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REPORT FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT

Annual report on Regulation (EU) 2022/1925 of the European Parliament and of the Council on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act)

I. INTRODUCTION

(1) This report is addressed to the European Parliament and the Council of the European Union. It sets out the activities undertaken by the European Commission ('the Commission' below) in connection with Regulation (EU) 2022/1925[1] (the Digital Markets Act, 'DMA' below) in 2024, as set out in Article 35 DMA[2].

(2) The first annual report on Commission activities in connection with the DMA was adopted on 6 March 2024[3]. In its first annual report the Commission reported primarily on the decisions designating Alphabet, Amazon, Apple, ByteDance, Meta, and Microsoft as gatekeepers in September 2023.

(3) In 2024, the Commission designated Booking for its Booking.com online intermediation service in May, and complemented Apple's designation with a further core platform service, its operating system iPadOS, in April.

(4) The Commission also concluded four market investigations, some of which it had started in 2023. The investigations initiated in 2023 relate to rebuttals submitted by undertakings alongside their notifications claiming that, despite meeting the designation thresholds, they do not meet the requirements for being designated as gatekeepers. These investigations, as well as the qualitative designation of iPadOS, entailed seeking the expert advice of the Digital Markets Advisory Committee ('DMAC')[4].

(5) In 2024, the DMA entered its implementation and enforcement phase, with 7 March 2024 as the compliance deadline for designations dating from 5 September 2023. The Commission engaged in regulatory dialogue with all designated gatekeepers and commenced six non-compliance investigations regarding three gatekeepers: Alphabet, Apple, and Meta. In two of the proceedings, the Commission issued preliminary findings[5]. Furthermore, the Commission has announced preliminary investigative steps regarding Amazon[6].

(6) The Commission also initiated two proceedings to specify Apple's interoperability obligations under the DMA and issued preliminary findings, asking for feedback from third parties on measures Apple should take to ensure effective interoperability[7].

(7) In parallel to its monitoring and enforcement activity, the Commission hosted numerous meetings with gatekeepers and a wide array of interested third parties, including business users, developers, those challenging gatekeepers, trade associations, civil society organisations, and customer representatives. The

[1] OJ L 265, 12.10.2022, p. 1-66.
[2] Article 35 DMA requires the Commission to submit an annual report on the implementation of the DMA and the progress made towards achieving its objectives. This is the second report of this kind, covering the second year of application of the DMA.
[3] Report to the Council and the European Parliament: Annual Report on the Digital Markets Act (2022/1925), COM(2024) 106 final.
4 The DMAC supports the Commission in the adoption of implementing acts under the DMA. It is classified as a committee under Regulation (EU) No 182/2011 and functions in accordance with its Rules of Procedure. The DMAC was involved in all four market investigations and convened on 1 February, 20 March and 4 October 2024.
[5] https://digital-markets-act.ec.europa.eu/commission-sends-preliminary-findings-meta-over-its-pay-or-consent-model-breach-digital-markets-act-2024-07-01_en and https://digital-markets-act.ec.europa.eu/commission-sends-preliminary-findings-apple-and-opens-additional-non-compliance-investigation-2024-06-24_en.
[6] https://digital-markets-act.ec.europa.eu/commission-opens-non-compliance-investigations-against-alphabet-apple-and-meta-under-digital-markets-2024-03-25_en
[7] https://digital-markets-act.ec.europa.eu/commission-starts-first-proceedings-specify-apples-interoperability-obligations-under-digital-2024-09-19_en and https://digital-markets-act.ec.europa.eu/commission-seeks-feedback-measures-apple-should-take-ensure-interoperability-under-digital-markets-2024-12-19_en.

Commission also organised several compliance workshops, providing stakeholders with the opportunity to gain insights into the gatekeepers' compliance solutions. Additionally, the High-Level Group for the Digital Markets Act ('HLG') decided to create three thematic subgroups on data, interoperability, and artificial intelligence, and held several meetings in the course of 2024. This facilitated cooperation and fostered a collaborative dialogue with the community of European regulators[8].

(8) The following sections provide a comprehensive overview of the Commission's implementation of the DMA and the progress made towards achieving its objectives in 2024. Section II reports on designations and other non-monitoring activities. Section III outlines the monitoring of gatekeepers' compliance. Section IV addresses the reporting requirements for gatekeepers regarding consumer profiling practices. Section V details the cooperation and coordination between the Commission and national authorities. Finally, Section VI describes the work carried out by the HLG.

II. DESIGNATIONS AND OTHER NON-MONITORING ACTIVITIES

1. Notifications, designations, and market investigations

(9) Under Article 3(3) DMA, undertakings must notify the Commission when the core platform services they provide meet the thresholds laid down in Article 3(2) of the DMA. However, under Article 3(5) DMA, undertakings that meet these thresholds can present sufficiently substantiated arguments as to why they should not be designated as a gatekeeper.

(10) In 2024, the Commission received notifications from Booking, ByteDance, and X pursuant to Article 3(3) DMA[9].

(11) On 1 March 2024, Booking notified the Commission that it met the thresholds set out in Article 3(2) DMA in relation to its online intermediation service, Booking.com. As a result, on 13 May 2024, the Commission designated Booking as a gatekeeper in relation to this core platform service[10]. Booking's obligation to comply with the DMA started on 14 November 2024, six months after its designation[11].

(12) On 1 March 2024, ByteDance notified the Commission that it met the thresholds set out in Article 3(2) DMA in relation to its online advertising service, TikTok Ads. ByteDance also submitted a rebuttal request, pursuant to Article 3(5) DMA, claiming that TikTok Ads did not qualify as an important gateway between business users and end users. On 13 May 2024, the Commission accepted the rebuttal put forward by TikTok in relation to its online advertising service, TikTok Ads. The rebuttal was directly accepted within 45 working days, as the undertaking demonstrated that its service does not satisfy the requirements of Article 3(1) DMA[12].

(13) On 1 March 2024, X submitted a notification in relation to its online social networking service, X, and its online advertising service, X Ads, both accompanied by rebuttals arguing that even if the relevant thresholds were met, X did not qualify as an important

[8] The High-Level Group for the Digital Markets Act is comprised of the following bodies and networks of regulators: Body of European Regulators for Electronic Communications (BEREC), the European Data Protection Supervisor and European Data Protection Board (EDPS/EDPB), the European Competition Network (ECN), the Consumer Protection Cooperation Network (CPC), and the European Regulatory Group of Audiovisual Media Regulators (ERGA).

[9] https://digital-markets-act.ec.europa.eu/latest-news_en

[10] Commission Decision, Case DMA.100019 – Booking - Online Intermediation Services – Verticals: https://eur-lex.europa.eu/eli/C/2024/4360/OJ.

[11] https://digital-markets-act.ec.europa.eu/booking-must-comply-all-relevant-obligations-under-digital-markets-act-2024-11-14_en

[12] Case DMA.100042 ByteDance – Online advertising services: https://ec.europa.eu/competition/digital_markets_act/cases/202441/DMA_100042_134.pdf.

gateway between business users and end users[13]. On 13 May 2024, the Commission adopted a decision directly accepting the rebuttal in relation to X Ads[14], and in a separate decision opened a market investigation under Article 17(3) DMA to assess whether the online social networking service X should be designated[15]. Following an in-depth market investigation[16], the Commission concluded on 16 October 2024 that the online social networking service X was not an important gateway for business users to reach end users. The Commission therefore decided to accept the rebuttal and not designate X[17]. The decision was adopted following a meeting of the DMAC, which provided a positive opinion, on 4 October 2024.

(14) In 2024, the Commission also completed the rebuttal market investigations that it had initiated on 5 September 2023 to determine whether Apple should be designated as a gatekeeper for iMessage, and Microsoft should be designated in relation to Bing, Edge, and Microsoft Advertising. After carrying out in-depth market investigations, the Commission decided not to designate Apple[18] and Microsoft[19] as gatekeepers for these services. The decisions were adopted following a meeting of the DMAC, which provided a positive opinion on the decisions, on 1 February 2024.

(15) In addition, based on an in-depth market investigation initiated in September 2023, the Commission designated Apple as a gatekeeper with respect to its core platform service iPadOS, on 29 April 2024[20]. The decision was adopted following a meeting of the DMAC, which provided a positive opinion on the decision, on 20 March 2024. Apple's obligation to comply with the DMA started six months after designation, on 4 November 2024.

(16) With the designation of Booking as a gatekeeper for its online intermediation service (Booking.com) and Apple for its operating system (iPadOS) the total number of designated gatekeepers rose, in 2024, from 6 to 7 undertakings, while the number of designated core platform services reached 24, from the previous 22[21].

(17) In 2024, the Commission has been party to three ongoing actions for annulment filed by ByteDance, Meta, and Apple in November 2023 against their respective designation decisions. With respect to ByteDance's appeal, in February 2024, the President of the General Court dismissed ByteDance's application for interim relief, and, in July 2024, the General Court upheld the Commission's decision to designate ByteDance following an expedited procedure[22]. In September 2024, ByteDance filed

[13] The next section of the DMA Annual Report examines how the Commission has responded to the rebuttal submission. For more details please see: *Market investigations and rebuttals*.
[14] Case DMA.100232 X – Online advertising services: https://ec.europa.eu/competition/digital_markets_act/cases/202441/DMA_100232_44.pdf.
[15] Case DMA.100041 - X - Online social networking service: https://ec.europa.eu/competition/digital_markets_act/cases/202441/DMA_100041_631.pdf.
[16] Including input by business users of X and other providers of online social networking services.
[17] This decision has not yet been published.
[18] Case DMA.100022 Apple – number-independent interpersonal communications services: https://ec.europa.eu/competition/digital_markets_act/cases/202416/DMA_100022_2757.pdf.
[19] Cases DMA.100015 Microsoft Online search engines; DMA.100028 Microsoft Web browsers; DMA.100034 Microsoft Online advertising services: https://ec.europa.eu/competition/digital_markets_act/cases/202416/DMA_100015_700.pdf.
[20] Commission Decision, Case DMA.100047 - Apple – iPadOS: https://eur-lex.europa.eu/eli/C/2024/4374/oj.
[21] For a schematic mapping of the relevant gatekeepers and core platform services please see this link to the DMA website: https://digital-markets-act.ec.europa.eu/gatekeepers_en.
[22] Case T-1077/23 R Bytedance v Commission, OJ C, C/2024/476, 3.1.2024, ELI: http://data.europa.eu/eli/C/2024/2317/oj and Case T-1077/23, Bytedance v Commission, OJ C, C/2024/476, 3.1.2024, ELI: http://data.europa.eu/eli/C/2024/476/oj.

an appeal against the General Court's decision to uphold its designation[23].

(18) In addition, the Commission is active as a defendant in two other ongoing judicial proceedings: (i) an action filed by ByteDance's counsel in their own name in August 2024, challenging the Commission's decision to reject the request for access to documents relating to ByteDance's designation[24] and (ii) an action brought before the General Court in July 2024 by Opera against the non-designation of Microsoft as a gatekeeper in relation to its web browser, Edge[25].

2. Other non-monitoring activities

(19) The Commission has placed significant emphasis on enhancing its investigatory tools under the DMA since its adoption. On 30 April 2024, the Commission launched a DMA whistleblower tool[26], which is similar to the one available for antitrust enforcement and for Regulation (EU) 2022/2065 ('Digital Services Act'). This tool makes it possible for individuals to provide, privately and confidentially, information relating to any possible non-compliance by gatekeepers of their obligations under the DMA[27]. In 2024, the Commission received 20 submissions via this tool.

(20) In terms of public engagement, the Commission maintains and regularly updates the DMA website[28]. This website provides background on the DMA, offers a search function for DMA-related official acts of the Commission, includes a Q&A section that is frequently updated[29], and contains all relevant press releases. The Commission also communicates on DMA-relevant developments through its social media accounts[30].

(21) In 2024, the Commission contracted nine DMA-related studies, expert consultancy services, or pilot projects.

III. MONITORING OF GATEKEEPERS' COMPLIANCE

1. Monitoring activity

(22) Gatekeepers must comply with the obligations laid down in Articles 5, 6, 7, 14, and 15 DMA. The compliance requirement starts immediately after designation for the obligation to inform the Commission about concentrations (Article 14 DMA), and not later than six months after designation for the obligations and prohibitions provided in Articles 5, 6, 7 (pursuant to Article 3(10) DMA), and Article 15 DMA. For the undertakings designated on 5 September 2023, this six-month period ended on 7 March 2024. Considering the subsequent designation of iPadOS on 29 April 2024, Apple also had to comply with the DMA for this core platform service by 4 November 2024, while Booking, designated on 13 May 2024, had to comply by 14 November

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[23] Case C-627/24 P, Bytedance v Commission, OJ C, C/2024/6639, 11.11.2024, ELI: http://data.europa.eu/eli/C/2024/6639/oj.
[24] Case T-433/24, Batchelor v Commission, OJ C, C/2024/6103, 21.10.2024, ELI: http://data.europa.eu/eli/C/2024/6103/oj.
[25] Case T-357/24, Opera Norway v Commission OJ C, C/2024/5640, 30.9.2024, ELI: http://data.europa.eu/eli/C/2024/5640/oj.
[26] https://digital-markets-act.ec.europa.eu/whistleblower-tool_en
[27] https://digital-markets-act.ec.europa.eu/commission-launches-whistleblower-tools-digital-services-act-and-digital-markets-act-2024-04-30_en
[28] https://digital-markets-act.ec.europa.eu/index_en
[29] https://digital-markets-act.ec.europa.eu/about-dma/questions-and-answers_en
[30] The Commission's news and reports on the DMA can be followed via several accounts: https://www.instagram.com/DigitalEU/; https://www.linkedin.com/showcase/digital-eu/; https://twitter.com/DigitalEU; https://www.youtube.com/c/DigitalEU; https://www.facebook.com/DigitalEU; https://www.linkedin.com/showcase/dg-competition; https://twitter.com/EU_Competition; https://www.youtube.com/@dgcompetition44.

2024 for Booking.com.

(23) Six months after designation, all gatekeepers submitted compliance reports, as required by Article 11 DMA, as well as independently audited descriptions of any techniques for profiling consumers applied to or across their core platform services, in line with Article 15 DMA. Links to the non-confidential versions of these documents have been published on the Commission's DMA website[31]. The next iteration of gatekeeper's compliance reports was due by 7 March 2025[32]. These reports should include the gatekeepers' updates to their compliance measures.

(24) The Commission has assessed all compliance reports received in 2024 and followed up with gatekeepers on their content. In March 2024, the Commission organised six compliance workshops with interested stakeholders, one for each gatekeeper designated on 5 September 2023. Another workshop was organised in November 2024 for Booking, following its designation in May 2024. The workshops aimed to offer third parties the opportunity to seek clarifications from and provide feedback to gatekeepers on their compliance solutions. Attendance at all workshops was open to the public, with business users, civil society, and business associations enjoying priority for in-person attendance. The workshops were also made accessible online. Recordings of all workshops held in 2024 are available on the Commission's DMA website[33].

(25) Besides the compliance workshops and the work on the compliance reports[34], the Commission constantly engaged with gatekeepers and interested third parties through various channels to monitor and assess compliance. This included bilateral meetings and technical workshops bringing together representatives of the gatekeepers and of interested third parties. In addition, the Commission sent requests for information to gatekeepers and third parties. It also consistently encouraged gatekeepers to engage directly with market players by stressing that this engagement is an important part of demonstrating effective compliance for gatekeepers.

(26) The Commission monitored how gatekeepers have implemented the requirements of Article 28 DMA to introduce a compliance function which must be independent of the gatekeeper's operational functions and consist of one or more compliance officers with sufficient authority, stature, and resources to enable them to monitor the gatekeeper's compliance with the DMA and advise them on it. All designated gatekeepers appointed compliance officers in accordance with the principles laid down in Article 28 DMA and communicated the details to the Commission. The Commission had two in-person meetings with the compliance officers of each gatekeeper in 2024. The purpose of these meetings was for the Commission to understand how the compliance function was set up and organised and take stock of the ongoing regulatory dialogue. Finally, in support of potential enforcement actions, the Commission has adopted, in 2024, retention orders requesting six gatekeepers – Alphabet, Amazon, Apple, Meta, Microsoft, and Booking – to retain documents which might be used to assess their compliance with specific DMA obligations[35].

2. Findings on compliance with Articles 5, 6, and 7 DMA[36]

[31] https://digital-markets-act-cases.ec.europa.eu/reports/compliance-reports and https://digital-markets-act-cases.ec.europa.eu/reports/consumer-profiling-reports.
[32] This would not include Booking, for which this would be due on 14 November 2024.
[33] https://digital-markets-act.ec.europa.eu/events/workshops_en
[34] https://digital-markets-act-cases.ec.europa.eu/reports/compliance-reports
[35] https://ec.europa.eu/commission/presscorner/detail/en/ip_24_1689
[36] Nothing in this report endorses the compliance measures taken by the gatekeepers as fully or partially complaint with the DMA.

(27) This section reports on the Commission's findings on themes covered in Articles 5, 6, and 7 DMA and actions it has undertaken. The examples below are not exhaustive but describe the main instances of the Commission's actions in terms of DMA compliance.

a) **Giving users control over their data**

(28) The DMA recognises the importance of data in digital markets, emphasising that accumulation of data with the gatekeeper, and restricted access to data by their competitors, can lead to less contestability, less choice for end users over their own data, and less innovation. In relation to contestability in particular, the DMA explains that data accumulation by gatekeepers through their platform services can give rise to entry barriers in markets where these gatekeepers are present. In other words, data accumulation can make it more difficult for new players to offer their services on those markets.

(29) In a similar vein, contestability can also be undermined by a gatekeeper restricting switching or multi-homing, for example by not allowing end users to port their data. Such restrictions can, for instance, make it difficult for end users to switch from one established social media network to an emerging one, out of fear that contacts or own content will be lost in the process. The DMA seeks to address these issues by providing end users with more choice over how their data is used and how they wish to use it, while also ensuring that business users have better access to the data they generate through their use of core platform services.

(30) Pursuant to Article 5(2) DMA, gatekeepers have to implement measures that enable end users to choose whether or not they consent to their data being combined and/or cross-used across gatekeepers' services. On 25 March 2024, the Commission decided to open a non-compliance investigation against Meta in connection with this obligation.[37] The investigation assesses whether Meta's 'pay or consent' advertising-based business model is compliant with its obligation to obtain consent from users whenever Meta intends to combine or cross-use end user personal data across its different services. In its preliminary findings issued on 1 July 2024, the Commission outlined its concern that the binary choice imposed by Meta's 'pay or consent' model may not provide a real alternative for users who do not want to consent to the processing of their personal data. In August 2024, the European Data Protection Board ('EDPB') adopted an Opinion under Article 64(2) of the the General Data Protection Regulation ('GDPR') on the deployment of 'pay or consent' models by large online platforms. On 13 November 2024, Meta updated its 'pay or consent' model by providing what it referred to as a 'less personalised alternative'. In addition to its investigation on Meta's compliance in the period before 13 November 2024, the Commission is currently also assessing Meta's revised compliance solution. As for data portability and access, in 2024, gatekeepers started to enhance their data portability solutions to move closer to enabling real-time, continuous data portability and access so that end users can easily port, and business users easily access their data. All designated gatekeepers implemented solutions over the course of 2024. This includes data transfer solutions enabling end users, such as those of Google Search or Facebook or TikTok, to give authorised third parties access to their historic and future data, which those third parties can use to offer competing or innovative services. In addition, already implemented and significantly improved data transfer solutions enable business users of the various designated services (e.g. Amazon Marketplace, Booking.com, or YouTube) to access the data that they generate on these services.

(31) The Commission has been closely monitoring the functioning of these new tools, in

[37] The Commission has cooperated with the Irish Data Protection Commission, which is also investigating Meta's 'Consent or Pay' model under the GDPR, to ensure full coherence in the application of EU law.

consultation with gatekeepers and a wide range of interested third parties. The Commission engaged in intense regulatory dialogue with all gatekeepers to encourage them to improve, where relevant, their compliance solutions based on third-party feedback. The gatekeepers' next compliance reports, which were due in March 2025, should reflect some of these improvements as well as ongoing work. The Commission will continue to collect market feedback on whether the implemented solutions are effective in achieving the objectives of the DMA.

b) **Opening-up of mobile ecosystems**

(32) The objectives of contestability and fairness in gatekeepers' ecosystems entail enabling consumer choice by allowing end users to access diverse and innovative products and services that meet their needs, while also allowing them to switch easily between alternative products and services. Among the DMA provisions that play a key role in the opening-up of mobile ecosystems are those which address the possibility for developers to distribute apps via alternative sources[38] and those that mandate effective interoperability, easy switching of defaults, uninstallation, or the showing of a choice screen (in particular Articles 6(3), (4), and (7) DMA).

Defaults, choice screens and uninstallation

(33) One of the Commission's enforcement priorities has been to prevent gatekeepers from exploiting consumers' behavioural biases via default settings, and to empower end users to switch easily between various digital solutions on the gatekeepers' operating system or web browser, as provided for in Article 6(3) DMA. Limiting the gatekeepers' ability to steer people to their products or services gives business users, such as alternative web browser and search engine providers, a chance to increase their visibility and to improve the products and services they offer. This increased contestability of gatekeepers' services translates into a greater range of options for end users.

(34) The Commission has taken decisive action to ensure that gatekeepers swiftly deliver broader choice to users. The Commission opened proceedings against Apple on 25 March 2024, in response to evidence that the gatekeeper was not effectively complying with its obligations to enable end users to easily change default settings on iOS (including via the web browser choice screen) or un-install Apple's own software applications on iOS. The Commission also engaged in intense regulatory exchanges with Alphabet and Microsoft which must also provide end users with the possibility to easily switch default settings and un-install software applications.

(35) The Commission's efforts have led to clear and tangible outcomes. Apple announced a series of changes in August 2024: it removed several friction points in the user journey for choosing a web browser on the choice screen and increased the number of software applications for which end users can switch the default or un-install. There is also a new default apps settings section, making it easier to change defaults. These changes have now been implemented on both iOS and iPadOS. Apple plans to introduce further updates in Spring 2025. The Commission will continue to closely monitor the measures implemented by Apple and whether the gatekeeper is effectively compliant with the DMA.

(36) Alphabet now displays an improved choice screen for search engines and web browsers on Chrome and Pixel, which is gradually being rolled out on all Android devices. The improved screen presents users with a fully randomised list of available alternative services. The Commission continues to engage in regulatory dialogue with Alphabet regarding the roll-out of choice screens and the measures implemented in

[38] Such as third-party app stores.

relation to easy default switching and app uninstallation.

(37) Microsoft made its web browser and online search engine applications un-installable on its Windows operating system. It also ended recommendations in various Windows experiences to set Edge as the default web browser for users in the European Economic Area (EEA). The Commission is keeping Microsoft's compliance plan under review, to ensure that it effectively complies with all aspects of its obligations.

(38) As an overall result, more market opportunities are being created as end users in the EEA can more effectively discover and install alternative options and set them as their default choice if they wish. Moreover, the Commission continues to assess whether further improvements are needed to enable genuine choice.

Steering

(39) On 25 March 2024, the Commission launched two investigations into Apple and Alphabet, which provide the main distribution channels for software applications (apps) on mobile devices in the EEA. The investigations were launched to examine whether the two gatekeepers complied with the obligation, pursuant to Article 5(4) DMA, requiring them to allow app developers – many of which are European small and medium-sized enterprises and start-ups – to 'steer' consumers free of charge to offers outside the gatekeepers' application stores (app stores).

(40) On 24 June 2024, the Commission informed Apple of its preliminary view that its App Store policies contravened the DMA due to restrictions on app developers promoting external offers and content to consumers, thus depriving end users of alternative and possibly cheaper purchasing possibilities.

Interoperability

(41) Fair and contestable markets also rely on interoperability to thrive, so that gatekeepers cannot exploit their dual roles[39], driven by product integration, to stifle competition. By facilitating access to gatekeepers' critical functionalities for alternative providers, the Commission seeks to safeguard those alternative providers' ability to compete by continuing to innovate.

(42) On 19 September 2024, the Commission started two specification proceedings to assist Apple in complying with its interoperability obligations under the DMA under Article 6(7) DMA. The first proceeding focuses on several iOS connectivity features and functionalities, predominantly used for and by connected devices (e.g. smartwatches or headphones). The second proceeding focuses on the process Apple has set up to process interoperability requests submitted by developers and third parties for iOS and iPadOS. On 19 December 2024, the Commission sent preliminary findings to Apple in connection with the two specification proceedings, and in parallel launched two corresponding public consultations.

(43) A lack of interoperability also allows gatekeepers that provide messaging services to benefit from strong network effects, which act as a barrier to switching and limit consumer choice and contestability. In this context, the Commission is monitoring Meta's progress on making WhatsApp and Messenger interoperable pursuant to its obligation under the DMA. Following feedback from the Commission and third parties, Meta has made some changes to its solution. The Commission is monitoring these developments to ensure that interested third parties can effectively interoperate with WhatsApp and Messenger.

[39] Gatekeepers can play two connected roles, such as being both a provider of a critical service and a competitor in the same market. In a 'dual role,' the gatekeeper can use its control over essential functionalities to favour its own products or services, stifling competition from alternative providers.

Alternative distribution channels

(44) Ensuring contestability regarding the distribution of apps and app stores gives business users the freedom to decide which channels they wish to use for distributing their apps, and end users the freedom to access these apps or app stores outside the core platform services of a gatekeeper. To ensure contestability, which provides both business and end users with more choice and encourages innovation, gatekeepers must be prevented from imposing restrictions on end users as to what apps or app stores they can access.

(45) In practice, this means that Apple must allow end users of iPhone devices to install apps other than through Apple's own App Store, for example by enabling the installation and use of third-party app stores and the direct downloading of apps from the web. The DMA obligations, applicable to Apple since March 2024, have led to a number of third-party app stores being launched in the European Union, such as AltStore, Aptoide, and Epic.

(46) While these are positive developments, in its pursuit of effective contestability, on 24 June 2024 the Commission opened an investigation in relation to Apple' compliance with the DMA regarding the contractual terms which Apple imposed on developers wanting to provide third-party app stores or to offer their apps through such app stores. In particular, the investigation is looking into: Apple's proposed Core Technology Fee, under which developers of third-party app stores and third-party apps must pay a €0.50 fee per installed app; the multi-step user journey imposed by Apple for downloading and installing alternative app stores or apps on iOS; and the eligibility requirements for developers to be able to offer alternative app stores or directly distribute apps from the web on iOS.

(47) Like Apple, Alphabet must ensure that alternative app distribution sources are effectively enabled on its Android operating system. The Commission continues to engage with Alphabet and interested third parties to address potential concerns about the effective compliance of Alphabet's Android terms with the DMA.

c) **Fair online search**

(48) Ensuring equal treatment and safeguarding against discriminatory practices are amongst the prerequisites for fair search and contestable online search markets. Against this background, the DMA aims to protect business users from unfair competition from gatekeepers' services, and to offer other online search engine providers more opportunities to develop new search alternatives.

(49) The ban on self-preferencing by gatekeepers, set out in Article 6(5) DMA, is wide-ranging and addresses all forms of self-preferencing. As regards Alphabet, it covers its own vertical search services ranked or embedded in the Google Search results. This also covers instances where Alphabet treats its own content services more favourably than other content providers also ranked on Google Search. The Commission opened proceedings against Alphabet on 25 March 2024 because of concerns that the gatekeeper is preferencing its own vertical search or content services over similar rivals active in areas such as hospitality, travel, e-commerce, or content creation, in breach of Article 6(5) DMA.

(50) In addition, Article 6(11) DMA mandates the sharing of click and query data by designated search engines with alternative providers of search engines. This obligation is intended to foster contestability from third-party search engines.

(51) In March 2024, Alphabet proposed a data licensing solution to comply with the DMA obligation to share ranking, query, click, and view data. The Commission is in the process of assessing the compliance of this licensing solution with Article 6(11) DMA.

The Commission has been in contact with Alphabet and potential beneficiaries about the matter. It has also been discussing the conditions for effective data-sharing under Article 6(11) DMA with data protection authorities, in particular in the context of the HLG.

d) **Online marketplaces**

(52) The objective of a fair and contestable business environment for online marketplaces and online intermediation is pursued by a number of DMA provisions, such as those banning parity clauses, prohibiting self-preferencing in ranking, mitigating unfair data advantages, and fostering data access and portability for users.

(53) The DMA prohibits any form of parity (narrow or broad), covering commercial practices beyond price and including any measure which would lead to the same effect as a parity clause. It thus establishes the possibility for business users to differentiate commercial terms across various distribution channels. As a result, the DMA aims to remove parity obstacles concerning business users' options to offer goods or services via alternative platforms and direct sales channels. Such a restriction applies to any measure with equivalent effect to parity clauses, such as increased commission rates or the de-listing of the offers of business users.

(54) In this regard, Booking indicated[40] that to comply with the DMA it had, first, removed the EEA from the list of territories subject to parity requirements in its general terms and conditions and, second, introduced an updated version of those terms which no longer refers to parity[41]. Booking also indicated that it had stopped using external prices as input for its Premium Programmes.

(55) Amazon reported that, according to its own self-assessment, it did not employ parity clauses that would be incompatible with the DMA. Other gatekeepers reported forward-looking compliance mechanisms that should prevent the introduction of parity obligations for business users in the future[42]. The Commission will continue to monitor and assess whether the relevant DMA obligations are being effectively met, whether there are any risks of circumvention, and whether gatekeepers may be using alternative measures with a similar effect.

(56) Similarly to the prohibition applicable to online search, online intermediation services are also subject to the DMA ban on self-preferencing. This is to ensure fair and contestable online marketplaces for the thousands of business users that compete directly with gatekeepers' products and services on these gatekeepers' own platforms. In turn, this also benefits end users who can thus find a wider selection of products and services on gatekeepers' platforms. As announced on 25 March 2024, the Commission has been carrying out preliminary investigatory steps to assess Amazon's compliance with the DMA in relation to potential self-preferencing practices.

3. Information about concentrations

(57) Under Article 14 DMA, gatekeepers are required to inform the Commission of any concentration they intend to undertake where the merging entities or the target of the concentration provide core platforms services or other services in the digital sector or enable the collection of data.

[40] bookingholdings.com/wp-content/uploads/2024/11/DMA-Compliance-Report.pdf

[41] This version was communicated to business users and announced during the compliance workshop in November 2024.

[42] Also linked to Article 5(3) of the DMA compliance, Alphabet identified relevant contracts in relation Play Store and Maps that may have contained parity clauses. For such contracts, it sent waivers in early 2024. Apple considered that it already complied with Article 5(3) with regard to its App Store prior to 7 March 2024.

(58) In 2024, the Commission received 15 submissions of intended concentrations by gatekeepers. Non-confidential summaries of the information submitted by gatekeepers in line with Article 14 DMA were published on the Commission's website for nine of those submissions[43], along with the notification date and the identity of the undertakings.

(59) Notably, several submissions, received in line with Article 14 DMA, concerned agreements relating to the acquisition of talent, a practice that is also known as 'acqui-hiring'[44]. Such transactions can take different forms. They typically involve hiring agreements for key staff in the target company but do not always involve the acquisition of shares or assets of the target company. Whether an 'acqui-hiring' transaction constitutes a concentration within the meaning of Article 3 of Regulation (EC) 139/2004 is not always clear and may require a thorough case-by-case analysis[45].

(60) Article 14 DMA enhances transparency on acquisitions by gatekeepers and allows the Commission to identify broader acquisition trends in the digital sector. Furthermore, the Commission shares information on acquisitions with Member States. These, in turn, may use this information for national merger-control purposes. Where Member States have national jurisdiction, it remains possible for national competent authorities ('NCAs') to refer concentrations to the Commission.

IV. ASSESSEMENT OF THE AUDITED DESCRIPTION OF CONSUMER PROFILING TECHNIQUES

(61) Under Article 15 DMA, gatekeepers are required to submit to the Commission an independently audited description of any techniques for profiling consumers that they apply to, or across, any of the core platform services listed in their designation decisions in line with Article 3(9) DMA. They should also publish an overview of the description. The deadline for submitting the audited descriptions and publishing the overview is six months after the designation decision. Gatekeepers are also required to update these documents on an annual basis going forward.

(62) The Commission was prepared to offer guidance and provided advice to gatekeepers in preparation for their reporting obligations, as part of pre-compliance discussions.

(63) The six gatekeepers designated on 5 September 2023 needed to submit the audited description of their reports to the Commission and publish the corresponding public overviews by 7 March 2024. By that date, the Commission had received audited descriptions of such reports from Alphabet, Amazon, Apple, Meta, and Microsoft. ByteDance's audited description followed with some delay, of which the Commission was previously informed, on 9 April 2024. Booking Holdings, designated on 13 May 2024, submitted its audited description and published the corresponding public overview on 13 November 2024. As required by Article 15(1) DMA, the Commission duly sent all audited descriptions to the European Data Protection Board ('EDPB').

(64) The Commission provided feedback to gatekeepers on their audited reports and will continue to analyse all material submitted by gatekeepers to the Commission in line with Article 15 DMA. The Commission will consider follow-up measures where appropriate, such as updating the template[46]. It will also continue to engage with the

[43] The remaining 2024 submissions will be published in 2025 on a rolling basis and not earlier than four months after receipt of the information.
[44] See, for example, Microsoft / Inflection AI, Inc., reported under Article 14 DMA on 17 October 2024.
[45] For instance, in Microsoft / Inflection, the Commission considered that the transaction involved all necessary assets to transfer Inflection's market position to Microsoft and concluded that the transaction amounts to a concentration under Article 3 of Regulation (EC) 139/2004. See: https://ec.europa.eu/commission/presscorner/detail/en/ip_24_4727.
[46] https://digital-markets-act.ec.europa.eu/system/files/2023-12/Article%2015%20DMA%20Template%20%28consumer%20profiling%20report%29.pdf

EDPB and the HLG regarding Article 15 DMA as a potential area of interest for, among others, European and national data protection and consumer enforcement authorities.

V. COOPERATION BETWEEN THE COMMISSION AND NATIONAL AUTHORITIES

(65) The DMA lays down the general principles governing its interplay with other relevant Union legal instruments, such as competition, data protection, and consumer protection law. These principles are outlined in Articles 1(5) and 1(6) DMA. Moreover, Article 37 DMA provides that the Commission and Member States should work in close cooperation and coordinate their enforcement actions to ensure coherent, effective, and complementary enforcement. Article 38 DMA requires the Commission and NCAs enforcing competition rules to cooperate with each other through the European Competition Network ('ECN').

(66) In line with Article 38 DMA, the Commission cooperated and coordinated closely with NCAs through the ECN, continuing a long history of close cooperation through this framework dating back more than 20 years. In particular, the Commission and NCAs kept each other systematically informed about their respective enforcement actions, in line with Article 38(1) DMA. Thanks to this exchange of information and the working of the ECN, the Commission and NCAs cooperated and coordinated well and effectively in 2024.

(67) In 2024, the Commission received from NCAs one notification, pursuant to Article 38(2) DMA, of an intention to launch an investigation on a gatekeeper based on national laws referred in Article 1(6) DMA, and two notifications, pursuant to Article 38(3) DMA, of an intention to impose obligations on gatekeepers based on the same laws. These notifications were submitted in addition to the notifications from NCAs under Regulation 1/2003.

VI. THE HIGH-LEVEL GROUP FOR THE DIGITAL MARKETS ACT[47]

(68) The High-Level Group for the Digital Markets Act ('HLG') was set up by Commission Decision of 23 March 2023 based on Article 40 DMA[48]. The HLG is composed of the European bodies and networks identified in the DMA and has been set up as a group of experts, in compliance with the Commission Decision establishing horizontal rules on the creation and operation of Commission expert groups[49]. The HLG is chaired by the Commission, which also offers secretariat support. The HLG aims to support coherent and effective implementation of the DMA and other sector-specific regulations applicable to gatekeepers.

(69) The HLG also plays a relevant role in identifying and evaluating interactions between the DMA and sector-specific rules. Moreover, the Commission can leverage the expertise of relevant sectoral bodies and networks during potential market investigations into new services and practices[50].

(70) In 2024, three thematic subgroups were established focused on data-related obligations, Article 7 DMA (interoperability), and artificial intelligence ('AI')[51]. In total, the three subgroups held seven meetings, in addition to the plenary session that

[47] In the context of the DMA, the High-Level Group for the Digital Markets Act is synonymous with the High-Level Group of Digital Regulators.
[48] https://competition-policy.ec.europa.eu/system/files/2023-03/High_Level_Group_on_the_DMA_0.pdf
[49] Commission Decision C(2016) 3301 final establishing horizontal rules on the creation and operation of Commission expert groups.
[50] Ibid. Art. 40(7).
[51] The work of the subgroups is guided by individual terms of reference.

took place in March[52].

(71) Regarding the plenary's work, members of the HLG endorsed their first joint statement, highlighting the HLG's position on AI. The statement clarifies that, to the extent AI systems are integrated into designated core platform services, DMA obligations will apply to them[53].

(72) Major developments in the field of AI prompted the setting-up of the AI-related subgroup, which held its first meeting in October 2024. This provided an opportunity to invite gatekeepers to showcase their AI initiatives and respond to questions from HLG members[54]. This was also an opportunity for the Union's AI Office to present the AI Act and AI Board, while HLG members discussed ongoing work on AI taking place within their networks or bodies.

(73) The data-related obligations subgroup held four meetings in 2024[55]. Key areas of focus included the obligation to obtain consent for the combination of data between designated services and distinct services as provided for in Article 5(2) DMA, including Meta's implementation and the interplay of this provision with the GDPR[56]. After a mandate extension by HLG members, this particular subgroup has broadened its mandate since its second meeting[57]. The mandate now also covers the Commission's work regarding data access and portability, as well as the sharing of ranking, query, click, and view data by online search engines. Discussions further touched on the consumer profiling reports submitted by gatekeepers under the DMA and the EDPB – Commission Joint Guidance on the interplay between the GDPR and DMA, with the latter being also presented in the Article 7 subgroup.

(74) Further to this, the Article 7 subgroup convened in April and September 2024, where discussions centred on the latest developments regarding compliance by designated number-independent interpersonal communication services[58], including the reference offer and effective user discovery mechanisms.

(75) A key conclusion emphasised at both the plenary and subgroup levels is the need to ensure seamless cooperation across different policy instruments and prevent gatekeepers from exploiting one policy to evade another. Looking ahead, the HLG formats will facilitate the necessary cooperation and coordination to ensure that DMA enforcement remains robust and predictable.

[52] For more details of each HLG plenary or subgroup meeting, including agendas and meeting minutes, see: https://ec.europa.eu/transparency/expert-groups-register/screen/expert-groups/consult?lang=en&groupId=3904&fromMembers=true&memberType=5&memberId=111640.
[53] Moreover, the document identifies directions for cooperation as well as key areas relevant to AI needing complementary monitoring and coordinated enforcement.
[54] With Apple, Microsoft, and Meta attending in person, while Alphabet sent a briefing note shared with the HLG members.
[55] In February, April, September, and October 2024.
[56] In this respect, the EDPB presented Opinion 08/2024 on Valid Consent in the Context of Consent or Pay Models Implemented by Large Online Platforms, adopted on 17 April 2024.
[57] Including Articles 6(9), 6(10), and 6(11), alongside Article 5(2).
[58] "Over-the-top (OTT) messaging services" or simply "messaging apps".