

# 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

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### \* 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

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## **Contact**

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As regards Section 2.1.2., we propose revising items (e), (f) and (g) to ensure that the Commission can effectively monitor the actions the gatekeeper has taken to comply with the DMA, but also actions they may take to circumvent compliance. Concretely, based on those paragraphs, gatekeepers should inform the Commission about technical and contractual changes “required by the implementation of the measure concerned”. However, the gatekeeper may refrain from informing about related, but not “required”, changes. For example, the anti-steering provision of the DMA would only “require” the removal of the contractual terms that prohibit steering. This does not preclude that the gatekeeper will make additional (but not “required”) changes to its contractual terms or its user interfaces that may impose costs or other deterrents on developers or the end users being steered. Similarly, with respect to the tying of in-app payment services, the only “required” change would be to remove the existing contractual requirement. Nevertheless, gatekeepers may attempt to make other changes which would make using alternative in-app payment services less attractive to the developer or user. Therefore, we suggest modifying paragraph (h) by replacing the term “required by” with “relevant to” to ensure that the Commission receives all the information it needs to evaluate the activities of the gatekeeper and to effectively monitor compliance with the anti-circumvention obligation under Article 13.

Moreover, Section 2.1.2.(n) refers to any actions taken to protect “security or data” according to the relevant DMA provisions and an explanation of why these measures are strictly necessary and justified. However, this point does not refer to the term “integrity”; the DMA allows gatekeepers to take contractual or technical measures to protect “integrity” of the operating system, hardware, etc. However, 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 Section 2.1.2.(n) so that the Commission can monitor measures affecting app developers, which rely on the gatekeepers’ operating systems and hardware to reach consumers.

Finally, 2.1.2. refers to “consultations” with users that have been conducted at the stage of elaborating the measure. It also refers to the “feedback” the gatekeeper has received on the measure. However, 2.1.2. does not refer to any consultations or feedback on measures the gatekeeper has taken to implement *derogations* from the rules, notably measures to protect integrity, security, and privacy/data. Business users should be able to comment on measures enabling gatekeepers to derogate from their requirements under the DMA. An amendment to that effect would allow business users to express their concerns on the implementation of those derogations, and it will also enable the Commission to assess whether they are necessary and justified.