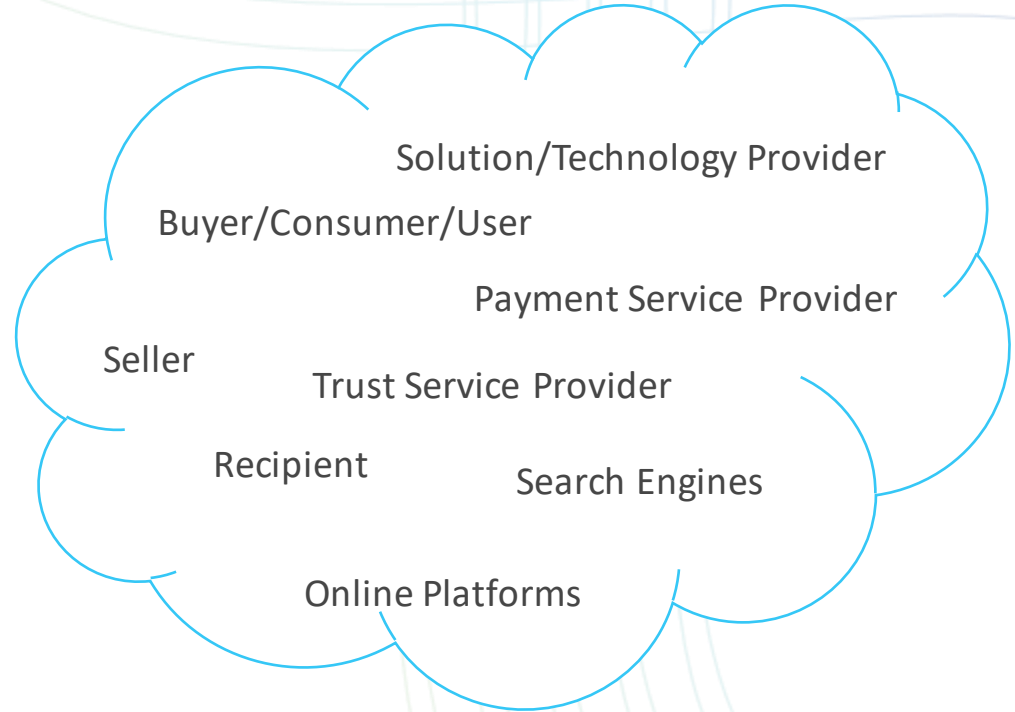
2022 – 2024

- Coming into force of the Digital Services Act
- Implementation of the DSA in MT law
- Designation of the Digital Services Coordinator

# DEFINITION

## Information Society Service

- ✓ Provided at a distance
- ✓ Through electronic means
- ✓ At the request of the recipient of the service



# Online Intermediary Services



# DEFINING INTERMEDIARY SERVICES

**Connect** consumers or users to goods, services or content online

Increasingly play a significant role in **intermediating access** to the Digital Single Market

Generally provide **better, easier and cheaper access** to goods, services, information and knowledge

Create more room for **innovative opportunities** online



Rely on the liability regime to offer the service

Harmonised minimum standards of liability across the EU

# TYPES OF INTERMEDIARY SERVICES

## Search

- Google, Yahoo

## Marketplaces

- Amazon, Asos, eBay, Booking.com

## Social Media

- Facebook, Tik Tok

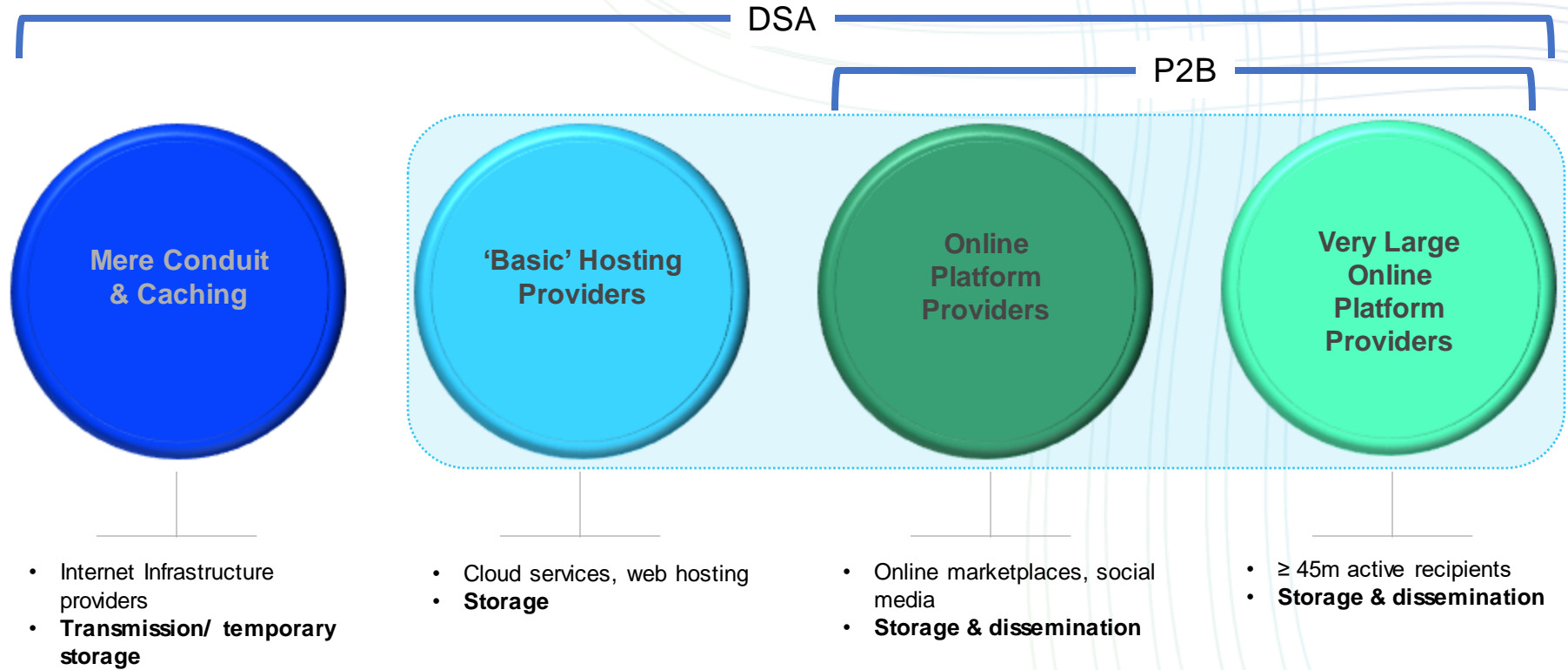
## Entertainment

- Spotify, You Tube

## Cloud Services

- Amazon Web Services, Google Cloud

# CLASSIFYING INTERMEDIARY SERVICES





# Platform to Business Regulation P2B

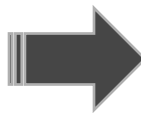


# WHY P2B REGULATION?

Heavy reliance on intermediation services for market access

Unfair terms & conditions

Lack of effective redress



Sellers do not speak up out of fear of retaliation

Economic harm

Fragmentation of the Single Market

# P2B Regulation (EU) 2019/1150 – In Scope

**OISP/OSE** : online marketplaces, short-term accommodation, app stores, social media services for business & online search engines

**Online intermediation  
services/  
online search engines**

established in the EU or outside  
of the EU, offering their  
services to:



Business users established in the EU



Using an online interface to offer/ sell goods & services to consumers  
established in the EU

## **Provider of an online intermediary service:**

- ✓ Offer services that include information society services
- ✓ Connect consumers and/or users to goods, services or content online & facilitate the initiating of direct transactions between businesses and consumers (regardless where these are ultimately completed.
- ✓ Provide a service based on a contractual relationship between you & the business selling on your platform

## **Business user:**

- ✓ A private individual acting in a commercial or professional capacity or a legal person (e.g. a company);  
and
- ✓ Uses online intermediation services to offer goods or services to consumers for purposes relating to their trade, business, craft or profession.  
If you are a business user, you can also be a corporate website user - also entitled to benefit from the requirements placed on search engines.

# IMPROVING FAIRNESS IN TRADING PRACTICES - NEW RULES (EU 2019/1150)

## NO Rules

Sudden & unexplained changes to T&Cs

Termination or suspension of account without clear reasons

Unclear ranking rules

Lack of effective redress

Unclear policies on access to data

Restricting business users from offering better conditions outside of platform

Favouring of own services

## WITH Rules

**Clearer T&Cs, minimum 15-day notice period for changes**

**Reasons for restriction, suspension or termination**

**Provide/publish main ranking parameters**

**Redress mechanisms & mediators**

**Clearer data policy- what, who & under which conditions**

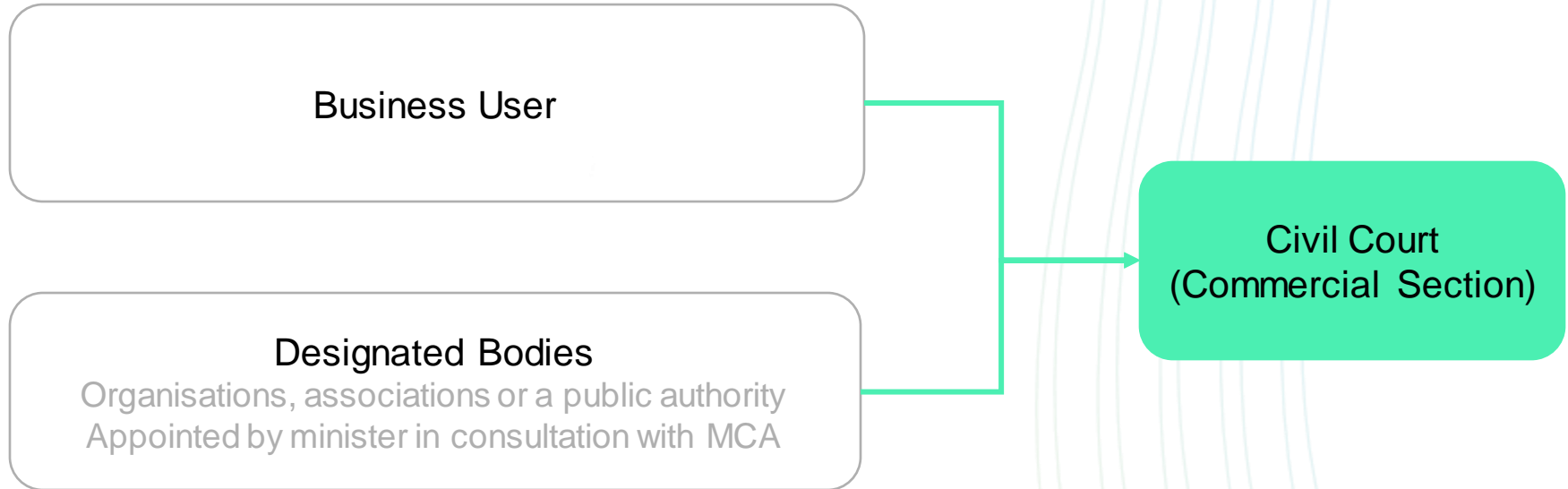
**Grounds for restricting business users from offering goods/services under different conditions elsewhere**

**Preferential treatment should be clearly declared**

# P2B REGULATION (EU) 2019/1150 – IMPLEMENTATION

Implemented into national law by S.L. 399.49<sup>1</sup>

Online Intermediation Services for Business Users (enforcement measures) Regulations



# Digital Services Act DSA



# Scope of DSA

Modernises the e-Commerce Directive

Updates the European Union's legal framework for illegal content on intermediaries

"What is illegal offline should also be illegal online"

Concerns information relating to illegal content, products, services and activities

Targets Providers of Intermediary Services

Directed to the actor specific provider that has the technical and operational ability to act against specific items of illegal content

Seeks harmonisation & clarity

Establishes a targeted set of uniform, effective and proportionate mandatory rules to safeguard and improve the functioning of the internal market

Liability waiver persists

Intermediaries remain exempt from liability for third party content with no monitoring obligation

**A responsible and diligent behaviour for a safe, accessible, predictable and trusted online environment**

# Obligations of Intermediary Service Providers

	'Mere Conduit' & 'Caching'	'Hosting'	Online Platforms	VLOPS
Single point of contact	✓	✓	✓	✓
Rules on T&Cs	✓	✓	✓	✓
Moderation & transparency reporting obligations*	✓	✓	✓✓	✓✓✓
<b>Notice and action mechanisms</b>		✓	✓	✓
KYBC			✓	✓
Advertisement and recommender rules			✓	✓
Complaint and redress mechanism			✓	✓
Systemic risks mitigation, independent audit, code of conduct				✓



# Implementation

enter into force 16  
Nov 2022

some obligations for  
VLOPs and VLOSE

designate DSC  
national law

effective on 17  
February 2024

## DSC Role

receive and action reports about non-compliance with DSA obligations by providers of intermediary services

certify and oversee Trusted Flaggers

certify and oversee out-of-court dispute settlement bodies

receive and transmit orders to other DSCs and the Board

act as a single point of contact with the Commission, the Board and DSCs of other Member States

maintain a register of providers of intermediary services based in Malta

coordinate and cooperate with competent authorities, ensuring effective involvement of all authorities in the supervision and enforcement at Union level

participate in the Board and DSC cooperation

compile periodic reporting on orders issued and related activity as determined by the rules

educate providers, authorities, recipients, and users about the rules

encourage and oversee compliance by judiciary and administrative authorities, providers, trusted flaggers, and out-of-court dispute settlement bodies

grant researchers for specific research the status of 'vetted researchers' and issue a reasoned request for data access to a provider of VLOPs



**Is my organisation/company an online intermediary?**

What type?

Which provisions are applicable to me?


**Is my organisation/company using/depending on intermediaries?**

Do I know my rights and obligations?

# THANK YOU



MALTA COMMUNICATIONS AUTHORITY



**The Malta Communications Authority was established on 1st January 2001 and is the statutory body responsible for regulating the electronic communications sectors (including fixed and mobile telephony, internet and TV distribution services), as well as the postal service and eCommerce sectors. Furthermore, the MCA has also recently been entrusted with enforcement of other EU Regulations and Directives in relation to digital services such as rules on geo-blocking, platform-to-business and web accessibility.**

**Our mission is to promote and safeguard a communications environment that is conducive to investment, innovation, economic growth and social well-being**

# **ABOUT THE MCA**