

04 October 2021

Joint statement to EU institutions:

Public service and private radio broadcasters call on EU lawmakers to include voice assistants in the Digital Markets Act.

Europe's private and public service radio broadcasters have come together through the undersigned organisations - EDRA, EBU and AER - to request you to address the **growing dominance of digital voice assistant platforms**. Urgent intervention is required to prevent **these platforms from being able to adopt anti-competitive behaviours**; this could include charging for access, self-preferencing, restricting access to data, using data from third party services to develop their own services, and inserting publicity without permission.

We welcome the Digital Markets Act regulation ('DMA') as an essential step in restoring and promoting a fair relationship between gatekeepers and radio companies. Nonetheless, as it currently stands, it may fail to take advantage of this unique opportunity to provide appropriate regulatory safeguards for the online audio/radio environment, at a crucial moment for this emerging market. **We, therefore, call on the EU legislators to clarify the text, by explicitly mentioning that the proposed Digital Markets Act regulation also applies to voice assistants.**

Traditionally associated with smart speakers, voice assistants **have now been adopted in environments where physical keyboards are absent**, e.g. on smartphones or in the car via their integration into infotainment operating systems.

The growth in connected devices and the rapid growth in usage of voice assistants has started to change the way audio services are discovered and accessed. **The European radio and audio sector is fully embracing the opportunities that digital technologies have to offer, having provided some of the first services available via voice assistants.**

Access to broadcasters' content via voice assistants is an important paradigm shift that will radically change our relationship with listeners. Historically, radio broadcasters have enjoyed a secure position in the audio value chain, where licences for broadcast have been granted by regulators, and broadcasters have owned or leased their own transmitters to reach their audiences, without any interference by third parties. With the adoption of voice assistants in the home, the car, on smartphones and tablets, access to audio and radio content **will become increasingly intermediated by voice assistant providers, which will impact content transmission and users' freedom of choice.** Such new intermediation is particularly challenging, as the main tech industry players benefit today from significant market power in the voice assistant market as well as in adjacent markets, which enables them to impose conditions regarding the content accessible on their devices, and thereby impacting listeners.

The case for regulating voice assistants under the DMA is not just economic. It is also crucial to safeguard media pluralism and the provision of trusted information. Radio delivers a broad range of public value to listeners, including trusted local and national news bulletins that reach hundreds of millions of listeners daily across Europe, at a time when fake news is rife on social media networks. Clarifying the application of the DMA to the audio/radio sector is an important step in protecting the most trusted source¹ of news and information and supporting media pluralism in Europe.

While the European Commission may have intended to include voice assistants in its DMA proposal², the current text does not make this explicit enough. Later, the European Commission itself raised again concerns about the significant market power and gatekeeper role of voice assistant providers in **the first findings of its investigation into the Consumer Internet of Things**³. We note that the significant market power of voice assistants is often amplified in online environments where they are integrated, for instance, in in-car infotainment systems where typically listeners are only able to access their digital radio and audio apps via a single voice assistant platform, thereby strengthening the latter's gatekeeper position with respect to radio content providers. Typically, they provide users with only one result, instead of a list of results, thus making the choice for the user and directly influencing the selection. For instance, in response to a request for news, a voice assistant will only provide one specific source.

Therefore, it is essential that the DMA covers this type of platform, either by clarifying the definition of "online intermediary services" or including them as a new "core platform service".

Furthermore, considering the small size of the digital audio market, dominated by a limited number of gatekeepers enjoying significant market power, we welcome the possibility for the Commission to designate a provider of a core platform service as a gatekeeper, where such a provider fulfils the qualitative criteria of Article 3(1) without meeting all the thresholds of Article 3(2) through the flexibility offered by **Article 3(6)**.

In her statement following the publication of the first findings of the sector inquiry on the Consumer Internet of Things⁴, Vice-President Margrethe Vestager stressed that a number of the practices reported in the inquiry feature in the "Do's and Don'ts" of the Commission's proposal for the Digital Markets Act, and that "the sector inquiry will certainly contribute to the debate on the scope of the Digital Markets Act". We believe the Digital Markets Act regulation is an essential step in restoring and promoting a fair relationship between gatekeepers and radio services. This balance is first and foremost essential for EU citizens who trust such services every day. This is a unique opportunity to promote a fair and open online audio environment, at a crucial moment for this emerging market.

We would therefore urge the co-legislators to update the DMA along these lines to protect the radio industry, not just for economic reasons, but because of the widespread societal benefits – the most trusted news source (as demonstrated during the COVID crisis), connecting people to their communities, and providing

¹ See Standard Eurobarometer 94 – Report Media Use in the EU:

<https://europa.eu/eurobarometer/surveys/detail/2355> - radio has been the most trusted medium in the EU for years, maybe since the Standard Eurobarometer study has started

² cf. recital 49, which refers to voice results in the context of self-preference practices

³ European Commission, preliminary report on consumer Internet of Things sector inquiry, published July 2021

⁴ Statement by Executive Vice-President Margrethe Vestager's statement on the initial findings of the consumer IoT sector inquiry, 9th June 2021 [EVP Vestager on the initial findings of the Consumer IoT \(europa.eu\)](https://europa.eu/eurobarometer/surveys/detail/2355)

companionship. If such modifications are not included, the DMA will have failed to provide the radio and audio market with the protection it requires to function effectively.

The undersigned remain at your disposal should you wish to discuss this matter further through a face-to-face or virtual meeting, should that be helpful.

Yours sincerely,



Noel Curran
Director General
European Broadcasting Union



Travis Baxter
Vice-Chair
European Digital Radio Alliance

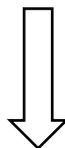


Stefan Möller
President
Association of European Radios

Online audio and third-party services

1. The significant market power of voice assistant platforms has several implications for the audio sector that need to be addressed by the DMA.

- **for these actors**, the strengthening of their market power, by attracting listeners to their applications, and by aggregating the data collected from these uses.
- **for radio companies**, the loss of the direct link with their listeners, who are increasingly listening to radio content via third-party services, and a consequential depreciation of their own online services.
- **for listeners**, the risk of being locked into a single audio ecosystem, which consequently influences and restricts their listening choices.



2. The DMA represents an unprecedented opportunity to establish a level playing field for the digital radio and audio environment, by regulating voice assistant platforms in the following way

- **Scope:** Clarify that digital voice assistant platforms enjoying gatekeeper status constitute core platform services which fall within the scope of the DMA.
- **Access & Non-discrimination:** Clarify that digital voice assistant platforms enjoying gatekeeper status shall not be allowed to limit or restrict access to third party content services, or charge for carriage.
- **Advertising:** Clarify that digital voice assistant platforms enjoying gatekeeper status cannot mandate the use of their own ad tech solutions and monetize such solutions to their own benefit and must not be allowed to insert sponsorship or advertising around third-party content services without the express consent of the content provider.
- **Discoverability & self-preferencing:** Allow radio stations to be easily found and discoverable by users of digital voice assistant platforms, by ensuring that listeners are accurately routed to the radio station of their choice by voice assistant platforms and that full algorithmic transparency is provided by said platforms.
- **Access to data:** Clarify that digital voice assistant platforms enjoying gatekeeper status must provide radio stations who use their platforms with access to (and use of) all of the data they have collected from (or generated in relation to) said radio stations. This must be done free of charge, on a continuous and real-time basis.
- **Ban third party services from using data to develop competing services:** Prevent voice assistant platforms from using the data they have collected from the third-party radio stations they carry to develop competing services.

About European Digital Radio Alliance (EDRA)

The European Digital Radio Alliance (EDRA) was founded in 2016 and brings together public and private (both commercial and in the community sector) broadcasters, united by a concern to achieve effective, modern distribution platforms for radio in Europe. In the face of disruptive change, broadcasters from 15 European countries, covering a population of over 400m citizens, are working together to ensure that they can continue effectively to deliver the societal benefits demanded by their remit, engaging the broadest possible public. This can mean digital terrestrial radio, exemplified by DAB+; however, the Alliance is driven by a strong sense of urgency with regard to emerging platforms, such as digital audio connected devices, voice assistants and online aggregators, for both on demand and live listening. The Alliance is keen to ensure that a new regulatory framework is established in order to mitigate the challenges that the growing dominance of digital gatekeepers poses to radio and create opportunities for increased digital audio listening.

Contact: Edita Kudláčová, Secretary to EDRA and EBU Head of Radio, kudlacova@ebu.ch

About the European Broadcasting Union (EBU)

The European Broadcasting Union (EBU) is the world's leading alliance of public service media (PSM). We have 115 Members in 56 countries in Europe, and an additional 33 Associates in Asia, Africa and the Americas. Our Members

The logo for EBU (European Broadcasting Union) consists of the letters 'EBU' in a bold, blue, sans-serif font.

OPERATING EUROVISION AND EURORADIO

The logo for EDRA (European Digital Radio Alliance) features the letters 'EDRA' in a bold, blue, sans-serif font. The 'D' is stylized with a vertical bar and a dot inside. Below the letters, the text 'EUROPEAN DIGITAL RADIO ALLIANCE' is written in a smaller, blue, sans-serif font.The logo for AER (Association Européenne des Radios) features the letters 'AER' in a blue, cursive font. Above the letters are five blue stars of varying sizes, arranged in a semi-circle. Below the letters, the text 'ASSOCIATION EUROPÉENNE DES RADIOS' is written in a blue, sans-serif font.

operate almost 2,000 television, radio and online channels and services, and offer a wealth of content across other platforms. Together they reach an audience of more than one billion people around the world, broadcasting in more than 160 languages. The EBU operates Eurovision and Euroradio services.

Contact: Wouter Gekiere, Head of Brussels Office, gekiere@ebu.ch

About the Association of European Radios (AER)

The Association of European Radios (AER) is the Europe-wide trade body for commercial radio, representing the interests of companies operating over 5,000 commercial radio stations to the EU Institutions. The AER's mission is to promote the development of commercially-funded radio broadcasting in Europe, by advocating for a fair and sustainable economic regulatory framework for radio, which will, in turn, allow commercial radio to continue to deliver significant public value and, beyond that, support media plurality, improve social cohesion and promote European culture.

Contact: Francesca Fabbri, Director, francesca.fabbri@aereurope.org