

## Digital Markets Act

### *What is it?*

The forthcoming Digital Markets Act (DMA) proposal is due to comprise two parts. *First*, it would establish a clear list of dos and don'ts for so-called digital gatekeepers i.e. powerful online platforms that dominate their sector (e.g. online search or e-commerce). Currently, tech giants can use their huge network of users, and the massive collections of data that brings, to make it very hard for other businesses to compete, even if they develop a much better service. This initiative should prevent certain harmful practices occurring in the first place and allow authorities to act much faster and more effectively to tackle behaviour that stops markets working well.

For example, the proposal is expected to ban digital gatekeepers from:

- 'self-preferencing' where this would enable them to unfairly promote their own services e.g. by ranking rivals lower in search results or by otherwise giving their own products greater prominence. Such unfair ranking can make or break businesses in dozens of markets that depend on a platform.
- misuse of their business users' data, for example on pricing and popularity of products, to unfairly compete against those very same businesses.
- locking users in to their platform, including via pre-installation of their own apps – gatekeepers would instead have to make it easier for users to switch platform, or to use more than one service. That would keep the market open for competition, by making it easier for innovative rivals to compete.

A *second* part of the DMA would set up a harmonised set of rules to allow authorities to investigate digital gatekeeper markets and, if necessary, to take action to make it possible for businesses to enter and compete in these markets to the benefit of consumers and other customers. These new rules would complement existing EU antitrust rules by allowing authorities to intervene more quickly in situations where competition is threatened.

### *Consumer harm:*

- Tech giants' excessive control over digital markets denies consumers genuine choices in products and services e.g. in terms of more privacy-friendly solutions or alternative functionalities to those provided by big tech firms. Google's market share in search is above 90% in most Member States and it has used this market power to favour its own services across vertical markets pushing out rivals by putting them out of the sight of consumers (e.g. comparison shopping). Similarly, Google has also been found to use its market power in operating systems to ensure that consumers find only Google products on their Android phones and tablets. This can be translated into fewer choices for consumers.

- Gatekeepers can also hinder innovative services being brought to the market by alternative players. Apple is currently being investigated for practices raising barriers to rivals' applications in markets such as music streaming, e-books and audiobooks which would deny consumers better prices and offers.
- Consumers risk paying more if an online platform gives more prominence to its own products than those of other traders – who might be cheaper or offer better quality – selling on its platform. (Amazon is currently the subject of an antitrust investigation into such practices.)

*Our expectations:*

- The forthcoming proposals are necessary to tackle unfair practices by gatekeepers in digital markets that limit consumer choice and the availability of innovative new services.
- These proposals should include deterrent sanctions for breaching the rules and strong enforcement mechanisms to protect consumers throughout the Single Market.
- BEUC expects the EU institutions to adopt legislation that actually changes the digital landscape. This will require the Commission, the Member States and the European Parliament to resist strong lobbying by the narrow vested interests of big tech companies that want their current, highly profitable dominance of digital markets to continue without effective constraints.