
















Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed, awaiting publication in Official Journal
2020/0374(COD)	
Digital Markets Act	
Subject 1.20.09 Protection of privacy and data protection 2.40 Free movement of services, freedom to provide 3.30.06 Information and communication technologies, digital technologies 3.30.25 International information networks and society, internet 3.45.05 Business policy, e-commerce, after-sales service, commercial distribution 4.60.06 Consumers' economic and legal interests	
Legislative priorities Joint Declaration 2021 Joint Declaration 2022	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	IMCO Internal Market and Consumer Protection	 SCHWAB Andreas	28/01/2021
		Shadow rapporteur  REPASI René  ANSIP Andrus  KOLAJA Marcel  JORON Virginie  BIELAN Adam  SCHIRDEWAN Martin	
	Committee for opinion ECON Economic and Monetary Affairs (Associated committee)	Rapporteur for opinion  YON-COURTIN Stéphanie	10/05/2021
	CULT Culture and Education	 KAMMEREVERT Petra	09/02/2021
	ITRE Industry, Research and Energy (Associated committee)	 ZORRINHO Carlos	19/01/2021

Council of the European Union European Commission	JURI Legal Affairs	10/05/2021
	 WÖLKEN Tiemo	
	TRAN Transport and Tourism	29/03/2021
European Economic and Social Committee European Committee of the Regions	 FERBER Markus	
	LIBE Civil Liberties, Justice and Home Affairs	22/04/2021
	 KOVÁŘÍK Ondřej	
	Commission DG Communications Networks, Content and Technology	Commissioner BRETON Thierry

Key events			
15/12/2020	Legislative proposal published	COM(2020)0842	Summary
08/02/2021	Committee referral announced in Parliament, 1st reading		
20/05/2021	Referral to associated committees announced in Parliament		
23/11/2021	Vote in committee, 1st reading		
30/11/2021	Committee report tabled for plenary, 1st reading	A9-0332/2021	Summary
14/12/2021	Debate in Parliament		
15/12/2021	Decision by Parliament, 1st reading	T9-0499/2021	Summary
15/12/2021	Matter referred back to the committee responsible		
15/05/2022	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	PE732.531 GEDA/A/(2022)003821	
15/05/2022	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	PE732.531 PE731.842	
04/07/2022	Debate in Parliament		
05/07/2022	Results of vote in Parliament		
05/07/2022	Decision by Parliament, 1st reading	T9-0270/2022	Summary
18/07/2022	Act adopted by Council after Parliament's 1st reading		
14/09/2022	Final act signed		

Technical information	
Procedure reference	2020/0374(COD)

Procedure type	COD - Ordinary legislative procedure (ex-codicedision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Legal basis	Rules of Procedure EP 57; Treaty on the Functioning of the EU TFEU 114-p1
Other legal basis	Rules of Procedure EP 159
Mandatory consultation of other institutions	European Economic and Social Committee European Committee of the Regions
Stage reached in procedure	Procedure completed, awaiting publication in Official Journal
Committee dossier	IMCO/9/04998

Documentation gateway

Legislative proposal		COM(2020)0842	15/12/2020	EC	Summary
Document attached to the procedure		SEC(2020)0437	16/12/2020	EC	
Document attached to the procedure		SWD(2020)0363	16/12/2020	EC	
Document attached to the procedure		SWD(2020)0364	16/12/2020	EC	
Document attached to the procedure		N9-0019/2021 OJ C 147 26.04.2021, p. 0004	10/02/2021	EDPS	
Committee draft report		PE692.792	01/06/2021	EP	
Committee of the Regions: opinion		CDR5356/2020	30/06/2021	CofR	
Amendments tabled in committee		PE695.143	07/07/2021	EP	
Amendments tabled in committee		PE695.196	07/07/2021	EP	
Amendments tabled in committee		PE695.197	07/07/2021	EP	
Amendments tabled in committee		PE695.198	07/07/2021	EP	
Committee opinion	TRAN	PE691.253	29/09/2021	EP	
Committee opinion	CULT	PE693.640	04/10/2021	EP	
Committee opinion	LIBE	PE693.946	18/10/2021	EP	
Committee opinion	ECON	PE693.930	28/10/2021	EP	
Committee opinion	JURI	PE693.727	05/11/2021	EP	
Amendments tabled in committee		PE700.389	10/11/2021	EP	
Committee opinion	ITRE	PE693.907	24/11/2021	EP	
Committee report tabled for plenary, 1st reading/single reading		A9-0332/2021	30/11/2021	EP	Summary
Text adopted by Parliament, partial vote at 1st reading/single reading		T9-0499/2021	15/12/2021	EP	Summary
Committee letter confirming interinstitutional agreement		PE731.842	11/05/2022	EP	
Coreper letter confirming interinstitutional agreement		GEDA/A/(2022)003821	11/05/2022	CSL	
Text agreed during interinstitutional negotiations		PE732.531	11/05/2022	EP	

Text adopted by Parliament, 1st reading/single reading	T9-0270/2022	05/07/2022	EP	Summary
Draft final act	00017/2022/LEX	14/09/2022	CSL	
Commission response to text adopted in plenary	SP(2022)483	21/09/2022	EC	

Additional information

Research document	Briefing	09/02/2022
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Digital Markets Act

PURPOSE: to ensure the proper functioning of the internal market by promoting effective competition in digital markets and in particular a fair and contestable online platform environment (Digital Markets Act).

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: digital services cover a wide range of daily activities including online intermediation services, such as online marketplaces, online social networking services, online search engines, operating systems or software application stores. They increase consumer choice, improve efficiency and competitiveness of industry and can enhance civil participation in society. However, whereas over 10 000 online platforms operate in Europe's digital economy, most of which are SMEs, a small number of large online platforms capture the biggest share of the overall value generated.

These large platforms increasingly act as gateways or gatekeepers between business users and end users and enjoy an entrenched and durable position. The proposed Digital Markets Act aims at preventing gatekeepers from imposing unfair conditions on businesses and consumers and at ensuring the openness of important digital services.

Common rules across the single market are needed to foster innovation, growth and competitiveness, and facilitate the scaling up of smaller platforms, small and medium-sized enterprises and start-ups who will have a single, clear framework at EU level.

The proposed [Digital Services Act](#) and Digital Markets Act encompass a single set of new rules applicable across the whole EU. They will create a safer and more open digital space, with European values at its centre.

CONTENT: the aim of the proposed regulation is to lay down harmonised rules ensuring contestable and fair markets in the digital sector across the EU where gatekeepers are present. It should apply to core platform services provided or offered by gatekeepers to business users established in the EU or end users established or located in the Union, irrespective of the place of establishment or residence of the gatekeepers and irrespective of the law otherwise applicable to the provision of service.

Its main objectives are:

- to address market failures to ensure contestable and competitive digital markets for increased innovation and consumer choice;
- to address gatekeepers unfair conduct;
- to enhance coherence and legal certainty to preserve the internal market.

Specific provisions of the proposal

The proposal:

- should only apply to large companies that would be designated as gatekeepers. For this purpose, it contains the provisions concerning the designation of gatekeepers. More specifically, it establishes the conditions under which providers of core platform services should be designated as gatekeepers either based on the quantitative criteria (through a presumption subject to counter-demonstration) or following a case-by-case assessment during a market investigation;
- sets out the practices of gatekeepers that limit contestability and that are unfair;
- provides rules for carrying out market investigations: (i) designation of a gatekeeper; (ii) investigation of systematic non-compliance and (iii) investigation of new core platform services and new practices;
- contains the provisions concerning the implementation and enforcement of this Regulation. These include the Commission's ability to request information, to conduct interviews and make statements and on-site inspections, to adopt interim measures and to make voluntary measures binding on the gate-keepers. In case of non-compliance, the Commission can issue non-compliance decisions, as well as impose fines and periodic penalty payments for breaches of the Regulation.

Budgetary implications

The total financial resources necessary for the implementation of the proposal in the 2021-2027 period should amount to EUR 81.090 million, including EUR 50.640 million of administrative costs and EUR 30.450 million entirely covered by the allocations foreseen in the multiannual financial framework 2021-2027 under the financial envelopes of the Single Market Programme and the Digital Europe Programme. The financing should support inter alia activities such as carrying out the designation of providers of core platform services, carrying out market investigations and performing any other investigative actions, enforcement actions and monitoring activities.

Digital Markets Act

The Committee on the Internal Market and Consumer Protection adopted the by Andreas SCHWAB (EPP, DE) on the proposal for a regulation of the European Parliament and of the Council on contestable and fair markets in the digital sector (Digital Markets Act).

The committee recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure be amended as follows.

Firstly, as a reminder, digital services in general and online platforms in particular play an increasingly important role in the economy, in particular in the internal market, by providing business users with gateways to reach end users throughout the Union and beyond, by facilitating cross-border trade and by opening entirely new business opportunities to a large number of companies in the Union to the benefit of Unions consumers.

Scope

This purpose of the proposed regulation is to contribute to the proper functioning of the internal market by laying down harmonised rules ensuring contestable and fair markets for all businesses to the benefit of both business users and end users in the digital sector across the Union where gatekeepers are present so as to foster innovation and increase consumer welfare.

Designation of gatekeepers

The proposed regulation will apply to the major companies providing so-called core platform services most prone to unfair practices. These include online intermediation services, social networks, search engines, operating systems, online advertising services, cloud computing, and video-sharing services, which meet the relevant criteria to be designated as gatekeepers. Members also included in the scope of the digital market act web browsers, virtual assistants and connected TV.

Members also amended the Commissions proposal to increase the quantitative thresholds for a company to fall under the scope of the digital markets act to EUR 8 billion (as opposed to EUR 6.5 billion) in annual turnover in the European Economic Area (EEA) and a market capitalisation of EUR 80 billion (as opposed to 65 billion as proposed by the Commission).

To qualify as a gatekeeper, companies would also need to provide a core platform service in at least three EU countries and have at least 45 million monthly end users, as well as more than 10 000 business users. A list of indicators to be used by the providers of core platforms services when measuring monthly end users and yearly business users should be provided in an Annex to the proposed Regulation.

Obligations for gatekeepers

In respect of each of its core platform services, a gatekeeper should refrain from imposing unfair conditions on businesses and consumers. Members included additional requirements on the use of data for targeted or micro-targeted advertising and the interoperability of services, e.g. number-independent interpersonal communication services and social network services.

The proposal stipulates that a gatekeeper should, for its own commercial purposes, and the placement of third-party advertising in its own services, refrain from combining personal data for the purpose of delivering targeted or micro-targeted advertising, except if there is a clear, explicit, renewed, informed consent, in line with the General Data Protection Regulation. Moreover, according to Members, personal data of minors should not be processed for commercial purposes, such as direct marketing, profiling and behaviourally targeted advertising.

EU level cooperation and fines

Members introduced the creation of a European High-Level Group of Digital Regulators to facilitate cooperation and coordination between the Commission and Member States in their enforcement decisions. Establishing that group of regulators should enable the exchange of information and best practices among the Members States and enhance better monitoring and thus strengthen the implementation of this Regulation.

Regarding fines, Members proposed that Commission may impose on a gatekeeper fines not less than 4% and not exceeding 20% of its total worldwide turnover in the preceding financial year where it finds that the gatekeeper, intentionally or negligently, fails to comply

with the obligation to provide within a time-limit, which shall not be less than three months, information that is required for assessing an undertakings designation as a gatekeeper or supplies incorrect, or misleading information.

Digital Markets Act

The European Parliament adopted by 642 votes to 8, with 46 abstentions, amendments to the proposal for a regulation of the European Parliament and of the Council on contestable and fair markets in the digital sector (Digital Markets Act).

The matter was referred back to the committee responsible for inter-institutional negotiations.

The main amendments adopted in plenary concern the following points:

Subject matter and scope

This purpose of the proposed regulation is to contribute to the proper functioning of the internal market by laying down harmonised rules ensuring contestable and fair markets for all businesses to the benefit of both business users and end users in the digital sector across the Union where gatekeepers are present so as to foster innovation and increase consumer welfare.

Designation of gatekeepers

The proposed regulation will apply to the major companies providing so-called 'core platform services' most prone to unfair practices. These include online intermediation services, social networks, search engines, operating systems such as on smart devices, internet of things or embedded digital services in vehicles, online social networking, video sharing platform services and number-independent interpersonal

communication services, cloud computing services.

Members also included in the scope of the digital market act web browsers, virtual assistants and connected TV.

Quantitative thresholds

Members also amended the Commission's proposal to increase the quantitative thresholds for a company to fall under the scope of the digital markets act to EUR 8 billion in the last three financial year (as opposed to EUR 6.5 billion) in annual turnover in the European Economic Area (EEA) and a market capitalisation of EUR 80 billion in the last financial year (as opposed to 65 billion as proposed by the Commission).

To qualify as a gatekeeper, companies would also need to provide a core platform service in at least three EU countries and have at least 45 million monthly end users, as well as more than 10 000 business users. A list of indicators to be used by the providers of core platform services when measuring monthly end users and yearly business users should be provided in an Annex to the proposed Regulation.

The Commission should designate as gatekeeper any undertaking providing core platform services, excluding micro, small and medium-sized enterprises, meeting each of the requirements. In conducting its assessment, the Commission should take into account foreseeable developments of these elements including any planned concentrations involving another provider of core platform services or of any other services provided in the digital sector.

Obligations for gatekeepers

Parliament introduced new obligations and prohibitions directly applicable to market gatekeepers.

In respect of each of its core platform services, a gatekeeper should refrain from imposing unfair conditions on businesses and consumers. Members included additional requirements on the use of data for targeted or micro-targeted advertising and the interoperability of services, e.g. number-independent interpersonal communication services and social network services.

An amendment stipulates that a gatekeeper should, for its own commercial purposes, and the placement of third-party advertising in its own services, refrain from combining personal data for the purpose of delivering targeted or micro-targeted advertising, except if there is a clear, explicit, renewed, informed consent, in line with the General Data Protection Regulation. Moreover, according to Members, personal data of minors should not be processed for commercial purposes, such as direct marketing, profiling and behaviourally targeted advertising.

The proposal would give users the ability to un-install pre-installed software applications, such as apps, at any time on a basic platform service.

Killer acquisitions

The Commission might prohibit gatekeepers from engaging on acquisitions (including killer-acquisitions) in the areas relevant to this regulation such as digital or to the use of data related sectors e.g. gaming, research institutes, consumer goods, fitness devices, health tracking financial services, and for a limited period of time where this is necessary and proportionate to undue the damage caused by repeated infringements or to prevent further damage to the contestability and fairness of the internal market.

An amendment stipulates that adequate mechanisms should be put in place to enable whistleblowers to alert the competent authorities of potential or actual breaches of the Regulation and to protect them against retaliation.

EU level cooperation and fines

Members introduced the creation of a European High-Level Group of Digital Regulators to facilitate cooperation and coordination between the Commission and Member States in their enforcement decisions. Establishing that group of regulators should enable the exchange of information and best practices among the Member States and enhance better monitoring and thus strengthen the implementation of this Regulation.

Regarding fines, Members proposed that Commission may impose on a gatekeeper fines not less than 4% and not exceeding 20% of its total worldwide turnover in the preceding financial year where it finds that the gatekeeper, intentionally or negligently, fails to comply with the obligation to provide within a time-limit, which shall not be less than three months, information that is required for assessing an undertaking's designation as a gatekeeper or supplies incorrect, or misleading information.

Digital Markets Act

The European Parliament adopted by 588 votes to 11, with 31 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council on contestable and fair markets in the digital sector (Digital Markets Act).

The European Parliament's position adopted at first reading under the ordinary legislative procedure amends the Commission's proposal as follows:

Purpose and scope

The purpose of this Regulation is to contribute to the proper functioning of the internal market by laying down harmonised rules ensuring for all businesses, contestable and fair markets in the digital sector across the Union where gatekeepers are present, to the benefit of business users and end users.

Designation of gatekeepers

This Regulation should apply to core platform services which are most prone to unfair practices. These include online intermediation services, online social networks, search engines, video sharing platform services, number independent interpersonal communication services, operating systems, web browsers, virtual assistants, cloud computing services and online advertising services that meet the minimum criteria for designation as gatekeepers.

Quantitative thresholds

An undertaking will fall within the scope of the digital markets legislation if:

- it has had an annual turnover in the Union of EUR 7.5 billion or more in each of the last three financial years, or if its average market capitalisation or fair market value equivalent was at least EUR 75 billion in the last financial year, and it provides the same core platform service in at least three Member States;
- it provides a core platform service which, in the last financial year, had at least 45 million active end-users per month established or located in the Union and at least 10 000 yearly active business users established in the Union.

The Commission should designate as gatekeepers any undertaking providing core platform services that has significant weight in the internal market but does not meet each of the thresholds. For this purpose, the Commission should take into account elements such as (i) the size, including turnover and market capitalisation, activities and position of that undertaking, (ii) the number of business users using the core platform service to reach end-users and the number of end-users (iii) network effects and data driven advantages, (iv) any scale and scope effects from which the undertaking benefits, (v) business user and end user lock-in; and (v) a conglomerate corporate structure or vertical integration of that undertaking.

Obligations for gatekeepers

Parliament introduced new obligations and prohibitions directly applicable to market gatekeepers.

Under the amended Regulation, a gatekeeper should not, unless this specific choice has been presented to the end-user and the end-user has given his or her consent within the meaning of the General Data Protection Regulation:

- process, for the purpose of providing online advertising services, personal data of end users using services of third parties that make use of core platform services of the gatekeeper;
- combine personal data from the relevant core platform service with personal data from any further core platform services or from any other services provided by the gatekeeper or with personal data from third-party services;
- cross-use personal data from the relevant core platform service in other services provided separately by the gatekeeper, including other core platform services, and vice-versa; and
- sign in end users to other services of the gatekeeper in order to combine personal data.

Gatekeepers should not be allowed to ask end-users for consent more than once a year for the same processing purpose for which they initially did not give consent or withdrew their consent.

In addition, the gatekeeper should not:

- prevent or restrict business users or end users from raising any issue of non-compliance with the relevant Union or national law by the gatekeeper with any relevant public authority, including national courts, related to any practice of the gatekeeper;
- require end users to use, or business users to use, to offer, or to interoperate with, an identification service, a web browser engine or a payment service, or technical services that support the provision of payment services, such as payment systems for in-app purchases, of that gatekeeper in the context of services provided by the business users using that gatekeepers core platform services;
- require business users or end users to subscribe to, or register with, any further core platform services listed in the designation decision, as a condition for being able to use, access, sign up for or registering with any of that gatekeepers core platform services;
- prevent users from easily uninstalling pre-installed software or applications or from using third party applications or application shops.

The gatekeeper should technically enable end users to easily change default settings on the operating system, virtual assistant and web browser of the gatekeeper that direct or steer end users to products or services provided by the gatekeeper.

Obligation for gatekeepers on interoperability of number-independent interpersonal communications services

A new provision stipulates that gatekeepers should therefore ensure, free of charge and upon request, interoperability with certain basic functionalities of their number-independent interpersonal communications services that they provide to their own end users, to third-party providers of such services.

Gatekeepers should ensure interoperability for third-party providers of number-independent interpersonal communications services that offer or intend to offer their number-independent interpersonal communications services to end users and business users in the Union.

Enforcement of the legislation

The Commission is the sole authority empowered to enforce this Regulation. In order to support the Commission, it should be possible for Member States to empower their national competent authorities enforcing competition rules to conduct investigations into possible non-compliance by gatekeepers with certain obligations under this Regulation.

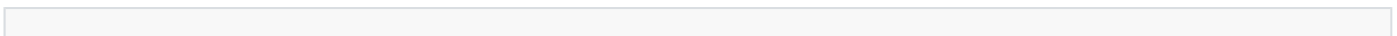
In order to ensure coherence and effective complementarity in the implementation of this Regulation and of other sectoral regulations applicable to gatekeepers, the Commission should benefit from the expertise of a dedicated high-level group. It should be possible for that high-level group to also assist the Commission by means of advice, expertise and recommendations, when relevant, in general matters relating to the implementation or enforcement of this Regulation.

The Commission may also develop guidelines to provide further guidance on different aspects of the Regulation or to assist undertakings providing core platform services in implementing the obligations under the Regulation.

Fines

In order to ensure that the new rules relating to the legislation are properly implemented, the Commission should be able to conduct market investigations. If a gatekeeper fails to comply with the rules, the Commission may impose fines of up to 10% of its total worldwide turnover in the previous financial year, or even 20% in the case of repeated breaches.

Whistleblowers should be able to bring new information to the attention of the competent authorities which may help them to detect infringements of this Regulation and enable them to impose penalties.



Transparency				
REPASI René	Shadow rapporteur	IMCO	09/02/2022	Directorate-General Competition
KOLAJA Marcel	Shadow rapporteur	IMCO	10/02/2022	New Vector (trading as Element) Open-Xchange AG
REPASI René	Shadow rapporteur	IMCO	15/02/2022	Directorate-General Connect
REPASI René	Shadow rapporteur	IMCO	22/02/2022	LobbyControl ? Initiative für Transparenz und Demokratie e.V.
REPASI René	Shadow rapporteur	IMCO	24/02/2022	Secretary of State for Digital Transition and Electronic Communications, French Ministry of Economy and Finance
REPASI René	Shadow rapporteur	IMCO	28/02/2022	LobbyControl
REPASI René	Shadow rapporteur	IMCO	08/03/2022	Margrethe Vestager, Commissioner for Competition
REPASI René	Shadow rapporteur	IMCO	20/05/2022	CPDP (Computers, Privacy and Data Protection)
REPASI René	Shadow rapporteur	IMCO	02/06/2022	Bureau Européen des Unions de Consommateurs
REPASI René	Shadow rapporteur	IMCO	10/06/2022	1&1 AG
ANDRESEN Rasmus	Shadow rapporteur for opinion	ITRE	07/07/2022	Duck Duck Go, Inc.
REPASI René	Shadow rapporteur	IMCO	12/07/2022	Duck Duck Go, Inc.