

Digital Markets Act

2020/0374(COD) - 30/11/2021 - Committee report tabled for plenary, 1st reading/single reading

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 Union's 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 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** (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 undertaking’s designation as a gatekeeper or supplies incorrect, or misleading information.