



# ARTICLE

## THE DIGITAL MARKET ACT ON THE MOVE

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On March 7th, 2024, the DMA became fully enforceable. On September 6th, 2023, the European Commission designated Alphabet, Meta, Apple, Amazon, ByteDance and Microsoft as gatekeepers of core platform services. The DMA, which establishes an *ex-ante* regulation to ensure contestability and fairness on digital markets, is a major component of the digital strategy of the European Union. This regulatory framework has created many expectations. The European Commission, which wanted to centralize enforcement of the DMA and has set up a task force dedicated to its implementation, is not unaware that its action is being scrutinized keenly, if not greedily, by some.

Between March 18th and 26th, 2024, the Commission held six workshops on the implementation of the DMA with designated gatekeepers and interested stakeholders, to compare their commitments with the initial feedback from numerous user companies.

On March 25th, 2024, the Commission opened several **non-compliance investigations under the DMA** into:

- Alphabet and Apple to determine whether the steering of consumers to offers outside their app stores, free of charge, is permissible (Article 5(4) of the DMA).
- Alphabet to determine whether the display of Google search results can lead to self-preferencing of Google's vertical search services (e.g. Google Shopping, Google Hotels) over similar rival services (Article 6(5) of the DMA).
- Apple to determine whether certain measures, including the design of the web browser choose screen, restrict users' choices (Article 6(3) of the DMA).
- Apple to determine whether the terms and conditions of alternative app stores and sideloading comply with the obligations under the DMA (Article 6(4) of the DMA).
- Meta to determine whether the "Pay or Consent" model offers a real alternative to user consent.

The Commission has taken further investigative steps to gather facts and information to clearly establish whether:

- Amazon may be preferencing its own brand products on the Amazon Store in violation of Article 6(5) of the DMA.
- Apple's new price structure and other terms and conditions applicable to alternative app stores and to the distribution of apps from the web ("sideloading") may defeat the purpose of its obligations under Article 6(4) of the DMA.

The Commission also issued five retention orders to Alphabet, Amazon, Apple, Meta and Microsoft, asking them to retain documents which may be used to assess their compliance with their obligations under the DMA.

The investigations should be concluded within 12 months, that is to say during the early days of the next Commission. This timing could well be a portent of what comes next.

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