

Overview

Abbreviations	13
Executive Summary – English	17
Executive Summary – Deutsch	43
A. Background of the Study	75
B. Summarising the Applicable Legal Framework	81
I. On Fundamental Rights, Fundamental Freedoms and EU Values	81
II. On the Allocation of Competences	84
III. The Network of Sectoral Regulation	90
C. Problems Identified regarding the Cross-Border Dissemination of Online Content	101
D. The Commission Proposals for a DSA and a DMA	107
I. On the Digital Services Act Proposal	107
II. On the Digital Markets Act Proposal	113
E. Legislative Options at EU Level	117
I. Regulatory Approaches	117
1. Starting Point	117
2. DSA Approach	134
3. Assessment	138
II. The Country-of-Origin Principle	143
1. Starting Point	143
2. DSA Approach	154
3. Assessment	155
III. Scope of Application	157
1. Starting point	157
2. DSA Approach	162
3. Assessment	165

IV. Liability Privilege Regime	169
1. Starting Point	169
2. DSA Approach	172
3. Assessment	175
V. Obligations of Intermediary Service Providers	180
1. Starting Point	180
2. DSA Approach	188
3. Assessment	195
VI. Design and Structure of Supervision	202
1. Starting Point	202
2. DSA Approach	211
3. Assessment	223
F. Looking Ahead	229
Bibliography	233

Table of Contents

Abbreviations	13
Executive Summary – English	17
Executive Summary – Deutsch	43
A. Background of the Study	75
B. Summarising the Applicable Legal Framework	81
I. On Fundamental Rights, Fundamental Freedoms and EU Values	81
II. On the Allocation of Competences	84
III. The Network of Sectoral Regulation	90
C. Problems Identified regarding the Cross-Border Dissemination of Online Content	101
D. The Commission Proposals for a DSA and a DMA	107
I. On the Digital Services Act Proposal	107
II. On the Digital Markets Act Proposal	113
E. Legislative Options at EU Level	117
I. Regulatory Approaches	117
1. Starting Point	117
a. Legal Instrument	118
b. Content Neutrality of Horizontal Approaches	124
c. Material Scope, Sectoral Exceptions and Discretion	128
d. Defining Objectives of a Regulatory Approach	133
2. DSA Approach	134
3. Assessment	138
II. The Country-of-Origin Principle	143
1. Starting Point	143
a. Key Issues for Assessment	144

b. Options: COO Principle or Market Location Principle	148
c. Key Points for Design	150
2. DSA Approach	154
3. Assessment	155
III. Scope of Application	157
1. Starting point	157
2. DSA Approach	162
3. Assessment	165
IV. Liability Privilege Regime	169
1. Starting Point	169
2. DSA Approach	172
3. Assessment	175
V. Obligations of Intermediary Service Providers	180
1. Starting Point	180
a. Reactive Obligations: Notice and Takedown and Dispute Settlement	182
b. Reactive Obligations: Trusted Flaggers and Law Enforcement Cooperation	183
c. Proactive Obligations: User Empowerment	184
d. Proactive Obligations: Stay down, Know Your Customer and Sanctions	184
e. Proactive Obligations: Content Management	185
f. Transparency, Reporting and Information Obligations	187
2. DSA Approach	188
a. All Intermediary Service Providers (Art. 10–13)	189
b. Hosting Service Providers (Art. 14–15)	190
c. Online Platforms (Art. 16–24)	191
d. Very Large Online Platforms (Art. 25–33)	193
e. Additional Obligations (Art. 34–37)	194
3. Assessment	195
VI. Design and Structure of Supervision	202
1. Starting Point	202
a. Overall Structure of Supervision	202
b. Regulatory Powers and Sanctions	206
c. Supranational Coordination and Cooperation	208
2. DSA Approach	211
a. Overall Structure of Supervision	211
b. Regulatory Powers and Sanctions	216

c. Supranational Coordination and Cooperation	220
3. Assessment	223
F. Looking Ahead	229
Bibliography	233