

# One Year of the Digital Markets Act: Review and Future Directions

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*The DMA has reshaped the digital landscape in Europe and beyond but has also introduced challenges. The Commission should deepen collaboration with national authorities, non-European countries, and gatekeepers to ensure a more effective framework.*

## 1 Introduction

The EU's Digital Markets Act (DMA) marked a significant milestone on 6 September 2023, heralding a new era of fairer and more competitive digital markets in Europe. On this date, large online platforms designated as gatekeepers in Core Platform Services (CPSs) began complying with a series of obligations designed to mitigate their unavoidable positions. The DMA has profoundly reshaped how these gatekeepers operate in Europe, with wide-ranging implications for both businesses and consumers.

As the sole enforcer of the DMA, the Commission has launched multiple investigations into potential non-compliance, ensuring that the DMA is effective. Although national authorities lack the direct power to enforce the DMA, they have initiated several complementary investigations under other legal frameworks, thereby reinforcing the DMA.

Globally, similar regulatory frameworks are taking shape. Countries from the United Kingdom to Japan are enacting DMA-like legislation, highlighting the need for international cooperation to ensure a consistent global approach to competition in digital markets.

This analysis explores the DMA's implementation and enforcement, examines its international implications, and offers recommendations for the Commission as it continues to guide the future of digital market regulation.

## 2 DMA Implementation and Enforcement

The DMA's initial phase involved designating large online platforms as gatekeepers in CPSs. This designation phase is crucial, as designated firms must only comply with their respective CPSs. Given the stakes, this process was expected to be contentious, with firms likely to challenge their designation. However, as shown in Table 1, the process has been less controversial than anticipated. When disputes did arise, the Commission conducted deeper investigations and, in most cases, chose not to designate the CPSs. Only a few companies, such as ByteDance, challenged their designation before the European Court of Justice (ECJ). In a significant first victory for the Commission, the ECJ dismissed ByteDance's challenge, upholding the Commission's designation as justified due to ByteDance's lack of convincing arguments.

Table 1: DMA designation

Gatekeepers	Date	CPSs	Status	Appeal
Alphabet	06/09/2024	Google Maps; Google Play; Google Shopping; YouTube; Google Ads; Google Search; Google Chrome; Google Android	Designated	No appeal
Amazon	06/09/2024	Amazon Marketplace; Amazon Ads	Designated	No appeal
Apple	12/02/2024	Apple iMessage	Not designated following an investigation	Appeal iMessage (T-1079/23)
Apple	06/09/2024	Apple App Store; Apple Safari; Apple iOS	Designated	Appeal Apple App Store (T-1080/23)
Apple	29/04/2024	Apple iPadOS	Designated following an investigation	No appeal
Booking	13/05/2024	Booking	Designated	No appeal

ByteDance	06/09/2024	TikTok	Designated	Appeal dismissed TikTok (T-1077/23)
Meta	06/09/2024	Facebook; Instagram; WhatsApp; Messenger; Meta Marketplace; Meta Ads	Designated	Appeal Messenger and Meta Marketplace (T-1078/23)
Microsoft	12/02/2024	Microsoft Bing; Microsoft Edge; Microsoft Ads	Not designated following an investigation	No appeal
Microsoft	06/09/2024	LinkedIn; Windows PC OS	Designated	No appeal
X	13/05/2024	X	Ongoing	Not applicable

Source: The author from the European Commission and the Court of Justice.

The designation marks the beginning of the compliance phase. From the day of designation, gatekeepers must inform the Commission of all intended acquisitions in the digital sector (Article 14 DMA). This provision allows the Commission to review acquisitions that fall below EU merger control thresholds following a referral from a Member State (Article 22 EUMR). This measure aims to capture acquisitions with the potential to stifle innovation by eliminating the project of the acquired company, thereby preventing so-called “killer acquisitions”<sup>1</sup>. However, to date, the Commission has not reviewed any reported gatekeeper acquisitions under this referral mechanism<sup>2</sup>.

Six months after designation, gatekeepers must comply with a list of obligations (Articles 5, 6, and 7 DMA) and submit a compliance report (Article 11 DMA). On 7 March 2024, designated gatekeepers announced changes in their operations in Europe. Shortly after, the Commission

<sup>1</sup> Colleen Cunningham, Florian Ederer, and Song Ma, Killer Acquisitions, *Journal of Political Economy*, 2021.

<sup>2</sup> European Commission, List of Acquisitions (accessed 21 August 2024). Available at: <https://digital-markets-act-cases.ec.europa.eu/acquisitions>

hosted public DMA workshops between 18 March and 26 March 2024. These workshops allowed gatekeepers to present their compliance plans and engage with stakeholders<sup>3</sup>.

The Commission employs a “carrot and stick” approach to ensure compliance. The workshops serve as the “carrot,” offering a participatory approach where gatekeepers can refine their compliance strategies based on stakeholder feedback<sup>4</sup>. Other incentives include quick intervention to resolve DMA concerns, as seen with the temporary ban of the Apple account of Epic Games to create an alternative application store on the iPhone<sup>5</sup>.

However, the “carrot” is effective only when paired with a “stick”—the Commission’s enforcement powers. On 25 March 2024, the Commission launched several investigations into non-compliance. As shown in Table 2, some investigations are already progressing, with preliminary findings indicating that Meta and Apple have failed to meet certain DMA obligations.

**Table 2: DMA investigations into non-compliance**

Gatekeepers	Date	Investigation	Status
Alphabet	25/03/2024	Self-preferencing (Article 6(5) DMA)	Ongoing
Alphabet	25/03/2024	Anti-steering (Article 5(4) DMA)	Ongoing
Amazon	25/03/2024	Self-preferencing	No formal investigation (investigatory step)
Apple	25/03/2024	Alternative application store (Article 6(4) DMA)	Ongoing
Apple	25/03/2024	Choice requirements (Article 6(3) DMA)	Ongoing

<sup>3</sup> European Commission, Events (accessed 21 August 2024). Available at: [https://digital-markets-act.ec.europa.eu/events\\_en](https://digital-markets-act.ec.europa.eu/events_en)

<sup>4</sup> Christophe Carugati, A Model For a Participative Approach to Digital Competition Regulation, *Bruegel*, 27 February 2023 (accessed 22 August 2024). Available at: <https://www.bruegel.org/policy-brief/model-participative-approach-digital-competition-regulation>

<sup>5</sup> Emma Roth, Epic Games Just Got Unbanned by Apple — Again, *The Verge*, 8 March 2024 (accessed 21 August 2024). Available at: <https://www.theverge.com/2024/3/8/24094543/epic-games-ios-developer-license-apple-dma>

Apple	25/03/2024	Anti-steering (Article 5(4) DMA)	Preliminary findings
Meta	25/03/2024	Consent requirement (Article 5(2) DMA)	Preliminary findings

Source: European Commission.

The DMA works alongside competition laws and other legal frameworks, including consumer protection laws, to enforce rules against designated gatekeepers. As illustrated in Table 3, the Commission and national authorities have pursued several DMA-related cases without directly invoking the DMA.

**Table 3: DMA-related cases**

Case	Date	Legal Framework	DMA Relation	DMA Obligation
<i>German Google Data Processing</i>	05/10/2023	National antitrust law	Consent requirement to process data	Consent requirement (Article 5(2) DMA)
<i>EU Apple App Store Practices (Music Streaming)</i>	04/03/2024	European antitrust law	Remove anti-steering provisions	Anti-steering (Article 5(4) DMA)
<i>EU Apple Mobile Payments</i>	11/07/2024	European antitrust law	Access to Apple Pay services	Interoperability requirement (Article 6(7) DMA)
<i>Italian Google Linking Services</i>	18/07/2024	Unfair Commercial Practices Directive	Misleading and aggressive information	Consent requirement (Articles 5(2) and 13 DMA)
<i>Consumer Protection Cooperation (CPC) Network Meta "Pay-or-Consent"</i>	22/07/2024	Unfair Commercial Practices Directive and Unfair Contract Terms Directive	Misleading and aggressive information	Consent requirement (Articles 5(2) and 13 DMA)
<i>Spanish Apple App Store</i>	24/07/2024	National and European antitrust laws	Undisclosed practices	Not Applicable

Source: The author from the Bundeskartellamt, European Commission, Autorità Garante della Concorrenza e del Mercato and Comisión Nacional de los Mercados y la Competencia.

The Commission and national authorities work closely together to ensure the effective and consistent application of the DMA with other relevant legal frameworks (Articles 37 and 38 DMA). For example, the German competition authority collaborated with the Commission to define Google's commitments for data processing under the German digital market law. The case complements the DMA consent requirement for data processing (Article 5(2) DMA) by extending it to Google's non-CPSs in Germany<sup>6</sup>. Furthermore, authorities from various policy areas are collaborating under the High-Level Group (HLG) of the DMA (Article 40 DMA). The HLG, which includes the European network of regulators for electronic communications, data protection, consumer protection, competition, and audiovisual media, issued a joint statement on Artificial Intelligence (AI). This statement highlights their coordinated efforts to ensure coherence in AI developments<sup>7</sup>. The European Data Protection Board also plans to propose guidelines on the interplay between the DMA and GDPR to promote cross-regulatory consistency<sup>8</sup>.

The DMA is also directly enforceable in national courts through private enforcement (Article 39 DMA), although no such actions have been taken to date.

Lastly, the DMA is already shaping the deployment of products and services in Europe. For instance, Google disabled users from clicking on Google Maps within Google Search, leading to dissatisfaction<sup>9</sup>. Similarly, Apple's AI agent, Apple Intelligence—a new feature for its operating system—is experiencing delays due to concerns over DMA compliance<sup>10</sup>. On the other hand,

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<sup>6</sup> Bundeskartellamt, Bundeskartellamt Gives Users of Google Services Better Control Over their Data, 5 October 2023 (accessed 22 August 2024). Available at: [https://www.bundeskartellamt.de/SharedDocs/Meldung/EN/Pressemitteilungen/2023/05\\_10\\_2023\\_Google\\_Data.html;jsessionid=B596200F4514AE3E530BB1ED40816B6E.2\\_cid508?nn=3591568](https://www.bundeskartellamt.de/SharedDocs/Meldung/EN/Pressemitteilungen/2023/05_10_2023_Google_Data.html;jsessionid=B596200F4514AE3E530BB1ED40816B6E.2_cid508?nn=3591568)

<sup>7</sup> European Commission, High-Level Group for the Digital Markets Act Public Statement on Artificial Intelligence, 22 May 2024 (accessed 22 August 2024). Available at: [https://digital-markets-act.ec.europa.eu/high-level-group-digital-markets-act-public-statement-artificial-intelligence-2024-05-22\\_en](https://digital-markets-act.ec.europa.eu/high-level-group-digital-markets-act-public-statement-artificial-intelligence-2024-05-22_en)

<sup>8</sup> EDPB, EDPB's Letter to the European Commission Concerning Guidelines on the Interplay Between Digital Markets Act (DMA) and GDPR, 18 July 2024 (accessed 22 August 2024). Available at: [https://www.edpb.europa.eu/system/files/2024-07/edpb\\_letter\\_reply\\_com\\_gls\\_interplay\\_dma\\_gdpr\\_en.pdf](https://www.edpb.europa.eu/system/files/2024-07/edpb_letter_reply_com_gls_interplay_dma_gdpr_en.pdf)

<sup>9</sup> Adam Cohen, New Competition Rules Come with Trade-Offs, *Google Blog*, 5 April 2024 (accessed 21 August 2024). Available at: <https://blog.google/around-the-globe/google-europe/new-competition-rules-come-with-trade-offs/>

<sup>10</sup> Foo Yun Chee, Apple to Delay Launch of AI-Powered Features in Europe, Blames EU Tech Rules, *Reuters*, 21 June 2024 (accessed 14 August 2024). Available at: <https://www.reuters.com/technology/artificial-intelligence/apple-delay-launch-ai-powered-features-europe-blames-eu-tech-rules-2024-06-21/>

the DMA also fosters the deployment of alternative services, such as the Epic Games application store on iPhone in Europe<sup>11</sup>.

### 3 International Implications

The DMA already has a global spillover effect due to the "*Brussels Effect*"<sup>12</sup>. As shown in Figure 1, several countries, including the United Kingdom<sup>13</sup> and Japan<sup>14</sup>, have adopted digital market regulations targeting large online platforms.

Figure 1: Digital market-specific regulations in the world



Source: The author.

<sup>11</sup> Epic Games, The Epic Games Store Launches on Mobile, 16 August 2024 (accessed 22 August 2024). Available at: <https://www.epicgames.com/site/en-US/news/the-epic-games-store-launches-on-mobile>

<sup>12</sup> Anu Bradford, *The Brussels Effect: How the European Union Rules the World*, Oxford University Press, 2020.

<sup>13</sup> Digital Markets, Competition and Consumers Act 2024.

<sup>14</sup> Alba Ribera Martínez and Sangyun Lee, The Japanese Smartphone Act: Teaching Competition Law New Tricks, *Kluwer Competition Law Blog*, 2 July 2024 (accessed 22 August 2024). Available at: <https://competitionlawblog.kluwercompetitionlaw.com/2024/07/02/the-japanese-smartphone-act-teaching-competition-law-new-tricks/>

The DMA operates in an international context, given the global presence of these platforms. The rise of digital market regulations brings two important considerations.

First, designated firms may implement products and services differently based on local regulations. For instance, they might choose to alter their operations only in Europe in response to the DMA. This leads to businesses and users outside Europe accessing different products and services. A notable example is the Epic Games application store on the iPhone, which is available only in Europe due to the DMA's jurisdiction. Epic Games claims that Apple blocks users outside Europe from accessing the store<sup>15</sup>; however, Apple is not obliged to offer alternative application stores outside Europe.

Second, digital market regulations highlight the need for consistency among countries. Local regulations inevitably impact other regions by replication, complementarity, divergence, or contradiction. When regulations replicate or complement each other, firms are incentivised to extend their compliance strategies in other markets, minimising compliance costs through economies of scale. They may adjust these strategies as needed to fit local conditions, as the German *Google Data Processing* case exemplifies. However, when regulations diverge, firms must develop distinct compliance plans, leading to different products and services across regions. In extreme cases, when regulations contradict each other, firms might exit a market if complying with both sets of rules is too costly or impossible due to compliance in one jurisdiction leading to non-compliance in another<sup>16</sup>.

Therefore, international cooperation is crucial for ensuring a consistent global approach to competition in digital markets<sup>17</sup>. Cooperation maximises synergies and minimises tensions among countries, allowing both authorities and firms to learn from various regulatory models, which in turn improves enforcement practices and compliance strategies.

## 4 Future Directions

In just a year, the DMA has significantly reshaped the digital landscape in Europe and beyond. It has strengthened competition in Europe and bolstered the EU's geopolitical influence in

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<sup>15</sup> Epic Games, The Epic Games Store Launches on Mobile, 16 August 2024 (accessed 22 August 2024).

<sup>16</sup> Anu Bradford, *Digital Empires: The Global Battle to Regulate Technology*, Oxford University Press, 2023.

<sup>17</sup> Christophe Carugati, How Best to Ensure International Digital Competition Cooperation, *Bruegel*, 6 February 2023 (accessed 22 August 2024). Available at: <https://www.bruegel.org/policy-brief/how-best-ensure-international-digital-competition-cooperation>



digital market regulation. However, the DMA has also introduced challenges, including trade-offs and delays in launching new products and services, particularly in AI.

In this context, this analysis proposes recommendations for the Commission as it continues to guide the future of digital market regulation across regulatory frameworks, as well as within and outside Europe.

First, ***the Commission should foster a participative approach to ensure cost-effective implementation.*** The Commission should continue promoting a participative approach that enables gatekeepers to refine compliance plans based on stakeholder feedback, reducing the need for lengthy and costly investigations before the Commission and courts. To maximise collaboration while minimising unnecessary friction, the Commission should develop an incentive framework that encourages constructive engagement, and limits demands that exceed the DMA's scope. Clarifying the Act's limitations and establishing working groups with representatives from the Commission, gatekeepers, and stakeholders could facilitate this process.

Second, ***the Commission should deepen collaboration with Member States to enhance cross-regulatory consistency.*** As the DMA intersects with other policy areas, deeper cooperation with national authorities is essential to ensure regulatory consistency. The HLG of the DMA should serve as a forum for broader discussions on digital and competition policy that extend beyond the DMA's scope. It should facilitate information and experience sharing on investigations, enforcement actions, and best practices. Additionally, sector and topic-specific working groups should be established to address cross-regulatory issues, like AI and the interplay between data protection and competition.

Third, ***the Commission should promote international cooperation to ensure global regulatory coherence.*** Given the global impact of digital market regulations, the Commission should cooperate closely with non-European countries to ensure a consistent approach to competition in digital markets through bilateral and multilateral fora with policymakers and competition authorities. It should share information and experiences and minimise divergences in the implementation and enforcement of the DMA.

Fourth, ***the Commission should work with gatekeepers to support innovation and rapid deployment of products and services in Europe.*** The DMA presents new legal and policy challenges while markets develop rapidly, particularly in AI. The Commission should work with gatekeepers to support the swift development and deployment of products and services in

Europe, notably by allowing gatekeepers to seek guidance on their practices before implementation.

## About

### Digital Competition

Digital Competition ([www.digital-competition.com](http://www.digital-competition.com)) is a research and advisory firm dedicated to advancing open digital and competition policies that promote innovation. We provide our members and clients with impartial, forward-looking analyses on emerging global digital and competition issues, helping to shape policies that benefit everyone. We engage with stakeholders, offer insights, and make policy recommendations on complex and novel policy developments. This opinion was conducted independently and did not receive any funding.

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