

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 family name

* Your organisation

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Your contribution

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Type in your contribution (3000 characters maximum)

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Contact

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Public consultation on the template for compliance reports under the DMA

**Zalando's contribution to the Public Consultation on the
template for Compliance Reports under the DMA, 5 July 2023**



Zalando welcomes the European Commission's (the **Commission**) efforts to establish clear and transparent rules to ensure fair, open and trustworthy digital markets through the Digital Markets Act (the **DMA**). Similarly, Zalando welcomes the Commission's public consultation seeking feedback on the draft template specifying the minimum information to be included in gatekeepers' compliance reports (the **Template**) under the DMA. Compliance reports are the only way to verify a gatekeeper's compliance with the DMA obligations and prohibitions, and the draft template already brings beneficial clarity for all stakeholders involved, e.g. gatekeepers, as well as their business users and customers.

Zalando is a European e-commerce company for fashion and lifestyle. Founded in Berlin in 2008, we bring head-to-toe fashion to over 51 million active customers in the last 12 months in 25 markets, offering clothing, footwear, accessories, and beauty. The assortment of international brands ranges from world famous names to local labels. As Europe's most fashionable tech company, we work hard to find digital solutions for every aspect of the fashion journey: for our customers, partners and every valuable actor in the Zalando story.

Zalando believes that the Template already rather clearly explains what a gatekeeper's compliance report should include. Zalando supports the Commission request for a gatekeeper's internal supporting data and documents to assess compliance levels (provisions 2.1.2 and 3.2.2). However, we believe that the involvement of a gatekeeper's business users should be emphasized to ensure that their input is duly taken into account both when compliance reports are prepared, as well as in the subsequent enforcement phase.

On the basis of the current Template, we would like to stress the following points:

- **Business users' involvement is essential at all stages.** Zalando welcomes provisions 2.1.2 (i) and (l), 2.1.6 and 2.2 of the Template emphasizing the importance of the involvement of a gatekeeper's business users in the conception/ development of compliance initiatives/ measures. We find particularly relevant that gatekeepers are required to indicate how the input/ feedback provided by their business users at the stage of the elaboration of the compliance measure was taken into account. Business users can play a

meaningful role in designing a gatekeeper's compliance strategy, as well as contributing to the enforcement carried out by the Commission.

- **Enhanced business users' involvement in the enforcement of a gatekeeper's compliance report.** We believe that the Commission should explore additional ways to involve a gatekeeper's business users to also help them understand what the gatekeeper is doing to ensure compliance with the DMA. For example, the Commission could organize public workshops with a target audience, or even hold bilateral meetings with top business users to gather their input and update them on the timeline/ key milestones. However, Zalando believes the Commission should go beyond the "*top ten business users based on revenues*" to ensure a better representation of the various interests at stake.
- **Non-confidential summary should provide third parties with *truly* meaningful input on the gatekeeper's compliance with the DMA.** Zalando believes that access to non-confidential summaries should be differentiated depending on the third party's nature and its interests. A business user needs a more detailed access to a gatekeeper's compliance report compared to a normal EU citizen. Similarly, a business user also providing a specific Core Platform Service (**CPS**) must have a more granular access to the compliance report, at least with regard to the relevant CPS.
- **Continued regulatory dialogue between the Commission and various stakeholders at all levels is key** to ensure that gatekeepers behave fairly online and compete on an equal footing with all other players in the digital Single Market. Zalando wishes to reiterate its interest to continue to closely engage with the Commission. We believe that such an interaction is beneficial for all parties involved. On the one hand, it gives business/ end users and other third parties the ability to raise their concerns and contribute to problem-solving, while allowing the Commission to benefit from the qualified knowledge of industry players.

To conclude, the Template brings much welcome clarity on how compliance with the DMA obligations/ prohibitions will be measured and enforced, although the contribution of a gatekeeper's business users should be enhanced and incentivised, in our view.

Zalando is aware that this is an new and iterative process, but we are confident that the Commission will successfully ensure all gatekeepers comply with the DMA.
