

Little Earthquakes

Recent Developments in EU Legislation and Regulation

Chris Buckridge, 12 September 2023, TLDCON 2023


Table 1: Overview of EU Legislation in the Digital Sector


Research & Innovation	Industrial Policy	Connectivity	Data & Privacy	IPR	Cybersecurity	Law Enforcement	Trust & Safety	E-commerce & Consumer Protection	Competition	Media	Finance		
Digital Europe Programme Regulation, (EU) 2021/694	Recovery and Resilience Facility Regulation, (EU) 2021/241	Frequency Bands Directive, (EEC) 1987/372	General Data Protection Regulation (GDPR), (EU) 2016/679	Database Directive, (EC) 1996/9	Regulation for a Cybersecurity Act, (EU) 2019/881	Law Enforcement Directive, (EU) 2016/680	Product Liability Directive (PLD), (EEC) 1985/374, 2022/0302(COD)	Unfair Contract Terms Directive (UCTD), (EEC) 1993/13	Technology Transfer Block Exemption, (EC) 2014/316	Satellite and Cable I Directive, (EEC) 1993/83	Common VAT system, (EC) 2006/112, 2022/0407(CNS)		
Horizon Europe Regulation, (EU) 2021/695, (EU) 2021/764	InvestEU Programme Regulation, (EU) 2021/523	Radio Spectrum Decision, (EC) 2002/676	Regulation to protect personal data processed by EU institutions, bodies, offices and agencies, (EU) 2018/1725	Community Design Directive, (EC) 2002/6, 2022/0391(COD)	Regulation to establish a European Cybersecurity Competence Centre, (EU) 2021/887	Directive on combating fraud and counterfeiting of non-cash means of payment, (EU) 2019/713	European Standardization Regulation, (EU) 2012/1025	E-commerce Directive, (EC) 2000/31	Company Law Directive, (EU) 2017/1132, 2023/0089(COD)	Information Society Directive, (EC) 2001/29	Payment Service Directive 2 (PSD2), (EU) 2015/2366 2023/0209(COD)		
Regulation on a pilot regime distributed ledger tech. market, (EU) 2022/858	Connecting Europe Facility Regulation, (EU) 2021/1153	Broadband Cost Reduction Directive, (EU) 2014/61, 2023/0046(COD)	Regulation on the free flow of non-personal data, (EU) 2018/1807	Enforcement Directive (IPR), (EC) 2004/48	NIS 2 Directive, (EU) 2022/2555	Regulation on terrorist content online, (EU) 2021/784	Radio Equipment Directive (RED), (EU) 2014/53	Unfair Commercial Practices Directive (UCPD), (EC) 2005/29	Market Surveillance Regulation, (EU) 2019/1020	Audio-visual Media Services Directive (AVMSD), (EU) 2010/13	Digital Operational Resilience Act (DORA Regulation), (EU) 2022/2554		
Source: A dataset on EU legislation for the digital world Bruegel [European economic think tank] July 2023	Regulation on High Performance Computing Joint Undertaking, (EU) 2021/1173	Open Internet Access Regulation, (EU) 2015/2120	Open Data Directive (PSI), (EU) 2019/1024	Directive on the protection of trade secrets, (EU) 2016/943	Information Security Regulation, 2022/0084(COD)	Temporary CSAM Regulation, (EU) 2021/1232, 2022/0155(COD)	eIDAS Regulation, (EU) 2014/910, 2021/0136(COD)	Directive on Consumer Rights (CRD), (EU) 2011/83	P2B Regulation, (EU) 2019/1150	Portability Regulation, (EU) 2017/1128	Crypto-assets Regulation (MiCA), (EU) 2023/1114		
	Regulation on Joint Undertakings under Horizon Europe, (EU) 2021/2085, 2022/0033(INLE)	European Electronic Communications Code Directive (EECC), (EU) 2018/1972	Data Governance Act (DGA Regulation), (EU) 2022/868	Standard essential patents, 2023/0133(COD)	Cybersecurity Regulation, 2022/0085(COD)	E-evidence Regulation, 2018/0108(COD)	Regulation for a Single Digital Gateway, (EU) 2018/1724	e-invoicing Directive, (EU) 2014/55	Vertical Block Exemption Regulation (VBER), (EU) 2022/720	Satellite and Cable II Directive, (EU) 2019/789	Digital euro, 2023/0212 (COD)		
	Decision on a path to the Digital Decade, (EU) 2022/2481	Roaming Regulation, (EU) 2022/612	ePrivacy Regulation, 2017/0003(COD)	Design Directive, 2022/0392(COD)	Cyber Resilience Act, 2022/0272(COD)	Digitalization of travel documents	General Product Safety Regulation, (EU) 2023/988	Geo-Blocking Regulation, (EU) 2018/302	Digital Market Act (DMA Regulation), (EU) 2022/1925	Copyright Directive, (EU) 2019/790	Financial Data Access Regulation, 2023/0205 (COD)		
	European Chips Act (Regulation), 2022/0032(COD)	Regulation on the Union Secure Connectivity Programme, (EU) 2023/588	European Data Act (Regulation), 2022/0047(COD)	Compulsory licensing of patents, 2023/0129(COD)	Cyber Solidarity Act (Regulation), 2023/0109(COD)		Machinery Regulation, (EU) 2023/1230	Digital content Directive, (EU) 2019/770	Regulation on distortive foreign subsidies, (EU) 2022/2560	European Media Freedom Act, 2022/0277(COD)	Payment Services Regulation, 2023/0210(COD)		
	European critical raw materials act (Regulation), 2023/0079(COD)	.eu top-level domain Regulation, (EU) 2019/517	European Health Data Space (Regulation), 2022/0140(COD)				AI Act (Regulation), 2021/0106(COD)	Directive on certain aspects concerning contracts for the sale of goods, (EU) 2019/771	Horizontal Block Exemption Regulations (HBER), (EU) 2023/1066, (EU) 2023/1067		Revision of the late payments Directive		
	Establishing the Strategic Technologies for Europe Platform (STEP), 2023/0199(COD)	New radio spectrum policy programme (RSPP 2.0)	Regulation on data collection for short-term rental, 2022/0358(COD)				Eco-design Regulation, 2022/0095(COD)	Digital Services Act (DSA Regulation), (EU) 2022/2065	Platform Work Directive, 2021/0414(COD)				
		Telecoms Act / Fair Share initiative	Harmonization of GDPR enforcement 2023/0202(COD)				AI Liability Directive, 2022/0303(COD)	Right to repair Directive, 2023/0083(COD)	Single Market Emergency Instrument (SMEI), 2022/0278(COD)				
			Interoperable Europe Act, 2022/0379(COD)					Political Advertising Regulation, 2021/0381(COD)					
			Access to vehicle data, functions and resources					Multimodal digital mobility services (MDMS)					
			GreenData4all					Consumer protection: strengthened enforcement cooperation					
								Consumer rights: adapting ADR to digital markets					

Applicable law

In negotiation

Planned initiative

 kaizenner.eu

 bruegel



Legend

Applicable law	Published in the Official Journal of the European Union
In negotiation	Proposal by the European Commission entered the legislative process
Planned initiative	Mentioned by the European Commission as potential legislative initiative

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Telecoms Act / Fair Share initiative

NIS 2 Directive, (EU) 2022/2555

E-evidence Regulation, 2018/0108(COD)

Cyber Resilience Act, 2022/0272(COD)

Digital Services Act (DSA Regulation), (EU) 2022/2065

AI Act (Regulation), 2021/0106(COD)

DNS4EU

Establishing the Strategic Technologies for Europe Platform (STEP), 2023/0199(COD)

New radio spectrum policy programme (RSPP 2.0)

Regulation on data collection for short-term rental, 2022/0358(COD)

Harmonization of GDPR enforcement 2023/0202(COD)

Interoperable Europe Act, 2022/0379(COD)

Access to vehicle data, functions and resources

GreenData4all

Digital Market Act (DMA Regulation), (EU) 2022/1925

Platform Work Directive, 2021/0414(COD)

Single Market Emergency Instrument (SMEI), 2022/0278(COD)

Regulation, 2021/0381(COD)

Multimodal digital mobility services (MDMS)

Consumer protection: strengthened enforcement cooperation

Consumer rights: adapting ADR to digital markets

Legend

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Fair Share

- “network fees”, “fair share”, “sending party network pays”...
- The age-old question: to compel content providers to pay the companies that provide network infrastructure to end users?

...now with a new spin: “US Big Tech companies to pay EU telcos”

- Charged atmosphere between the Commission/European telcos (and their industry association, ETNO) and many in the Internet industry and technical community

*The "fair share" debate: a tale of
lobbying, capture and hypocrisy!
Konstantinos Komaitis*



- In June, the Parliament passed a resolution calling for measures to ensure “a fair contribution from Large Traffic Generators (LTGs)”

NIS 2

- Update to the 2016 Network and Information Systems (NIS) Directive
- Directive in effect from January 2023 (Member States have 21 months to transpose to national law)
- Some early focus on efforts to include “European root server operators” in scope of the law
 - *Coordinated community engagement with the different institutions ensured this was not included in the final text*
- Requirements on other actors, including ccTLDs (Article 28), regarding accuracy of data; but concern that different states will implement different rules

eco Statement on Article 28 of the Published NIS2 Directive
August 2023



e-Evidence

- A package (including a Regulation and a Directive) designed to, “make it easier and faster for police and judicial authorities to access the electronic evidence they need in investigations”
 - *Elements came into force in August (the Regulation will come into force from August 2026)*
- Significantly, legal orders for electronic evidence can be made from law enforcement to operators in other EU jurisdictions (without having to go via the local courts)
- Originally proposed in 2018 (five years of negotiation)

European Commission webpage



Cyber Resilience Act

- “... introduces mandatory cybersecurity requirements for hardware and software products, throughout their whole lifecycle”

<https://digital-strategy.ec.europa.eu/en/policies/cyber-resilience-act>

- While the European Commission notes, “specified exclusions such as open-source software”, there has been significant concern in the open source community
- A public consultation was held at the beginning of the year; current draft approved by parliamentary committee in July

Open-Source Software vs. the Proposed Cyber Resilience Act
Maarten Aertsen, NLNetLabs, November 2022



DSA/DMA

Digital Services Act

- Proposed 2020, passed November 2022
- This April, the European Commission designated 19 platforms and 3 search engines as “Very Large Online Platforms” (VLOSEs)

Digital Markets Act

- Passed in November 2022, in force since May 2023
- European Commission has now identified six gatekeepers and 22 core platform services (operated by those gatekeepers)
- Gatekeepers must abide by “do’s and don’ts” in how they manage their customer relationships



AI Act

- Artificial intelligence a hot topic in the last 18 months
- EU effort is just one of many, including Council of Europe work on a convention, and UN Security Council discussions, and various national regulations
- AI Act described as, “the world’s first comprehensive AI law”
- Parliament adopted a position in June, but with significant changes to original draft



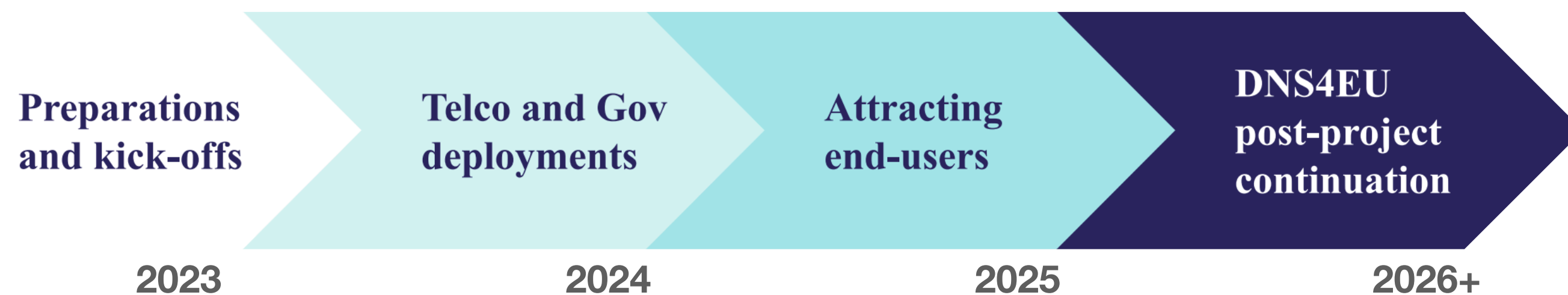
“A European Union representative thinking about how to regulate artificial intelligence”

OpenAI DALL-E

DNS4EU

- Announced as part of the 'EU's Cybersecurity Strategy for the Digital Decade' in 2020, DNS4EU is a public DNS resolver established in Europe and funded (initially) by the EU
- A tender process in 2022 selected Whalebone, a consortium based in CZ, to develop the service
- From a recent Whalebone presentation:

"The EU desires to make this the officially recommended DNS resolver for public and governmental institutions"



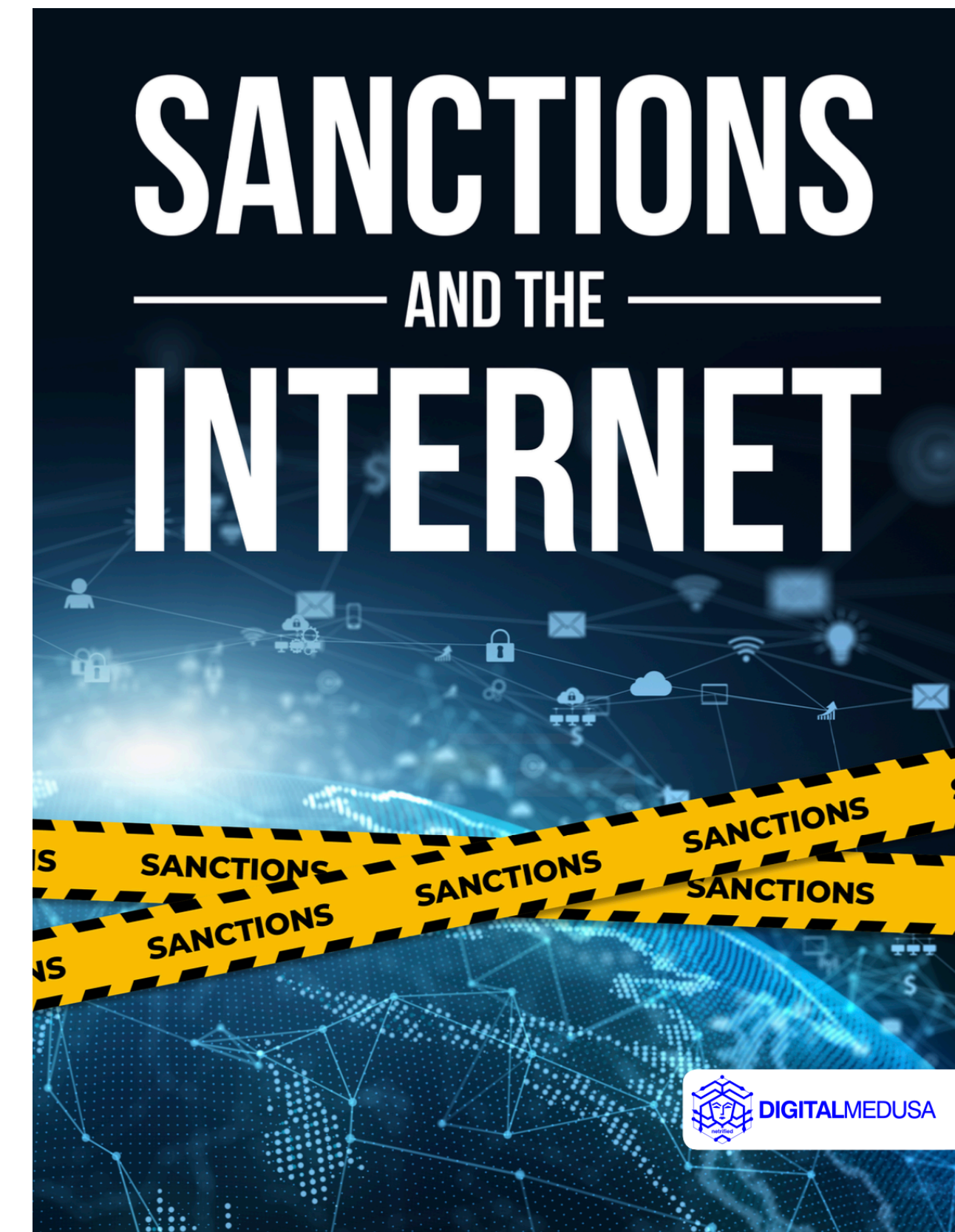
Source:
'DNS4EU scope, timeline
and challenges'
DNS OARC 41 presentation



...one last thing: Sanctions

- Farzaneh Badii, lead researcher with Digital Medusa, published a report earlier this year on sanctions and their impact the Internet, particularly in relation to core, global functions

The study was funded by the RIPE NCC



Some Useful Resources

- RIPE Labs (#policy)
- CENTR Policy Documents
- eco (German Internet industry association)

...and thank you!

@_buckr