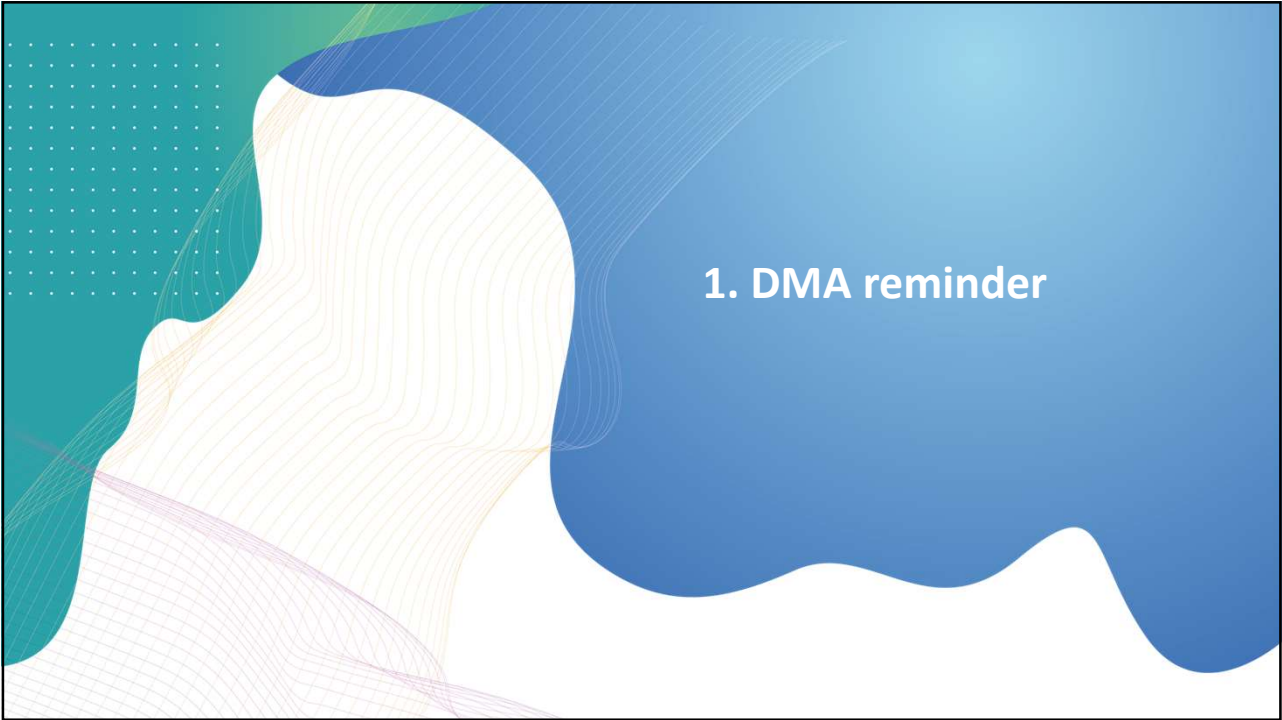




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2

A new regulated sector

Key characteristics of the digital economy

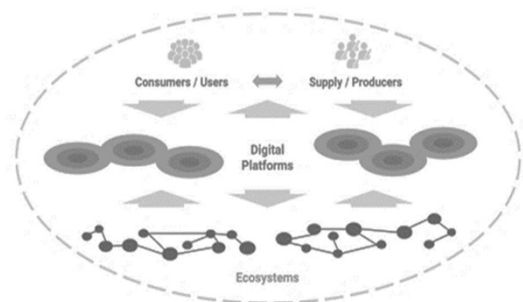
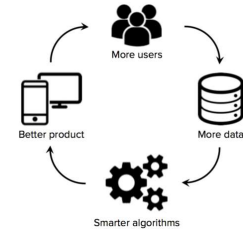
- Extreme returns to scale
- Strong network effects
- Data driven advantages

Key characteristics of market structures:

- Incumbents' advantages
- Trend towards ecosystems
- Quasi-structural issues

Not restricted to one jurisdiction

- Global issues
- "Agreement on problem definition" but different approaches to address them



3

Key features Digital Markets Act

Scope: asymmetric ex ante regulatory tool

- ◆ Designation of gatekeepers upfront based on quantitative and qualitative criteria
- ◆ If providing **core platform services**
- ◆ **No discretion** of Commission in relation to quantitative designations

Obligations:

- ◆ **Direct applicability** of the obligations with specific guidance tool (dialogue) under discretion of the Commission
- ◆ Specification by the Commission (via decision) of some obligations a possibility and not an obligation

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The approach: a new harmonisation instrument

- **Baseline**
 - Platform to Business (P2B) Regulation 2019 - transparency
- **Harmonisation**
 - determination of EU-wide legally binding standards to be met in all Member States
- **DMA:**
 - ensures effective functioning of the EU internal market in the digital sector where gatekeepers are present => **Article 114 TFEU**
 - Eliminates intra-EU fragmentation
 - Changes from antitrust accusatory approach to regulatory supervision



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A new approach

- DMA not a competition tool
 - Size criteria, core platform services, precise and specific obligations
- DMA not case-based but ex ante
- DMA does not require to show/discuss effects of behaviour
 - Harm already assessed ex ante
 - It's about changing or adapting own systems to the new rules
- Regulatory supervision and dialogue
 - As opposed to investigations (until non-compliance)
 - Not looking for wrongdoings
 - Informal and formal discussions for designation and compliance

6

Complementarity of the DMA and competition law

- Ex post and ex ante tools based on Arts. 101 & 102 TFEU and Reg. 139/2004 on merger control
- Captures undertakings more generally in all markets
- Aim is to protect competitive process and enhance consumer welfare
- Anticompetitive practices developed by EU case law and Commission decisions
- Necessary to define markets
- Efficiency defence possible

EU Competition Law & merger control

Digital Markets Act

Synergies

- Ex ante regulation based on Art. 114 TFEU
- Only captures gatekeepers for concrete online services
- It addresses unfairness and lack of market contestability
- Clear list of prohibitions and obligations
- Art. 14 imposes obligation to notify about mergers but not control ex ante
- No need to define markets
- No efficiency defense

EU competition law & merger control continue to apply after adoption of DMA (Art 1(6) DMA)

Cases under Arts. 101 & 102 TFEU relevant for market investigations in DMA to add new practices/services

Member States can use info obtained under Art 14 DMA to trigger review under EU merger control



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A new governance



Supervisory toolbox

- Annual **compliance report**
- **Compliance function** reporting to the board
- Public and closed-door **compliance workshops**
- Requests for **information**
- On-site **inspection**
- **Specification** decisions
- **Retention** orders
- **Whistleblower** tool



Sanctions

- Non-compliance decisions: fines **up to 10% of global turnover**
- Periodic penalty payments of **up to 5% of daily turnover**
- Repeated infringements: **up to 20% of annual turnover**
- Systematic non-compliance: **structural remedies, merger moratorium**



Governance

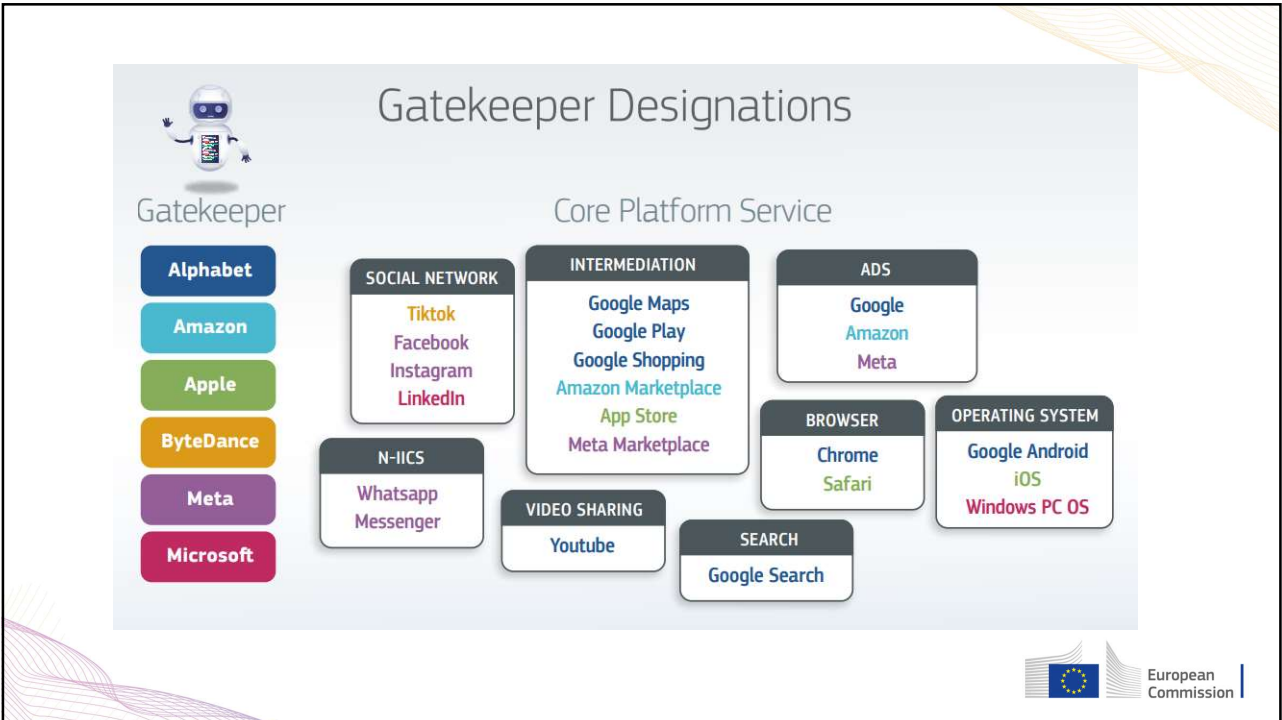
- EU Commission: **sole enforcer** – **joint task force** of the digital and the competition departments
- Cooperation with **national competition authorities** for investigations
- A **high-level group** to assist and facilitate the work of the European Commission
- **Network** of “digital” authorities



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2. Stocktaking


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Rebuttal – exceptional mechanism

Rebuttal mechanism



Exceptional tool
High burden of proof
("sufficiently substantiated + manifestly putting presumption into question")

Three scenarios

Market investigation

May lead to rejection or acceptance

- Microsoft Bing
- Microsoft Edge
- Microsoft Ads
- Apple iMessage

Upfront Rejection


Designated as gatekeeper

- TikTok
- FB Marketplace
- FB Messenger

Acceptance




















Where evidence overwhelmingly supports that no gatekeeper

- Samsung Browser
- Alphabet Gmail
- Microsoft Outlook



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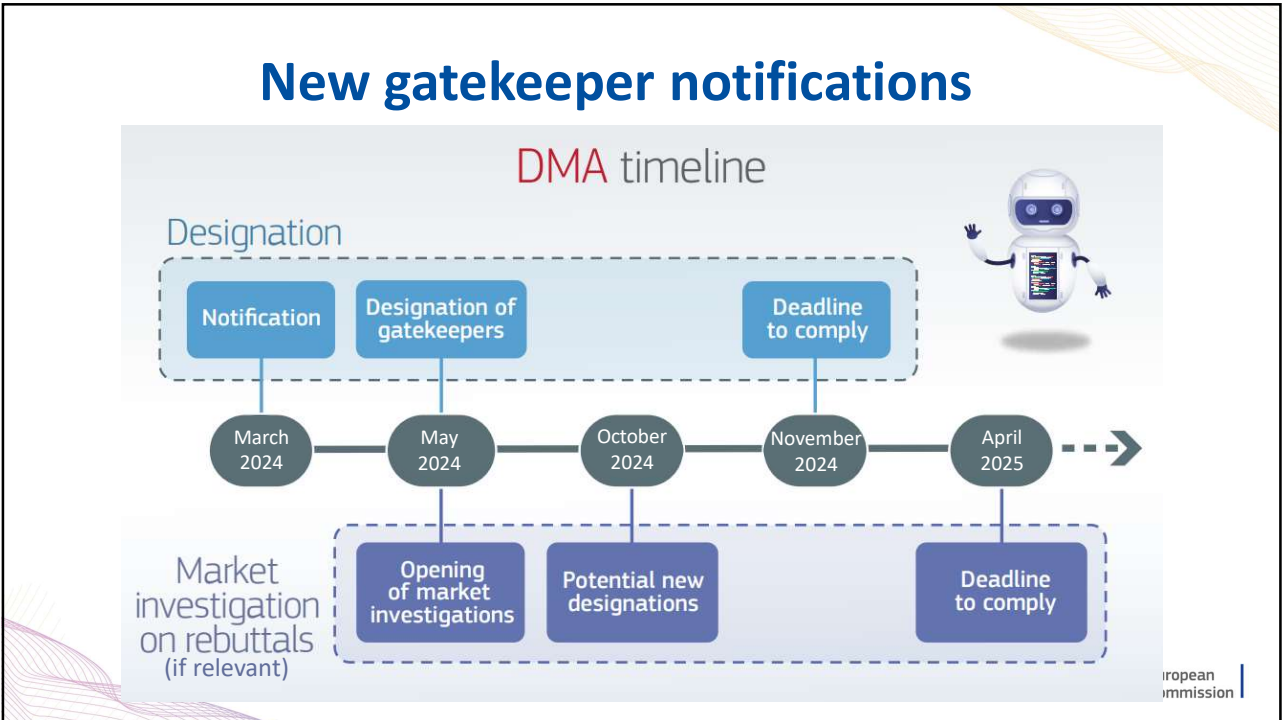
6 gatekeepers for 22 services, 4+1 market investigations

Gatekeeper	Inter-mediation	Search	Social network	Video sharing	N-IICS	Operating system	Browser	Virtual assistant	Cloud	Ads
Alphabet					Accepted rebuttal					
Apple					Market investigation on rebuttal	iOS + investigation on iPadOS				
Meta			 		 					
Microsoft		Market investigation on rebuttal			Accepted rebuttal		Market investigation on rebuttal			Market investigation on rebuttal
Amazon										
ByteDance										
Samsung										Non-designation letter

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3. Looking ahead

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Designated gatekeepers must now comply with all obligations under the Digital Markets Act

As of today, **Apple, Alphabet, Meta, Amazon, Microsoft and ByteDance**, the **six gatekeepers** designated by the Commission in September 2023, have to fully comply with all obligations in the Digital Markets Act (DMA).



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Compliance reports

Gatekeepers need to comply with the obligations laid down in Articles 5, 6 and 7 DMA within 6 months after their designation. Within the same deadline, they need to provide the Commission with a report describing in a detailed and transparent manner the measures they have implemented to ensure compliance with these obligations, and to publish a non-confidential summary of such reports. Both the report and the non-confidential summary must be updated at least annually. The Commission makes a link to these summaries available on its website under Article 11 DMA.

PAGE CONTENTS	Alphabet Inc.
Alphabet Inc.	Compliance report
Amazon.com, Inc.	
Apple Inc.	
ByteDance Ltd.	Compliance report
Meta Platforms, Inc.	
MICROSOFT CORPORATION	Compliance report
	ByteDance Ltd.
	Compliance report
	Meta Platforms, Inc.
	Compliance report
	MICROSOFT CORPORATION
	Compliance report

DMA stakeholders workshops

The Commission is organising a number of technical workshops with interested stakeholders to receive their views on specific issues and questions that may arise in relation to the specific implementing measures by gatekeepers that are to ensure effective compliance with the DMA.

To register for the workshops, please click in the below listed workshop links and use the register button at the bottom.

[Microsoft DMA compliance workshop](#)
26 March 2024

[ByteDance DMA compliance workshop](#)
22 March 2024

[Alphabet DMA compliance workshop](#)
21 March 2024

[Amazon DMA compliance workshop](#)
20 March 2024

[Meta DMA compliance workshop](#)
19 March 2024

[Apple DMA compliance workshop](#)
18 March 2024



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What does it bring?

- More freedom and choice for business and end users over what they can do on the regulated services
- New opportunities for innovation in and outside the ecosystem
- More control on own data
- Restored fairness in business relations
- Smaller messaging services get a chance of reaching a wider audience
- Portability of data generate innovative products

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Thank you!



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