



EUROPEAN COMMISSION

***CASE DMA.100185 – Apple – Operating
systems – iOS – Article 6(3)***

(Only the English text is authentic)

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

Article 20(1) Regulation (EU) 2022/1925

Date: 25/03/2024

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EUROPEAN COMMISSION

Brussels, 25.3.2024 C(2024)
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PUBLIC VERSION

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

Subject: Case DMA.100185 – Apple – Operating systems – iOS – Article 6(3)

**Commission decision opening a proceeding pursuant to Article 20(1) of Regulation (EU) 2022/1925⁽¹⁾ 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 5 September 2023, the Commission adopted a decision designating Apple Inc. together with all legal entities directly or indirectly controlled by Apple Inc. (hereinafter referred to as “Apple”) as a gatekeeper pursuant to Article 3 of Regulation (EU) 2022/1925 (the “Designation Decision”). The Designation Decision lists the following core platform services (“CPS”) that are provided by Apple and which individually constitute an important gateway for business users to reach end users: (i) Apple’s online intermediation services App Store; (ii) Apple’s operating system iOS; and (iii) Apple’s web browser Safari.²

⁽¹⁾ Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act) (Text with EEA relevance), OJ L 265, 12.10.2022, p. 1–66.

⁽²⁾ Decision C(2023) 6100 final.

- (2) Pursuant to Article 8(1) of Regulation (EU) 2022/1925 the gatekeeper shall ensure and demonstrate compliance with the obligations laid down in Articles 5, 6 and 7 of the Regulation (EU) 2022/1925. The measures implemented by gatekeeper shall be effective in achieving objectives of the Regulation and of the relevant obligation.
- (3) Furthermore, under Article 13(3) through (6) of Regulation (EU) 2022/1925 the gatekeeper shall ensure full and effective compliance with the obligations outlined in Articles 5, 6, and 7 of Regulation (EU) 2022/1925 and shall not engage in any behavior that would undermine the effective compliance with these obligations. In particular, Article 13(4) of Regulation (EU) 2022/1925 prohibits the gatekeeper from engaging in any action that compromises effective compliance, irrespective of whether such action pertains to “*contractual, commercial, technical, or other aspects, or involves the utilization of behavioral techniques or interface design.*” Article 13(6) further prohibits actions that make the exercise of rights or choices unduly difficult, “*including by offering choices to the end-user in a non-neutral manner, or by subverting end users’ or business users’ autonomy, decision-making, or free choice via the structure, design, function or manner of operation of a user interface or a part thereof.*”
- (4) Pursuant to Article 20(1) of Regulation (EU) 2022/1925, where the Commission intends to open proceedings with a view to the possible adoption of decisions pursuant to Articles 8, 29 and 30 of that Regulation, it shall adopt a decision opening proceedings.
- (5) Pursuant to Article 29(1), point (a) of Regulation (EU) 2022/1925, where the Commission finds that a gatekeeper does not comply with any of the obligations laid down in Article 5, 6 or 7 of that Regulation, it shall adopt an implementing act setting out its finding of non-compliance. In such an implementing act, the Commission may also impose a fine pursuant to Article 30(1), point (a) of Regulation (EU) 2022/1925. The Commission may also impose periodic penalty payments pursuant to Article 31(1), point (h) of Regulation (EU) 2022/1925 in order compel a gatekeeper to comply with such an implementing act.
- (6) Pursuant to Article 3(10) of Regulation (EU) 2022/1925, within six months after a CPS has been listed in its designation decision, the gatekeeper shall comply with the obligations laid down in Articles 5, 6 and 7 of that Regulation. Consequently, within six months from the Designation Decision, Apple shall comply, *inter alia*, with the obligations laid down in Article 6(3) of Regulation (EU) 2022/1925 in relation to the CPSs listed in the Designation Decision.
- (7) According to Article 6(3) of Regulation (EU) 2022/1925, gatekeepers shall:
 - (a) allow and technically enable end users to easily un-install any software applications on the operating system of the gatekeeper, without prejudice to the possibility for that gatekeeper to restrict such un-installation in relation to software applications that are essential for the functioning of the operating system or of the device and which cannot technically be offered on a standalone basis by third parties;

- (b) allow and technically enable end users to easily change default settings on the operating system and web browser of the gatekeeper that direct or steer end users to products or services provided by the gatekeeper; this includes prompting end users, at the moment of the end users' first use of a web browser of the gatekeeper listed in the designation decision pursuant to Article 3(9) of Regulation (EU) 2022/1925, to choose, from a list of the main available service providers, the web browser to which the operating system of the gatekeeper directs or steers users by default, and the online search engine to which the web browser of the gatekeeper directs or steers users by default.
- (8) Recital 49 of Regulation (EU) 2022/1925 explains that “[a] gatekeeper can use different means to favour its own or third-party services or products on its operating system, [...] or web browser, to the detriment of the same or similar services that end users could obtain through other third parties. This can for instance happen where certain software applications or services are pre-installed by a gatekeeper. To enable end user choice, gatekeepers should not prevent end users from un-installing any software applications on their operating system. It should be possible for the gatekeeper to restrict such un-installation only when such software applications are essential to the functioning of the operating system or the device. Gatekeepers should also allow end users to easily change the default settings on the operating system, [...] and web browser when those default settings favour their own software applications and services. This includes prompting a choice screen, at the moment of the users' first use of [a] [...] web browser of the gatekeeper listed in the designation decision, allowing end users to select an alternative default service when the operating system of the gatekeeper directs end users to [this] [...] web browser [...].”
- (9) On 7 March 2024, Apple submitted to the Commission its compliance report pursuant to Article 11 of Regulation (EU) 2022/1925 (“Apple’s Compliance Report”). According to that report,⁽³⁾ Apple has taken or has announced that it will take the following measures to comply with Article 6(3) of Regulation (EU) 2022/1925:
- (a) Apple has enabled end users to un-install every app on iOS except for Safari, Settings, App Store, Phone, Messages, Camera and Photos, which can be removed from the Home Screen but not un-installed entirely. As concerns Safari, Apple has announced that it will make it fully un-installable by the end of 2024.
- (b) Apple has enabled end users to switch default settings on iOS in relation to web browsers, mail applications, app marketplace applications and contactless payments applications. In addition, Apple has announced that it will also introduce a new default control for users for navigation applications by March 2025.

⁽³⁾ See p. 55-58 of Apple’s Compliance Report.

- (c) Apple has prompted end users with a choice screen to select their default web browser on iOS once they install the iOS 17.4 update and open Safari for the first time. For each Member State, the choice screen includes Safari alongside 11 third-party web browsers which are the most downloaded browsers on iOS in these countries in the prior year, and shows them in a randomised order per user.
- (10) Following an initial examination of Apple's Compliance Report and of the available information, the Commission has decided to examine whether the measures referred to in recital (9) of this Decision in relation to Apple's iOS CPS in the EU comply with Article 6(3) of Regulation (EU) 2022/1925. The Commission's investigation will focus on whether those measures comply with the obligations to enable end users to easily un-install any software applications on iOS and to easily change default settings on iOS including through prompting end users to choose their default web browser from a list of the main available service providers. In this context, the Commission will also examine whether some of those measures can undermine effective compliance with the obligations stemming from Article 6(3) of Regulation (EU) 2022/1925 within the meaning of Article 13(4) or (6) of that Regulation.
- (11) In light of the above, the Commission has decided to open proceedings vis-à-vis Apple with a view to the possible adoption of a decision pursuant to Article 29 of Regulation (EU) 2022/1925 relating to potential non-compliance by Apple with Article 6(3) of that Regulation, alone or in conjunction with Article 13(4) and (6) of that Regulation, in relation to the ability of end users to un-install any software applications on iOS, to easily change default setting on iOS and to choose their default web browser in the choice screen.
- (12) The initiation of proceedings does not prejudge the outcome of the Commission's assessment regarding compliance. It merely indicates that the Commission will further pursue the case.
- (13) Pursuant to Article 38(7), second subparagraph, of Regulation (EU) 2022/1925, this opening of proceedings relieves the national competent authorities of the Member States enforcing the rules referred to in Article 1(6) of that Regulation of the possibility to conduct an investigation into the possible non-compliance of Apple's conduct referred to in recital (9) above with Article 6(3) of that Regulation on their respective territories, or ends it where it is already ongoing.

- (14) In accordance with Article 5(2) of Commission Implementing Regulation (EU) 2023/814,⁴ the Commission will make public this opening of proceedings.

Done at Brussels,

For the Commission

Margrethe Vestager
Executive Vice-President

⁽⁴⁾ Commission Implementing Regulation (EU) 2023/814 of 14 April 2023 on detailed arrangements for the conduct of certain proceedings by the Commission pursuant to Regulation (EU) 2022/1925 of the European Parliament and of the Council, OJ L 102, 17.4.2023, p. 6.