

Consultation on the template for compliance report under the DMA

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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.

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* 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)

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Contact

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5th of July 2023

We welcome the opportunity to participate in the Commission's consultation on the template for the compliance report under the Digital Markets Act.

Element would like to state our full support for the submission by the Coalition for Competitive Digital Markets (CDM).

In particular, we would like to specifically draw your attention to the lack of requirements around gatekeepers providing evidence on how they will comply with some of the technical requirements, especially around interoperability.

Furthermore, we would also like to highlight that requiring a demo/proof of concept is the best way to provide A/B test data points for 2.1.2 (o), (p), and 2.12 (q), (r). It would in particular bring clarity on:

- Scope, reflecting 2.1.2 (c) and proving that the Gatekeeper provides the expected 'basic functionalities', including "compulsory prompting for participation" (to ensure the gatekeepers' users are given the option to opt-in/out as they desire)
- Metrics for testing 'effective interoperability', specifically user consent rates and active interoperable users, noting that it would be useful for reporting to come from both the Gatekeeper and connecting party users.

We would also suggest a request for data points around the cost of implementation in the feedback from connecting parties, in particular looking at it across multiple implementations (i.e. "how quickly does the cost increase when the connecting party is trying to connect to several Gatekeepers?").

It is our belief that requiring Gatekeepers to follow a defined open standard on the technical aspects which underline interoperability, and features such as encryption, would

significantly lower costs for third-parties increasing connection rates by these requesting parties. Whilst APIs can be useful in some cases, in the case of interoperability the lack of clarification on the downsides of APIs vs standards could lead to a missed opportunity for a truly competitive market, as third parties would take on a disproportionate burden on assessing and implementing ways to use each Gatekeeper's API.

Moreover, API-based interoperability is entirely impractical for group messaging and VoIP communication - as the application of each participant in the conversation would have to speak every other API to every other user, causing an explosion in complexity, bandwidth requirements and moderation incompatibility.

In order to deliver on the technical requirements defined by the DMA, and realise the full potential of Article 7, we strongly back CDM's suggestion to mandate an initial assessment of suitable standards at the time of implementation, followed by subsequent reviews, with a requirement for Gatekeepers to demonstrate their compliance with the approved standards.

The submission by CDM provides a variety of recommendations on how these requirements could be integrated into the template, and we strongly recommend that the Commission includes those suggestions in the final version.

We thank you for your consideration and stand ready to provide additional technical expertise and comments on this issue.