



## *SACG SEMINAR*

*10 NOVEMBER, 2022*

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# TODAY'S SEMINAR

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1

Purpose

- The Digital Services Act (DSA) and the upcoming reform of the EU digital platform regime;
  - > Review of the final legislative text of the DSA from IP and anti-counterfeiting perspective
  - > Discussion whether the DSA is fit for purpose or if further policy initiatives are required

2

DSA –  
an introduction

- Underlying policy ambitions
- Core elements from IP and anti-counterfeiting perspective

3

Brand industry  
perspective  
(LVHM)

- The road ahead before the legislation
- Brand industry view on the DSA
- Looking ahead

4

Platform  
perspective  
(Amazon)

- What Amazon already is doing pre-DSA in online anti-counterfeiting
- General view when it comes to legislation and regulation of online platforms

5

Panel discussion

- In-dept discussion on key elements of the DSA from IP and anti-counterfeiting perspective

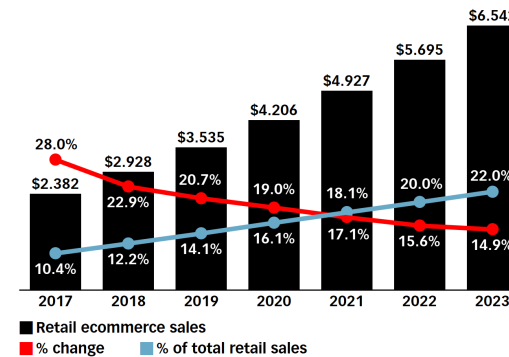
# BACKGROUND TO THE DIGITAL SERVICES ACT (DSA)

## REVISION OF E-COM DIRECTIVE

- Current EU platform liability regime has been in place for two decades.
- It was created in an age before Facebook, google shopping, smart mobile apps etc. and at a time where today major marketplaces still where start-ups.
- Since its creation e-com has boomed on global level, so has also the online counterfeit industry.
- Current legislation does not provide sufficient incitements for platforms to work proactively against counterfeiting and other illegal activities.
- New legislation, DSA, to fully apply from 17 February 2024.

## Global e-com will continue to increase

Retail Ecommerce Sales Worldwide, 2017-2023  
trillions, % change and % of total retail sales



## High counterfeit ratio on major platforms

Apple lawsuit says 90 percent of 'official' chargers sold on Amazon are fake

By James Vincent | @jvincent | Oct 20, 2016, 3:58am EDT

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According to an OECD study from 2019, the total value of world trade in fake goods that infringed on Swedish IP amounted to as much as **SEK 28.3 billions** looking at the year 2016 only.

## **1. Key principle of e-Commerce directive remains**

- Limitation of intermediary liability (art. 4-6)
- However, some new conditions for hosting platforms (art. 6)
- Introduction of Good Samaritan principle (art. 7)

## **2. Notable new obligations for online platforms**

- Point of contact in EU (art. 11)
- Transparency and reporting obligations (art. 15)
- Notice & action regime (art. 16)
- Out of court dispute settlement (art. 21)
- Trusted flaggers regime (art. 22)
- Suspension of repeated infringers (art. 23)
- KYBC obligations for marketplaces (art. 30)
- Consumer information obligations for marketplaces (art. 32)
- Risk assessment and mitigation obligations for VLOPs (art. 34-35)
- Yearly audits on VLOPs (art. 37)
- "GDPR" sanctions for systematic failures by VLOPs (art. 74)

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