



DIGITAL MARKETS ACT PRIORITIES FOR TRILOGUES

The EBU welcomes the aim of the Digital Markets Act (DMA) to create a fairer and more contestable digital space, thereby supporting cultural diversity and media pluralism. As trilogue negotiations have started, we would like to underline the necessary steps forward to ensure this objective is achieved.

1. Including virtual assistants as a core platform service

There is increasing evidence that virtual assistants are a central access point for audio and video content, as confirmed by the European Commission's own [sector inquiry on the Internet of Things](#). Today's major virtual assistant services are owned by the same companies that hold gatekeeper positions in other core platform services.

It is crucial that virtual assistants are clearly included under the DMA's remit, in particular to address data bottlenecks and self-preferencing practices. We therefore support the European Parliament's position on this matter. While we acknowledge the Council's reference to voice assistant technology in recital 13 of its general approach, we fear that this mention is too restrictive as it considers such services as a conduit rather than a core platform service in its own right, and virtual assistants may not always qualify as online intermediary services.

Additionally, including web browsers as a separate core platform service would help avoiding possible circumvention of the rules and would render the DMA more consistent.

2. Strengthening the prohibition of self-preferencing

We fully support the European Parliament's position on the prohibition of self-preferencing in article 6(1)d, which both:

- extends the definition of "ranking" in article 2(18) to all core platform services – including relevant services such as video-sharing platforms, advertising services or operating systems;
- enhances the future-proof nature of this provision by covering "other settings" that can be used to maintain users in gatekeepers' closed environments (e.g. default settings). This is in line with the 2019 EU Platform-to-Business Regulation¹.

¹ Regulation (EU) 2019/1150 on promoting fairness and transparency for business users of online intermediation services.

3. Imposing/ensuring actual access to data

It is important that gatekeepers provide access to aggregated "and" non-aggregated data (instead of "or"), as highlighted in the European Parliament's position on article 6(1)i.

Regarding access to personal data, article 11(2) undermines the new obligation to give access, as gatekeeper platforms would be deemed to have fulfilled their obligations by simply sharing anonymized data which would not allow business users to improve their services. In our view:

- article 11(2) should be amended to avoid such a loophole;
- gatekeepers should at least provide business users with the capacity to ask consent directly to end users and shall not make the obtaining of consent more burdensome for business users than for their own services;
- consent given directly to the business user should prevail.

Other EBU demands:

- **Prohibition of bundling**
Although the Parliament's wording slightly improves article 5(f), the notion of "use" should be reflected in both limbs of the article for this provision to fully address the breadth of unfair bundling practices by platforms.
- **Audience measurement**
Both co-legislators have improved the wording of article 6(1)g. The Parliament's position includes a welcome clarification that both aggregated and non-aggregated data should be covered. We would however advise policymakers to mandate that the provision of audience measurement information should happen in a "continuous and real-time" manner, as proposed by the ECON, ITRE, JURI and CULT Committees.
- **Interplay with national legislation**
We support the clarification by both co-legislators that the DMA does not preclude the possibility to apply national legislation which pursues other legitimate public interest objectives in recital 9 (with the Council also referring to "overriding reasons of public interest"). The Parliament's mention that "fostering media freedom and pluralism, freedom of expression, as well as diversity in culture or in language" constitutes a legitimate public interest objective is also welcome.
- **Enforcement**
For the DMA to have a meaningful impact, co-legislators should ensure that the authorities responsible for monitoring and enforcing the rules will have access to the adequate funding and resources. Article 15(4) should be extended to cover all obligations in articles 5 and 6, as the European Commission should not be restricted in choosing which obligations must apply to gatekeepers that do not yet have an entrenched position. The European Parliament's position reflects our position on this topic. Third parties with a legitimate interest should be appropriately involved in proceedings and market investigations and have a right to lodge complaints. Articles 24a and 30 of the European Parliament's position would provide guarantees in this regard.