

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.

Privacy statement

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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

Please upload your contribution.

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**/Response_to_Commission_consultation_on_the_DMA_Draft_Compliance_Report_Template_-
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Contact

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Section 2 refers to any changes to the terms and conditions for users required by the implementation of the measure concerned. This point only covers general terms and conditions which users accept to use the service. However, in many cases, gatekeepers conclude individually negotiated agreements with business users that go beyond the issues listed in Section 2. Gatekeepers should clearly explain the changes to those agreements to ensure compliance with the DMA. The list in Section 2 refers to "any other relevant changes required by the implementation of the measure concerned not covered by [other] points", but this formulation is too broad.

The list includes any actions taken to protect "security or data" pursuant to the relevant DMA provisions and an explanation of why these measures are strictly necessary and justified. However, the point does not refer to the term "integrity"; the DMA allows gatekeepers to take measures to protect integrity, but the term is not defined in the DMA and can be interpreted broadly. An explicit reference to the measures that gatekeepers have taken to protect "integrity" should be included in the list.

The list refers to "consultations" with users that have been carried out at the stage of the elaboration of the measure. The list also refers to the "feedback" the gatekeeper has received on compliance with the obligations. However, the list does not refer to any consultations or feedback on how the gatekeeper intends to implement or has implemented derogations from the rules (i.e., measures to protect security, integrity, and privacy/data). Business users should be able to comment on such measures that enable gatekeepers to only partly comply with the DMA. This will enable business users to voice their concerns about how they are affected by those derogations, and it will also allow the Commission to assess whether those derogations are necessary.

Point 2.1. establishes the gatekeepers' obligation to provide a compliance report for "each core platform service" for which the undertaking has been designated (and for each obligation). However, the DMA covers other services offered by gatekeeper. In certain cases, the DMA applies to all the other services provided by the gatekeeper whereas in other cases it applies to services provided "together with" or "in support of" the designated core platform service, and "third-party services". Whilst point 2.1.(c) of the template sets out that the gatekeeper should explain "the scope of the measure in terms of the products/services covered", this arguably should be clarified to refer to the scope of the measures in terms of the products/services and the way in which those measures have been implemented to the different products/services they cover. This is because one measure may apply to distinct service categories, potentially requiring different technical or contractual solutions.