



EUROPEAN COMMISSION

CASE DMA.100047 – Apple – iPadOS

(Only the English text is authentic)

Digital Markets Act
Regulation (EU) 2022/1925 of the European Parliament
and of the Council

Article 16(1) and 17(1) Regulation (EU) 2022/1925

Date: 05/09/2023

Parts of this text have been edited to ensure that confidential information is not disclosed. Those parts are replaced by a non-confidential summary in square brackets or are shown as [...].



EUROPEAN COMMISSION

Brussels, 5.9.2023
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PUBLIC VERSION

Apple Inc.
One Apple Park Way
Cupertino, CA 95014 USA

Subject: Case DMA.100047 – Apple – iPadOS

Commission decision opening a market investigation pursuant to Articles 16(1) and 17(1) of Regulation (EU) 2022/1925 of the European Parliament and of the Council on contestable and fair markets in the digital sector
Only the English text is authentic

Dear Sir or Madam,

- (1) On 3 July 2023, Apple Inc. and Apple Distribution International Ltd. notified the Commission, pursuant to Article 3(3), first subparagraph, of Regulation (EU) 2022/1925,¹ that Apple Inc., together with all legal entities directly or indirectly controlled by Apple Inc. (hereinafter referred to as “Apple”) meets the thresholds laid down in Article 3(2) of that Regulation in relation to the following core platform services (“CPSs”): (i) its online intermediation service iOS App Store; (ii) its operating system iOS; (iii) its web browser Safari; and (iv) its number-independent interpersonal communication service (“NIICS”) iMessage.² In its notification, Apple stated that its service iPadOS is an operating system CPS within the meaning of Article 2, point (2), subpoint (f), of Regulation (EU) 2022/1925, but that Apple does not meet the thresholds laid down in Article 3(2)(b) and (c) of that Regulation in relation to that CPS.

¹ OJ L 265, 12.10.2022, p. 1.

² Apple Inc. and Apple Distribution International Ltd., Notification pursuant to Article 3 of Regulation (EU) 2022/1925, Form for Gatekeeper Designation (GD), notified on 3 July 2023 (“Form GD”).

- (2) On 5 September 2023, the Commission adopted a decision designating Apple as a gatekeeper pursuant to Article 3(4) of Regulation (EU) 2022/1925 and listing the following CPSs that are provided by Apple and which individually constitute an important gateway for business users to reach end users: (i) its online intermediation service App Store; (ii) its operating system iOS; and (iii) its web browser Safari (“Apple’s designation decision”).³ In that decision, the Commission found that iPadOS constitutes an operating system CPS within the meaning of Article 2, point (10), of Regulation (EU) 2022/1925,⁴ and that, based on the available information, it is a distinct CPS from other operating systems provided by Apple.⁵
- (3) Pursuant to Article 3(8) of Regulation (EU) 2022/1925, the Commission shall designate as a gatekeeper, in accordance with the procedure laid down in Article 17, any undertaking providing CPSs that meets each of the requirements of Article 3(1), but does not satisfy each of the thresholds in Article 3(2) of that Regulation. Consequently, an undertaking that does not fulfil the thresholds laid down in Article 3(2) of Regulation (EU) 2022/1925 shall be designated as a gatekeeper if: (i) it has a significant impact on the internal market; (ii) it provides a CPS which is an important gateway for business users to reach end users; and (iii) it enjoys an entrenched and durable position, in its operations, or it is foreseeable that it will enjoy such a position in the near future.
- (4) It follows from Article 17(1) of Regulation (EU) 2022/1925 that, in order to examine whether an undertaking providing CPSs should be designated as a gatekeeper pursuant to Article 3(8) or to identify the CPSs to be listed in the designation decision pursuant to Article 3(9) of that Regulation, the Commission shall conduct a market investigation. For the purpose of its examination, pursuant to Article 3(8), second subparagraph, of Regulation (EU) 2022/1925, the Commission shall take into account some or all of the elements listed in that provision, insofar as they are relevant for the undertaking providing CPSs under consideration.
- (5) The Commission considers, following an initial examination of the information available to it, that there are grounds to consider that Apple may meet the criteria set out in Article 3(1) of Regulation (EU) 2022/1925 in relation to its operating system CPS iPadOS, and that this should be assessed in a market investigation pursuant to Article 17(1) of that Regulation, without prejudice to the outcome of that investigation. This finding is based, in particular, on the following reasons.
- (6) First, Apple indicated that its average market capitalisation or its equivalent fair market value amounted to at least EUR 75 billion in the last financial year.⁶

³ C(2023) 6100.

⁴ Apple’s designation decision, recital 81.

⁵ Apple’s designation decision, recital 82.

⁶ Form GD, Table 39.

- (7) Second, Apple indicated that iPadOS had at least [...] business users in the Union in 2021 and therefore exceeded the business user threshold laid down in Article 3(2)(b) of that Regulation [...] in 2021.⁷ Apple also reported that iPadOS had [less than 45] million monthly average active end users in the Union in 2021,⁸ which is [below] the end user threshold laid down in Article 3(2)(b) of Regulation (EU) 2022/1925.
- (8) Third, Apple appears to benefit from strong network effects derived from iPadOS, as part of the Apple ecosystem. Apple's business model is built on an ecosystem of its operating systems and services which aims at connecting and integrating different categories of Apple devices to create a seamless end user experience. For example, end users are able to access their data, including passwords, photos, messages, and app data across Apple devices, or to begin a task such as writing an email on one Apple device and complete it on another, or share wirelessly files with other Apple devices of themselves or of their friends in direct vicinity (AirDrop).
- (9) Fourth, Apple seems to benefit from scale and scope effects. The cost of developing and maintaining iPadOS appears to be dependent only to a limited extent on the number of specific end and business users who use it, and can be spread over the large amount of devices sold and services provided by Apple.
- (10) Fifth, Apple's ecosystem displays lock-in features, since end users of iPadOS wishing to switch to another ecosystem for devices of a similar or the same nature (such as slate tablets) may face numerous obstacles and high switching costs, also in light of the benefits of the Apple ecosystem outlined in paragraph (8) above.
- (11) Sixth, thanks to its conglomerate structure and vertical integration, Apple can benefit from cross-subsidisation opportunities. This applies in particular to Apple's activities across a number of similar, yet often complementary devices, such as smartphones, tablets, smartwatches, PCs, and the respective services. Indeed, Apple supplies iPads as well as several other devices, offers operating systems that run such devices, such as iPadOS, provides the online intermediation CPS App Store, which enables end users to access software applications, and offers broad maintenance, support, and other ancillary services linked to its devices.

⁷ [...]

⁸ *Ibidem.*

- (12) In light of the above, the Commission has decided to open a market investigation on 5 September 2023, pursuant to Articles 16(1) and 17(1) of Regulation (EU) 2022/1925, for the purpose of determining whether Apple should be designated as a gatekeeper in relation to the operating system iPadOS.

Done at Brussels,

For the Commission
Margrethe VESTAGER
Executive Vice-President

