



Commission opens non-compliance investigations against Alphabet, Apple and Meta under the Digital Markets Act

Brussels, 25 March 2024

Today, the Commission has opened non-compliance investigations under the Digital Markets Act (DMA) into **Alphabet's rules on steering in Google Play** and **self-preferencing on Google Search**, **Apple's rules on steering in the App Store** and **the choice screen for Safari** and **Meta's "pay or consent model"**.

The Commission suspects that the measures put in place by these gatekeepers fall short of effective compliance of their obligations under the DMA.

In addition, the Commission has launched investigatory steps relating to Apple's new fee structure for alternative app stores and Amazon's ranking practices on its marketplace. Finally, the Commission has ordered gatekeepers to retain certain documents to monitor the effective implementation and compliance with their obligations.

Alphabet's and Apple's steering rules

The Commission has opened proceedings to assess whether the measures implemented by Alphabet and Apple in relation to their obligations pertaining to app stores are in breach of the DMA. Article 5(4) of the DMA requires gatekeepers to allow app developers to "steer" consumers to offers outside the gatekeepers' app stores, free of charge.

The Commission is concerned that Alphabet's and Apple's measures may not be fully compliant as they impose various restrictions and limitations. These constrain, among other things, developers' ability to freely communicate and promote offers and directly conclude contracts, including by imposing various charges.

Alphabet's measures to prevent self-preferencing

The Commission has opened proceedings against Alphabet, to determine whether Alphabet's display of Google search results may lead to self-preferencing in relation to Google's vertical search services (e.g., Google Shopping; Google Flights; Google Hotels) over similar rival services.

The Commission is concerned that Alphabet's measures implemented to comply with the DMA may not ensure that third-party services featuring on Google's search results page are treated in a fair and non-discriminatory manner in comparison with Alphabet's own services, as required by Article 6(5) of the DMA.

Apple's compliance with user choice obligations

The Commission has opened proceedings against Apple regarding their measures to comply with obligations to (i) enable end users to easily uninstall any software applications on iOS, (ii) easily change default settings on iOS and (iii) prompt users with choice screens which must effectively and easily allow them to select an alternative default service, such as a browser or search engine on their iPhones.

The Commission is concerned that Apple's measures, including the design of the web browser choice screen, may be preventing users from truly exercising their choice of services within the Apple ecosystem, in contravention of Article 6(3) of the DMA.

Meta's "pay or consent" model

Finally, the Commission has opened proceedings against Meta to investigate whether the recently introduced "pay or consent" model for users in the EU complies with Article 5(2) of the DMA which requires gatekeepers to obtain consent from users when they intend to combine or cross-use their personal data across different core platform services.

The Commission is concerned that the binary choice imposed by Meta's "pay or consent" model may not provide a real alternative in case users do not consent, thereby not achieving the objective of

preventing the accumulation of personal data by gatekeepers.

Other investigatory and enforcement steps

The Commission is also taking other investigatory steps to gather facts and information to clarify whether:

- **Amazon may be preferencing** its own brand products on the Amazon Store in contravention of Article 6(5) of the DMA, and
- **Apple's new fee structure** and other terms and conditions for alternative app stores and distribution of apps from the web (sideloading) may be defeating the purpose of its obligations under Article 6(4) of the DMA.

The Commission has also adopted five retention orders addressed to Alphabet, Amazon, Apple, Meta, and Microsoft, asking them to retain documents which might be used to assess their compliance with the DMA obligations, so as to preserve available evidence and ensure effective enforcement.

Finally, the Commission has granted Meta an extension of 6 months to comply with the interoperability obligation (Article 7 DMA) for Facebook Messenger. The decision is based on a specific provision in Article 7(3)DMA and follows a reasoned request submitted by Meta. Facebook Messenger remains subject to all other DMA obligations.

Next steps

The Commission intends to conclude the proceedings opened today **within 12 months**. If warranted following the investigation, the Commission will inform the concerned gatekeepers of its preliminary findings and explain the measures it is considering taking or the gatekeeper should take in order to effectively address the Commission's concerns.

In case of an infringement, the Commission can impose fines up to 10% of the company's total worldwide turnover. Such fines can go up to 20% in case of repeated infringement. Moreover, in case of systematic infringements, the Commission may also adopt additional remedies such as obliging a gatekeeper to sell a business or parts of it, or banning the gatekeeper from acquisitions of additional services related to the systemic non-compliance.

Background

The DMA aims to ensure contestable and fair markets in the digital sector. It regulates gatekeepers, which are large digital platforms that provide an important gateway between business users and consumers, whose position can grant them the power to create a bottleneck in the digital economy.

Alphabet, Amazon, Apple, ByteDance, Meta and Microsoft, the [six gatekeepers designated](#) by the Commission in September 2023, had to fully comply with all DMA obligations by [7 March 2024](#). The Commission has assessed the [compliance reports](#) setting out gatekeepers' compliance measures, and gathered feedback from stakeholders, including in the context of [workshops](#).

Today's **formal non-compliance proceedings** against Alphabet, Apple and Meta have been opened pursuant to Article 20 DMA in conjunction with Articles 13 and 29 DMA for breach of Articles 5(2), 5(4), 6(3) and 6(5) DMA respectively.

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Quotes:

"Today, the Commission opens five non-compliance investigations under the Digital Markets Act (DMA). They concern Alphabet's rules on steering in Google Play and self-preferencing in Google Search, Apple's rules on steering in the App Store and on choosing browsers and changing defaults, and Meta's 'pay or consent model'. We suspect that the suggested solutions put forward by the three companies do not fully comply with the DMA. We will now investigate the companies' compliance with the DMA, to ensure open and contestable digital markets in Europe."

Margrethe Vestager, Executive Vice-President in charge of competition policy - 25/03/2024

"The Digital Markets Act became applicable on 7 March. We have been in discussions with gatekeepers for months to help them adapt, and we can already see changes happening on the market. But we are not convinced that the solutions by Alphabet, Apple and Meta respect their obligations for a fairer and more open digital space for European citizens and businesses. Should our investigation conclude that there is lack of full compliance with the DMA, gatekeepers could face heavy fines."

Thierry Breton, Commissioner for Internal Market - 25/03/2024

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