# Contents

- Definitions

- Known challenges for open source and Matrix

- Public policy strategy

- Digital Services Act and Matrix

- Q&A

# Definitions

- Compliance - conforming to a rule, which can take various forms such as laws, technical standards, policies, guidelines, directives and regulations

- Regulatory compliance - organisational goal to ensure there is awareness and steps are taken to comply with relevant laws, policies and regulations

- Decentralised environments - in the context of Matrix, this means there is no central point of control, anyone can host their own server and have control of their data

# Known challenges

- The pace of regulatory development has not been matched by the pace of technological development
  - Knowledge gap between industry and policymakers
  - Ambiguity by default

- Regulatory requirements can be complex, and the addition of decentralisation and federation increases that complexity

# Known challenges

- Regulatory ambiguity leads to issues of proportionality
  - For example, the GDPR has the same obligations put on an individual hosting a small Matrix homeserver as it does on a corporation hosting millions of data records
- The cost of compliance is high and open source funding is still a struggle
  - This becomes even more difficult to navigate when partners and customers, for the sake of their own supply chain, require certifications to demonstrate compliance

# Element Public Policy Strategy

- You'll usually see us be quite vocal about certain regulatory proposals and not so much about others:
  - Our internal public policy strategy defines the key areas where we focus our efforts:
    - Privacy
    - Digital markets and open source
    - End-to-encryption
- Not all public policy engagement involves public outreach
- **Collaboration and openness is key**

# We don't need to do everything, everywhere, all at once

- The tech sector is currently the biggest lobbyist in the US and EU
  - To put it in perspective, the DSA proposals led to Meta hiring 17 FTE lobbyists and investing 8 million Euros in EU lobbying efforts alone (LobbyFacts, 2024)
- A way for open source developers and SMEs to compete is through collaboration and transparency
  - Partnerships with all areas of society impacted by legislative changes
  - **Focussed efforts and discussions on a specific article or section of a proposal can be more effective than a viral social campaign**

# The Digital Services Package

- The Digital Services Package includes the Digital Services Act ("**DSA**") and the Digital Markets Act ("**DMA**")
- For this talk, we'll focus exclusively on the DSA:
    - The DSA regulates online intermediaries and platforms such as marketplaces, social networks, content-sharing platforms, app stores, and online travel and accommodation platforms
    - Its main goal is to prevent illegal and harmful activities online and the spread of disinformation
    - It ensures user safety, protects fundamental rights, and creates a fair and open online platform environment

# Who does the DSA apply to?
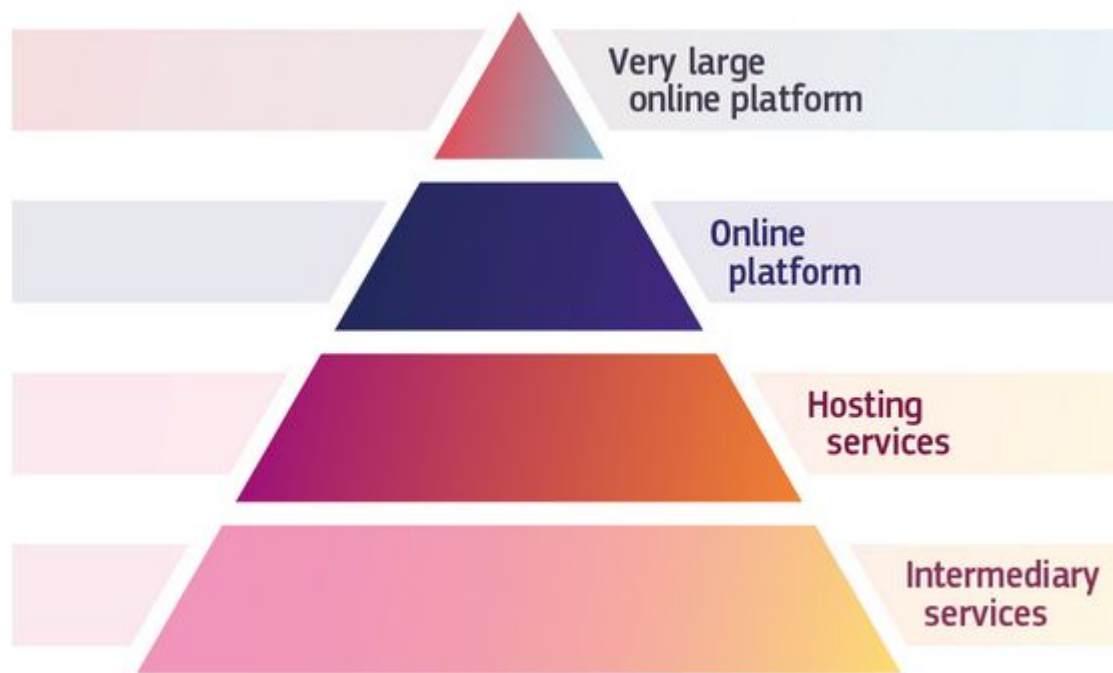


All services in scope of the DSA

- In order to achieve compliance with the DSA in a Matrix context, the first challenge comes with understanding which part of the legal framework will apply to each piece of the ecosystem.
- Going back to the legislation, art.1 and 2 define the subject matter and scope, getting into art. 3 is where some interpretation is required to ensure we are working towards the correct standard.
  - The DSA splits intermediary services into 3 categories;
    - Mere conduit service
    - Caching service
    - Hosting service

# Who does the DSA apply to?
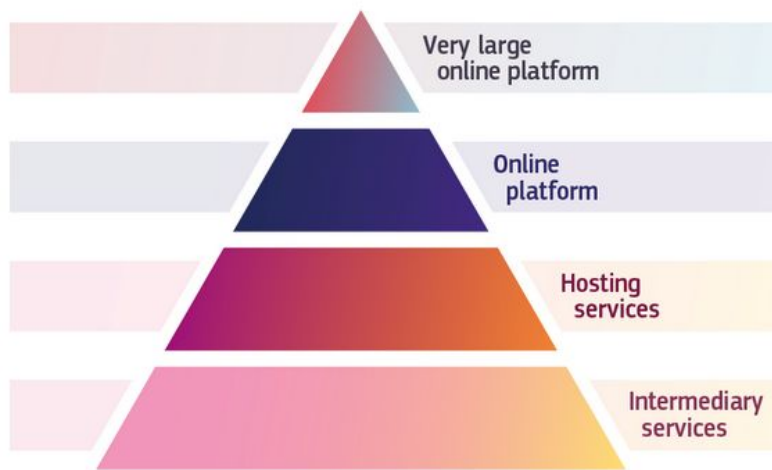


- Our interpretation of this in a Matrix sense is that these roles can be mapped out to different layers of the Matrix architecture:
  - Matrix homeservers have obligations, and immunities, as a "hosting service"
  - Matrix clients have obligations, and immunities, as a "mere conduit"
  - Matrix hosting providers have obligations, and immunities, as a "mere conduit"

- Focusing specifically on the responsibilities put on Matrix homeservers, there are a few challenges that we are currently working on:
  - Obligations around content moderation can be challenging, as moderation in a Matrix context can happen at a server or room level, whereas the regulation assumes platforms have a singular level of control
    - A homeserver administrator would still be ultimately responsible for the application of T&Cs
    - This becomes very complex in an encrypted environment, where the server administrators might not be present in every room

- Roles are not exclusive, i.e. Element is a hosting provider and also develops a

  Matrix client

  - We are taking a view that these roles can be interpreted to apply to specific

    products/services, not the entire organisation

- Working out the balance between DSA/DMA obligations and how they interact

  with pre-existing laws (such as the GDPR)

# References

European Commission. (2019). *The EU's Digital Services Act*. European Commission. Retrieved September 17, 2024, from https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/digital-services-act_en

Gorwa, R., Lechowski, G., & Schneiß, D. (2024). Platform lobbying: Policy influence strategies and the EU's Digital Services Act. *Internet Policy Review*, *13*(2), 1-26.

Kempe, E. M. (2024). *Regulatory Compliance Within the Software Industry: Interpretation of Regulatory Ambiguity as a Compliance Concern.*

@denisea:element.io
denisersa.uk