

Joint Association letter on DMA - or don't throw the baby out with the bathwater

We, undersigned organisations, appreciate the opportunity to share perspectives on the upcoming crucial negotiations on the Digital Markets Act. Our community supports all initiatives aimed at improving the position of European businesses and users. While we understand the need to address certain challenges related to digitization, we urge EU policymakers to take well-informed decisions and mitigate any harmful consequences for European SMEs, entrepreneurs and users.

At a declarative level, the DMA aims to ensure fair conditions for online competition and improve the welfare of European consumers. These are goals we share and support as they represent an added value to the EU internal market and are beneficial to European businesses and entrepreneurs.

We fear however that both Parliament and Council have failed in addressing the various and damaging unintended consequences that the DMA could have on European SMEs, entrepreneurs and users.

While acting as gatekeepers in certain identified cases, platforms play a crucial enabling role for European entrepreneurship as they serve as a key gateway to the EU internal market. Although policymakers believe that the DMA is just about large technological companies, they fail to consider that proposed changes will inevitably bear a downstream cost for business users and consumers of those platforms. The implementation of the obligations by the gatekeepers should not affect the quality, functionality and integrity of the services that small businesses currently benefit from. It is therefore crucial to ensure that the DMA avoids unnecessary restrictions that would undermine the value of the digital economy for European businesses.

We are worried by proposals that would impose gatekeepers to subject business users and consumers to an infinite amount of consent requests. Clearly, there are instances when providing consent in line with GDPR is appropriate in light of the sensitivity of the information processed. Nevertheless, it should not be forgotten that according to GDPR, there are six equally valid legal bases for data processing. These options would not be available for gatekeepers, as they would be required to collect consent for literally *every* kind of data combination. This will inevitably disadvantage business users and consumers who will have to navigate through a significant amount of complexity and friction due to constant pop-ups and consent clicks.

Additionally, overly broad restrictions to combine data would deteriorate the scale and quality of services offered to SMEs, ultimately decreasing their volume of sales. The inability to combine data from various services, such as maps and search engines, will lead to a decline in the quality of targeted advertising, which serves as a basis for many entrepreneurs' business models. Moreover, certain services, like maps and search engines, are used by SME's and app developers as a very useful, sometimes indispensable functionality of their mobile applications or websites.

In our view, informing users in an intelligible manner and allowing a meaningful choice is a more balanced approach that would prevent many negative effects. This can be achieved by aligning the DMA to the GDPR and ensuring that the collection of consent is not too intrusive on the overall consumer or business user experience.



We are also overly concerned about proposals from certain Members of the European Parliament to put an outright ban on targeted advertising. While prioritizing data privacy and the interests of the users, policymakers are neglecting equally important needs of entrepreneurs, for whom targeted advertising is the only possible way to attract clients. A ban on targeted advertising will impact many local businesses and services as well as a wide range of start-ups, freelancers, artists and craftsmen. European SMEs cannot afford advertising in mass media, and this regulation will inevitably weaken their position vis-à-vis large companies.

Moreover, targeted advertising is already subject to discussion within the framework of other regulations currently negotiated at the EU level. Its' introduction in the DMA creates a risk of overlapping and conflicting legislation. It also shows that DMA has become a victim of the 'Christmas tree effect.' Rather than focusing on improving the original proposal at its core, MEPs keep on adding baubles.

In light of the above, it is clear that DMA is wrongly perceived as a regulation, which will only impact the gatekeepers. SMEs across the EU rely on digital tools to sell their products and services. In an increasingly digital economy, the quality and innovativeness of digital tools are essential for European businesses to grow and thrive. At the same time, by focusing merely on the gatekeepers, DMA lacks more positive proposals on how to unleash Europe's entrepreneurial spirit and innovation.

To conclude, while DMA aims to improve the competitive balance, it might degrade the quality of digital tools provided to European businesses and users, stifle innovation, deteriorate the position of European SMEs in relation to large companies, and hence throw the proverbial baby out with the bathwater.

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