

European Digital Markets Act Brief

Prepared for The Senate Economics References Committee

Inquiry into Influence of International Digital Platforms

The EU’s [Digital Markets Act](#) (DMA), which entered into application in May 2023, intends to reign in the power of tech ‘gatekeepers’ by introducing new anti-competition rules that aim to ensure markets are fair and open. The European Commission has a comprehensive explainer on its [website](#).

The rules are intended to create new opportunities for competition on major platforms – such as from independent app stores, alternative payment services and upstart search engines – while simultaneously cracking down on directly abusive behaviour by ‘gatekeepers.’

‘Gatekeepers’ are large online platforms that provide an important gateway between users and consumers, whose position can grant them the power to create a bottleneck in the digital economy.

Under the DMA, the European Commission can designate digital platforms as ‘gatekeepers’ if they provide an important gateway between businesses and consumers in relation to core platform services. A company is a ‘gatekeeper’ as defined in the DMA:

- When the company achieves a certain annual turnover in the European Economic Area, and it provides a core platform service in at least three EU Member States,
- When the company provides a core platform service to more than 45 million monthly active end users established or located in the EU and to more than 10,000 yearly active business users established in the EU,
- And when the company met the second criterion during the last three years.

As of **September 6th, 2023**, the Commission has [designated](#) six gatekeepers: Alphabet, Amazon, Apple, ByteDance, Meta, and Microsoft.

Obligations for ‘Gatekeepers’ – Known as the ‘Dos’ and Don’ts’, include:

Do	Don’t
Allow third parties to inter-operate with the gatekeeper’s own services in certain specific situations.	Treat services and products offered by the gatekeeper itself more favourably in ranking than similar services or products offered by third parties on the gatekeeper’s platform.
Allow their business users to access the data that they generate in their use of the gatekeeper’s platform.	Prevent consumers from linking up to businesses outside their platforms.
Provide companies advertising on their platform with the tools and information necessary for advertisers and publishers to carry out their own independent	Prevent users from uninstalling and pre-installed software or app if they wish to.

<p>verification of their advertisements hosted by the gatekeeper.</p>	
<p>Allow their business users to promote their offer and conclude contracts with their customers outside the gatekeeper's platform.</p>	<p>Track end users outside of the gatekeepers' core platform service for the purpose of targeted advertising, without effective consent having been granted.</p>

Enforcement

The European Commission is the sole enforcer of the rules laid down in the Digital Markets Act, while cooperating and coordinating closely with competition authorities, other competent authorities, and courts in the EU Member States. Penalties for breaching the regime include:

- Fines of up to 10% of the company's total worldwide annual turnover, or up to 20% in the event of repeated infringements.
- Periodic penalty payments of up to 5% of the average daily turnover.
- Additional remedies may be imposed in the case of systematic infringements.

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