

Consultation on the template for compliance report under the DMA

Fields marked with * are mandatory.

Please fill your details and input/upload your contribution at the bottom of this page.

The Commission is consulting on the template for the compliance report that designated gatekeepers will have to submit annually under Article 11 of the Digital Markets Act ('DMA').

Gatekeepers will be required to provide the Commission with their first compliance report within six months of their designation as gatekeepers. They will then be required to update these reports annually.

With the published consultation, the Commission is seeking feedback on the draft template that specifies the minimum information that the Commission expects gatekeepers to provide in their compliance report.

The gatekeeper's compliance reports will play an important role in enabling the Commission to verify that the gatekeepers comply with the obligations and prohibitions set out in Article 5, 6 and 7 of the DMA and that the measures implemented by the gatekeepers are effective in achieving the objective of the DMA. Where necessary, the Commission can make use of its investigatory and enforcement powers to ensure effective compliance with the DMA.

Target Group

All citizens, companies and organisations are welcome to contribute to this consultation. Contributions are sought particularly from undertakings, which are potential gatekeepers under the Digital Markets Act, as well as business users and end users of the potential gatekeepers and associations representing these users.

Objective of the consultation

The objective of the consultation is to gather comments on the draft template for the compliance report to be submitted by gatekeepers under Article 11 of the DMA.

In particular, the Commission would welcome feedback on the following two items:

- Precise indicators that the Commission could use to assess whether the measures implemented by the gatekeepers to ensure compliance are effective in achieving the objectives of the DMA and of the relevant obligations as required by Article 8 of the DMA; and
- content and presentation of the non-confidential summary of the compliance report that the gatekeepers must provide pursuant to Article 11(2) of the DMA in order to ensure that the summary enables third parties to provide meaningful input to the Commission on the gatekeeper's compliance with its obligations under the DMA.

The stakeholders' feedback will enable the Commission to prepare a finalised version of the template. The Commission may regularly update this template to request further information, which it expects gatekeepers to provide.

How to provide feedback

Please submit your contribution by 5 July 2023 (midnight). Your submissions should not include any confidential information. Your non-confidential submissions will be published on the Commission's website for the Digital Markets Act.

Your answers can be in any EU language.

Template for the compliance report

[DMA template - Compliance report consultation.pdf](#)

Your details

* Publication of your details

- ☒ I agree to the publication of my details along with my contribution
- ☐ My contribution should be published anonymously.

Privacy statement

[Consultation on DMA compliance report template privacy notice.pdf](#)

* Your first name

* Your family name

* Your organisation

* Your email address

Your contribution

You can insert a text and/or upload your contribution.

Type in your contribution (3000 characters maximum)

3000 character(s) maximum

Please upload your contribution.

07dd69be-211b-4fd0-bf13-408dd85a5b96

/DevsAlliance_feedback_draft_template_DMA_compliance_reports.pdf

Contact

EC-DMA@ec.europa.eu



Developers Alliance's feedback on the draft template for reporting pursuant to art.11 of Regulation (EU) 2022/1925 (Digital Markets Act)

Developers Alliance welcomes the opportunity to provide comments on the draft template for DMA compliance reports. It is essential that the implementation of the regulation involves a variety of stakeholders, especially business users of the gatekeepers' core platform services, as they are the supposed beneficiaries of the regulation.

Our feedback, as in all of our DMA-related engagement, is based on a broad perspective driven by our mission and diverse membership. At least two of our corporate members are likely to be designated as gatekeepers. Therefore, in order to ensure an objective stand, we are very careful to limit our assessment to only consider wide-ranging software developers' interests and the sustainability of the digital ecosystems they rely on. Neither of such corporate members has contributed to the following comments, and our overall position may vary substantially from that of any individual member.

The template should be regularly updated, not only to request further information from gatekeepers, including "specific testing, or indicators and measures", but also in light of the Commission's further specifications and guidelines under art. 8.2 and 8.3. Moreover, the template doesn't delineate between compliance with the obligations under art. 5, 6 or 7 respectively, nor between positive and negative obligations, or obligations of result and of conduct.

It is important that the reports provide a clear image of the situation before and after the implementation of compliance measures. This should provide a better understanding over time on whether the regulation is driving real benefits for business users and consumers alike.

We appreciate the specific point 2.1.2.i), on "any consultation with end users and/or business users". We suggest that this includes not only consultations carried out at the stage of the elaboration of the measures, but also further on. In certain situations, it might be necessary to consult business users, for example, in order to assess the viability and the effectiveness of certain technical measures. In relation to 2.1.6, but also in general, the feedback provided by users and business users needs to be relevant. Any evident or suspected abuse of the complaint mechanisms should be mentioned as a possible distortion of the actual situation. This is relevant, for example, for protecting the interest of the broad range of business users, which might be comfortable with the respective compliance solution, or for preserving the equilibrium of a digital ecosystem.

We note the importance of 2.1.2. m), on the interplay between different compliance measures. This would allow the Commission to appropriately assess the coherence of the implementation of the regulation and to identify circumstances where trade-offs should be made. Furthermore, the reports should indicate, where appropriate, the interaction with regulatory compliance pursuant to other EU relevant legislation (e.g. GDPR), and with enforcement measures under national competition law.

The requirements of 2.1.2 q) and r) fail to clearly define when the objectives of the regulation are met. For the sake of legal certainty we recommend that the Commissions fully engage in setting clear benchmarks for compliance and come to grips with the effects of the regulation.

Regarding 2.2, it is not clear why such information is highly relevant for the application of the regulation. Is the impact of a compliance measure on gatekeeper's core platform service's top ten business users more important than the overall impact on all business users and consumers alike?

The non-confidential summary versions of the compliance reports will be valuable for business users such as software developers to identify how the regulation is affecting their relationship with the gatekeepers and, more broadly, its impact on the digital ecosystems they are active in.

The compliance reports should also reflect the evolution of the implementation of the regulation, as well as its significant effects on the relevant markets. This should be captured by the Commission and presented publicly, even earlier than the evaluation required by art. 53 of the DMA.

Founded in 2012, the Developers Alliance is a global advocate for software developers and the companies that depend on them.

developersalliance.org | policy@developersalliance.org