Digital Markets Act

2020/0374(COD) - 15/12/2020 - Legislative proposal

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 gatekeepers. 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.