

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)

3000 character(s) maximum

Thank you very much for this opportunity. Compliance reports will be a critical tool to evaluate both the Output of specific measures adopted by the gatekeepers, as well as the Outcome of such measures in terms of Choice, Contestability, and Fairness.

In general lines, our feedback reflect the following points:

1. The report includes mainly information about TECHNICAL MEASURES implemented, and RESULT. It should also include INTENTION of such measures.
2. In case that a measure required some time to be implemented, add a sense of EXPECTED COMPLETION.
3. In case a measure had negative consequences in other areas (for example, higher cost to end users or to developers), indicate the TRADE-OFF that was selected to improve compliance.
4. When one measure was chosen among multiple options, which were the reasons to pick that option and DISCARD the others?

Kind regards,

Please upload your contribution.

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Contact

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Feedback on TEMPLATE FOR REPORTING PURSUANT TO ARTICLE 11 OF REGULATION (EU) 2022/1925 (Digital Markets Act)

5 July 2023

Section 2

This section provides very good visibility on the **MEASURES** undertaken by gatekeepers in order to comply with the obligations under the DMA, mainly in terms of **RESULT** of such measures.

For example, this report might include examples like: “It was made technically possible for end users to uninstall the Apple App Store. 99.99% of end users did not use this uninstall option for this CPS”.

It does not however reflect the **ROOT CAUSES** that such measures tried to fix (areas in which the gatekeeper realized that some of their Core Platform Services was non-compliant with the DMA).

For example, for the case above, the example should say “We realized that not allowing the uninstall of Apple App Store did not comply with the principles of self-preferencing, user lock-in, and bundle and preinstall abuse, which hindered user freedom of choice, and incontestability of the Apple App Store”.

Also, it does not reflect the **TRADE-OFF** that the Gatekeeper accepted, in exchange of higher compliance with the DMA.

For example, it could include elements like “It will be possible for end users to re-install the Apple App Store after uninstalling, but this install will have a cost of €9.99 per user. As such, we offered higher freedom, in exchange of higher cost for users making use of this freedom”.

This would allow the EC, not only to understand the measure applied and its impact based on the self-assessment from the gatekeeper, but also the level of understanding of the DMA intent from the gatekeeper, along with the level of willingness of the gatekeeper to achieve the desired level of user freedom, fairness, and contestability.

Point 2.1.

We suggest to add the following item under 2.1:

2.1.0. An explanation of how the correspondent parts of the respective CPS specified below (example: Payment options, Search engine, APIs required for the App to run normally, etc.), were not compliant with the DMA obligations, and what was the compliance improvement plan (the goal of the technical measure taken).

Section 3

This section is very good as is, although Section 2 spoke more about intended/actual **OUTPUT**, this one could talk about intended/actual **OUTCOME**.

3.1.5. Please indicate which of the key DMA Outcomes are expected to be influenced by the technical measures implemented:

- Developer freedom to choose alternative platforms/distribution channels, without extra cost to the developer.
- User freedom of choice among different alternatives, in equal conditions, without preferencing the gatekeeper option over the others.
- Contestability of the gatekeeper CPS, so that rivals could compete on merit, and not affected by other anti-competitive elements that are not related to merit.

Section 4, point (iv)

Suggestion to add a point (iv) to Section 4 along that reads:

(iv) For each of the subheadings, in each of the Annexes as described in (iii), please describe A) how each obligation corresponding to a subheading was **NOT** met, met or partially met prior and up to the compliance assessment, B) a description of the changes you have made to become compliant, C) an explanation of how you NOW comply with the obligation, or when are you expecting to comply with the obligation in case the implementation of the technical measure required more time.

Thank you for your consideration of these suggestions.