CCIA Europe response

European Commission questionnaire on the DMA review

September 2025

Questionnaire

List of Core Platform Services and designation of gatekeepers

1. Do you have any comments or observations on the current list of core platform services?

The designation of core platform services has tended to be overly formalistic, at times separating integrated services in a way that creates additional administrative complexity and does not fully reflect the practical functioning of these platforms.

The DMA's one-size-fits-all approach does not fully take into account the differing nature of services, resulting in rules that may not always be well-suited to their purpose and can give rise to trade-offs. Obligations seemingly tailored for one type of Core Platform Service (CPS), like data portability for social media or messaging, are ill-suited for sectors like retail. The blanket application of rules across all Core Platform Services adds unnecessary compliance costs for everyone involved—the Commission, gatekeepers, and ultimately, European businesses and consumers.

Moreover, the DMA introduces some trade-offs that can directly affect both consumers and business users. This is in part due to the fact that in some instances, the DMA does not sufficiently take into consideration the complexity of the issues it regulates, particularly when it overlooks the impact on firms' incentives to innovate.

Numerous academic pieces have been published that explain how the DMA fails to acknowledge how the companies and services it aims to regulate work, resulting in rules that are not fit for purpose, and create more harm than actual positive consequences. (for example, please see*: Economic Impact of the Digital Markets Act on European Businesses and the European Economy (Professor Cennamo, Kretschmer, Constantiou and Dr Garcès)*.

2. Do you have any comments or observations on the designation process (e.g. quantitative and qualitative designations, and rebuttals) as outlined in the DMA, including on the applicable thresholds?

In line with the principles of better regulation and the European Commission's own simplification agenda, CCIA Europe maintains that it is premature to re-open the DMA and cautions against its extension to new services. Indeed, no new service type should be regulated under the DMA without clear and compelling evidence of anti-competitive practices, or a well-substantiated evidence, grounded on demonstrable harm to competition or consumers.

The generative AI sector, a nascent and highly dynamic market, does not warrant ex-ante regulation in addition to what already exists within the EU's framework. Market evidence from a 2024 study by Copenhagen Economics and a more recent report by RBB Economics[11] supports this view, suggesting that the market exhibits robust competition, multi-sourcing, and low switching costs, with no evidence of harm or market tipping. For instance, the RBB Economics study finds that inference costs for high-performance AI models fell by 99.65% between November 2022 and October 2024. This cost reduction has opened the market to hundreds of new players, making AI technologies more accessible, affordable, and competitive. Indeed, the EU has identified AI innovation as a key means to close its competitiveness gap, as highlighted in the Draghi report, the Competitiveness agenda, and the AI continent action plan. Imposing new regulatory obligations through the DMA at a time of strong technological competition would directly hamper these objectives.

Regulating AI as a self-standing Core Platform Service (CPS) under the DMA would risk stifling a currently competitive market and placing a significant burden on European firms at a critical stage of development. Indeed, it could place European firms developing innovative services powered by Generative AI at a disadvantage, by restricting access to AI products, including free and open-source models. It could also slow the development of cutting-edge technologies in the EU, thus delaying European consumers' access to the latest advancements and increasing the risk of technological lag. Furthermore, treating AI as a service or business model rather than a technology, would violate the EU's commitment to technological neutrality, undermining Europe's own AI ambitions.

CCIA Europe suggests to:

- Refrain from regulating AI systems under the DMA;
- Ensure any future designation under the DMA reflects market realities and meets the DMA's core objectives.

Obligations

1. Do you have any comments or observations on the current list of obligations (notably Articles 5 to 7, 11, 14 and 15 DMA) that gatekeepers have to respect?

The DMA was envisaged as a self-executing piece of regulation. The initial years of implementation, however, indicate that compliance with its obligations is complex and that the law is not entirely self-enforcing. For example, the distinction between Articles 5 and 6 seems to have limited practical effect and allows the Commission significant discretion in assessing compliance, as also highlighted by CERRE in its report *"Implementing the DMA: Early Feedback."* This creates some ongoing legal uncertainty for designated companies

2. Do you have any other comments in relation to the DMA obligations?

The DMA has taken a one-size-fits-all approach, applying the same obligations to different businesses and CPSs, without fully considering whether their application would generate meaningful competitive effects or tangible benefits for consumers and

innovation. To potentially remedy this issue, and serve the broader goal of simplification, the European Commission could introduce a procedure to lift obligations where they serve no clear purpose in a given sector, allowing for a more efficient and targeted approach to regulation.

Enforcement

1. Do you have any comments or observations on the tools available to the Commission for enforcing the DMA (for example, whether they are suitable and effective)?

The DMA provisions fail to be self-executing. As a consequence, the European Commission could provide more support to designated companies. For example by:

- Issuing guidelines to clarify compliance expectations, especially in relation to Articles 5 - 7, as well as the Commission's priorities for DMA enforcement[1]. These guidelines should be adopted following comprehensive stakeholder consultations, and taking into consideration the diversity of designated companies' business models and technical constraints;
- Interpret the law according to the principles of legal certainty, predictability, and proportionality;
- Ensure that specification decisions are used only to clarify existing obligations, not to introduce new substantive requirements beyond the DMA's text.

The regulatory dialogue has not always offered the level of transparency and predictability that would best support effective compliance. At times, the process has felt less structured, and compliance expectations have appeared to evolve over time, creating uncertainty for businesses. The regulatory dialogue has often focused more on identifying potential areas of non-compliance than on providing support for the design of compliant solutions. As a result, gatekeepers may find themselves interpreting complex obligations without sufficient clarity.
Similarly, third parties consultation have lacked transparency with regards to the criteria for selecting which third parties are consulted, the timelines for these consultations, and the extent to which their feedback informs enforcement decisions. In some instances, small groups of active stakeholders seem to have played an outsized role in discussions, particularly during technical workshops, consultations, and responses to requests for information (RFIs). For designated companies, this process feels opaque, with limited clarity on how such information is considered in the broader compliance dialogue.

To address these shortcomings, CCIA Europe suggests:

- Increase transparency and structure in the regulatory dialogue process, including on timelines, goals, and ensuring greater openness on implementation details.
- Increase transparency in procedures for consulting third parties, including: criteria for selecting stakeholders, timelines for consultations and responses, indication on how third-party input is assessed and informs enforcement outcomes.

[1] https://cerre.eu/wp-content/uploads/2025/03/DMA-Recommendations_FINAL.pdf

2. Do you have any comments in relation to the enforcement to the DMA?

The DMA is affecting European businesses and consumers in ways unforeseen by its authors. To remedy these unintended consequences, and with the goal of making the legislation more effective and practicable, the European Commission could consider the following:

- Entrust an independent body, such as the European Court of Auditors, with the task of evaluating the effectiveness of the regulation: such a cost-benefit analysis could be relevant to fully grasp and weigh the potential positive and negative impacts of the DMA, to ensure any future action is based on robust evidence;
- Assess whether the DMA enforcement should be left to an independent EU-wide digital regulator that offers the necessary independence and impartiality expertise;[2]
- Establish a procedure to remove certain obligations, when these are irrelevant for a certain sector. Such a procedure would ensure the DMA to be a more efficient and targeted regulation, in line with the EU's regulatory simplification aims;
- Introduce an obligation to evaluate, in all upcoming non compliance and specification decisions, the potential impact on EU businesses, consumers, innovation and related trade-offs, including, *inter alia*, IP protection, and publish related impact assessments with every decision;
- Include ENISA in the DMA High Level Group and ensure this body of regulators and the Digital Markets Advisory Committee play a more active and transparent role in DMA implementation.[3]

CCIA Europe observes that, so far, the implementation of the DMA has shown limited harmonisation, both between the European Commission and Member States and in its alignment with the broader EU legislative frameworks. In particular, the interaction between the DMA and national competition law risks creating regulatory fragmentation. This is true especially in relation to Articles 1(5) and 1(6), and to National Competition Authorities' (NCAs) ability to launch DMA-related investigations, possibly resulting in parallel investigations by the Commission and NCAs under national competition rules.

To address these challenges, CCIA Europe suggests the European Commission to:

- Issue guidelines on the interpretation of Article 1(6), clarifying the division of responsibilities between the Commission and NCAs to avoid overlapping investigations and granting the Commission authority to pause national investigations when specification proceedings or compliance negotiations with gatekeepers are in process;
- Clarify conflicting obligations between the DMA and other European regulations and include the DMA in the broader simplification agenda.

Implementing Regulation and procedure

[2] https://cerre.eu/wp-content/uploads/2025/03/DMA-Recommendations_FINAL.pdf
[3] https://cerre.eu/wp-content/uploads/2025/03/DMA-Recommendations_FINAL.pdf

1. Do you have any comments or observations on the DMA's procedural framework (for instance, protection of confidential information, procedure for access to file)?

CCIA Europe notes that the DMA offers limited rights of defence to designated companies during enforcement proceedings. For example, unlike in the Commission's antitrust and merger control investigations, there is currently no provision for a hearing officer.[18] In addition, the DMA does not provide for an automatic right to an oral hearing, a common feature of both competition and merger control proceedings. Without these procedural safeguards, designated companies have fewer opportunities to present their views to the Commission ahead of potentially adverse decisions, such as specification decisions.

In light of the above, CCIA Europe respectfully suggests introducing the right to request an oral hearing and recourse to an independent hearing officer to resolve potential disputes relating to confidentiality, legal privilege, and access to files.

2. Do you have any comments in relation to the Implementing Regulation and other DMA procedures?

CCIA Europe notes that the timelines for the specification procedure are very tight, which may make effective compliance more challenging. At present, the procedure must be completed within six months from the opening of proceedings to the adoption of the specification decision. However, the Commission is only required to communicate its preliminary findings after three months, which is also the point at which the gatekeeper first gains access to the case file.[19] This setting leaves companies with only three months to analyse the preliminary findings, review case materials, evaluate technical and legal issues, and prepare a comprehensive response.

In light of the above, CCIA Europe respectfully suggests revising timelines of specification procedures to ensure they take into consideration business constraints, for example by introducing a stop-the-clock mechanism that allows proper examination of the implications of compliance solutions.

<u>Effectiveness and impact on business users and end users of the DMA</u>

1. Do you have any comments or observations on how the gatekeepers are demonstrating their effective compliance with the DMA, notably via the explanations provided in their compliance reports (for example, quality, detail, length), their dedicated websites, their other communication channels and during DMA compliance workshops?

The European Commission could consider simplifying compliance and profiling report templates (Article 11). Currently, the reporting system requires companies to provide an extensive amount of information and data. Consequently, it would be more effective to request information directly relevant to demonstrating compliance. This mechanism would reduce administrative complexity and still maintain appropriate oversight.

2. Do you have any concrete examples on how the DMA has positively and/or negatively affected you/your organisation?

Compliance with the DMA represents significant costs for the gatekeepers that are part of CCIA Europe membership. In particular, according to our estimates, the average annual cost of complying with the DMA for a large US company is ~EUR 200 million, which is higher than the Commission's initial estimates of EUR 10 to 20 million. Such costs represent significant opportunity costs for these companies, which could have been directed towards job creation, infrastructure development, or innovation initiatives.

3. Do you have any comments in relation to the impact and effectiveness of the DMA?

The DMA has had a series of negative unintended consequences,unforeseen by its authors, which have nonetheless impacted European businesses, consumers and innovation.

In particular, a recent study estimates that the DMA's effects on European businesses could result in an aggregate loss of revenue ranging from a minimum of EUR 8.5 billion (considering only the effect on personalized ads) up to EUR 114 billion when accounting for the adoption of more sophisticated online services and tools. This corresponds to a loss between 0.05% and 0.64% of the total turnover of the sectors considered. Notably, the accommodation sector may face losses of revenues between EUR 1 billion and EUR 14 billion, whereas the retail sector could lose between EUR 4.4 billion and EUR 59 billion in revenues.

Consumers on the other hand face higher frustrations and difficulties on the internet, after the implementation of the DMA. Based on a recent survey of 5,000 consumers across 20 EU countries, it seems that the regulation is unintentionally making it more difficult for users to navigate online environments effectively. Indeed, 67% of respondents need more time to find relevant content, spending on average 50% longer searching compared to the period before the DMA, with 33% indicating that search results are less relevant than before.

Finally, the DMA is also negatively impacting the innovative potential of the designated companies. Indeed, development and launch of new and innovative products in the EU have been significantly delayed — and in some cases entirely halted — primarily due to the challenges of designing solutions that comply with the DMA's complex requirements.

Additional comments and attachments

1. Do you have any further comments or observations concrete examples on how the DMA has positively and/or negatively affected you/your organisation?

In addition to the above observations, CCIA Europe submits the enclosed position paper, along with the following studies, which should be read in conjunction with our submission:

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- CCIA position paper on the DMA review;
- Study Impact of the Digital Markets Act (DMA) on Consumers across the European Union.
- Economic Impact of the Digital Markets Act on European Businesses and the European Economy.
- The Digital Markets Act
- Costs to U.S. Companies from EU Digital Services Regulation - CCIA Research Center
- Costs to U.S. Companies from EU Digital Regulation - CCIA Research Center