



*Employers entrusted to deliver
Sustainability Growth Innovation*

Position Paper

SGI Europe position on the Digital Markets Act

31 March 2021

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SGI Europe welcomes overall the Digital Markets Act (DMA) of the European Commission and the opportunity to reflect again on the proposal for a regulation in the public feedback consultation. The DMA is an important starting point to ensure fair competition in the digital world and increase consumer choice. The set-up of a swift and flexible intervention mechanism is essential to tackle structural competition concerns raised by large digital platforms acting as gatekeepers which are not fully addressed under current competition law framework. An ambitious DMA has the potential to lead the way, globally, in defining better market dynamics in the field of core platform services as defined in the proposal, including cloud, operating systems, app stores, search and many other crucial tools.

How can we ensure that Europe reaches this goal? Here is SGI Europe's position on the DMA and our further recommendations to reach for a true and fair European Digital Age:

Build fairer and better Digital Markets for every EU citizen

SGI Europe shares the Commission's concerns about anticompetitive conducts by a few large digital players acting as gatekeepers, which stifle opportunities for competitors and ultimately have a chilling effect on consumers and innovation. **Setting a bold ex-ante regulatory framework for digital markets within the DMA is the right direction that SGI Europe can approve along with a review of the competition policy toolbox to face the changing dynamics of the digital economy.** In line with this, the DMA proposal seems to be setting the right fundamental tools for a fair and better digital market for all EU citizens.

Better inclusion of Member States for more transparency

A high level of transparency is needed within the DMA. Therefore, SGI argues for a better inclusion of the Member States, e.g., through the presentation of transparency reports and other findings in front of the European Parliament.

Clear definition of Gatekeepers

In general, **SGI Europe supports an DMA with strong rules for gatekeeping platforms to address structural competition concerns raised by large digital platforms acting as gatekeepers and to promote fairness, competition, innovation, plurality and choice for European citizens.**

Additionally, the definition of gatekeepers (Article 2 and 3) seems to be targeted to a limited number of actors. However, if the core business of largest players meets the threshold of Article 3, other actors seem to meet some criteria but not others. **SGI Europe would like to have a better and more precise definition and explanation on this subject.**

Improve the Access to Data

Gatekeepers need to fulfil the administrative and technical means necessary to make data accessible to Member States' administrations and competent authorities. This includes adequate application programming interfaces (APIs) that ensure interoperability.

Where business users provide their content, services, and goods on third-party online platforms, they should be given access to the data the platforms generate through their offerings. Public service media, for example,

also embrace the opportunities that online platforms provide to reach their audiences. To tailor their content and services in a way that resonates with online users, they depend, however, on consumption/audience data.

Prohibit gatekeepers' self-preferencing practices

Platforms very often attribute preference to their own services or services from partners, e.g., in search results, display orders, default settings. This comes to the detriment of all other business users, but also to the consumers' choice. The DMA should prohibit platforms from engaging in self-preferencing their own services and favouring services from partners. Whilst the DMA proposal already includes a prohibition of self-preferencing in ranking, this only applies to a specific set of core platform services, namely online intermediation services (e.g., app stores, e-commerce marketplaces), social networks and search engines.

This prohibition must cover other categories of core platform services, especially including video-sharing platforms, to reflect their increasingly important role in the consumption of media content and services online, and ancillary services (e.g., delivery services). Moreover, the prohibition of self-preferencing is currently limited to ranking practices. Self-preferencing is a common practice in the platform economy that goes far beyond ranking. This needs to be reflected in the DMA to ensure that the instrument is future-proof and mirrors a harmful practice that is not limited to the function of ranking.

Prevent gatekeepers from bundling and tying services

Furthermore, the DMA should tackle situations where platforms exploit their superior bargaining power to impose business practices without any margin to negotiate – 'take it or leave it' approach (e.g., platform bundling/tying practices). One practice involves platforms bundling subscription-based and free services and linking access to free services to compulsory subscription-based services. For instance, these practices prevent public media organizations from reaching specific audiences, e.g., young people. The DMA should also prevent the bundling of platform core services with non-core services (e.g., ancillary services).