

The Limits and Promises of the Digital Markets Act Review

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The review of the Digital Markets Act will assess whether the regulation delivers on its objectives and whether it remains future-proof in addressing emerging challenges, such as Generative AI.

1. Introduction

The European Commission has launched a public consultation on the first review of its landmark digital competition regulation, the Digital Markets Act (DMA), which will run until 24 September 2025¹. The consultation seeks stakeholder input on a wide range of issues, including the list of core platform services (CPSs), the scope and effectiveness of obligations, enforcement practices, procedural aspects, and the DMA's impact on business users and end users. This exercise forms part of the Commission's obligation to deliver a review report to EU policymakers by 26 May 2026.

This first review comes at a pivotal moment. Enforcement remains in its early stages, while major technological shifts—particularly in Generative AI (GenAI)—are reshaping digital markets. Broader geopolitical developments, including transatlantic tensions, are also influencing the regulatory landscape. These contextual factors will shape both the limitations and the opportunities of the review.

This analysis outlines the key limits and promises presented by the consultation, concluding with key takeaways for stakeholders. Given the limited enforcement experience and the broader geopolitical backdrop, the main limits concern whether the DMA is delivering on its core objectives of contestability and fairness. Conversely, the promises lie in the DMA's capacity to remain future-proof, particularly in addressing emerging issues such as GenAI. A separate working paper will provide a detailed, independent submission, drawing on

¹ Consultation on the First Review of the Digital Markets Act, *European Commission*, 3 July 2025 (accessed 8 July 2025). Available at: https://digital-markets-act.ec.europa.eu/consultation-first-review-digital-markets-act-2025-07-03_en

stakeholder feedback collected through a dedicated public consultation launched in March and open until 31 July 2025².

2. Limits

The DMA regulates the conduct of large online platforms designated as gatekeepers in CPSs, recognising their critical intermediary role between business users and end users in Europe. It seeks to lower entry barriers (contestability) and ensure fairer conditions for business users (fairness) through a series of obligations, both prohibitive and prescriptive (Articles 5, 6 and 7). These obligations are designed to prevent circumvention (Article 13) and are complemented by reporting duties related to mergers (Article 14) and user profiling (Article 15). Gatekeepers must demonstrate effective compliance from the date the obligations became binding (Article 8), with failure potentially triggering significant fines or behavioural and structural remedies (Articles 29 and 30). The nature of the DMA to target practices before they occur reflects policymakers' intention to address entrenched market power more swiftly and predictably than general competition law.

A central task of this review is to assess whether the DMA has succeeded in ensuring contestability and fairness. However, this assessment faces several challenges.

One of the most significant is the absence of clear metrics for success. The DMA does not establish qualitative or quantitative indicators to evaluate whether it has met its objectives. While it mandates that gatekeepers create new opportunities for business users and end users, it remains unclear how to measure the actual uptake of these opportunities.

Another challenge stems from the nature of the regulatory approach. The DMA is a rule-based rather than an outcome-based instrument. Compliance is judged on whether gatekeepers have changed their behaviour pursuant to legal obligations, not on whether market structures or user behaviours have shifted. Continued market dominance or limited switching by end users does not necessarily indicate non-compliance or policy failure. For example, the popularity of the Google Chrome browser following the introduction of a browser choice screen may simply reflect user preference.

² Christophe Carugati, Public Consultation on the Review of the European Digital Markets Act, *Digital Competition*, 17 March 2025 (accessed 8 July 2025). Available at: <https://www.digital-competition.com/comment/public-consultation-on-the-review-of-the-european-digital-markets-act>

The DMA also operates under external constraints that complicate enforcement assessments. While the regulation sets deadlines for gatekeeper designation (Articles 3 and 17) and for investigating non-compliance (Articles 18 and 29), measuring enforcement speed in meaningful terms remains difficult. The initial enforcement phase coincided with rising transatlantic tensions, which may have influenced the Commission's pace of action for strategic or diplomatic reasons.

Moreover, the regime is still in its early stages of implementation. Gatekeepers are adapting their compliance strategies as obligations evolve in response to feedback and the introduction of new services³. The Commission, in turn, is developing a novel enforcement model based on regulatory dialogue, under resource constraints. At the same time, business users and other interested parties are still evaluating whether the DMA has opened up genuinely new opportunities. The DMA is not designed as a one-off intervention, but rather as a dynamic framework that should evolve over time. Against this backdrop, it is too early to determine whether the current structure and obligations are delivering the intended outcomes swiftly and effectively.

Finally, enforcement experience to date also remains limited. Only a handful of non-compliance proceedings have been launched, and some of these overlap with investigations at the national level under different legal frameworks⁴. While this offers an early opportunity to assess the Commission's enforcement strategy and its coordination with national authorities, the small number of cases prevents general conclusions. At this stage, lessons are necessarily anecdotal.

³ For instance, Apple has adapted its browser choice screen following regulatory dialogue with the Commission. Commission Closes Investigation into Apple's User Choice Obligations and Issues Preliminary Findings on Rules for Alternative Apps Under the Digital Markets Act, *European Commission*, 23 April 2025 (accessed 9 July 2025). Available at: https://ec.europa.eu/commission/presscorner/detail/en/ip_25_1086

⁴ For instance, Google has extended its DMA data processing requirements to non-CPSs in Germany in a commitment to address concerns under the German digital competition regime. Bundeskartellamt Gives Users of Google Services Better Control Over their Data, *Bundeskartellamt*, 5 October 2023 (accessed 9 July 2025). Available at https://www.bundeskartellamt.de/SharedDocs/Meldung/EN/Pressemitteilungen/2023/05_10_2023_Google_Data.html?sessionid=B596200F4514AE3E530BB1ED40816B6E.2_cid508?nn=3591568

3. Promises

The DMA has been explicitly designed to be future-proof. The Commission is empowered to designate new gatekeepers (Articles 3 and 17) and to update both the obligations and the list of CPSs (Articles 12 and 19).

Since its adoption in 2022, digital markets have undergone considerable evolution, particularly with the advancement of GenAI technologies. Competition authorities worldwide are closely examining this sector to ensure it remains open and competitive⁵.

Under its current scope, the DMA already applies to GenAI services that are embedded in or integrated with designated CPSs⁶. However, several stakeholders have suggested revisiting this approach.

The French competition authority has recommended the inclusion of Models-as-a-Service (MaaS)—cloud platforms that host GenAI models—as a new CPS⁷. While cloud services are nominally covered under the DMA, no provider has yet been designated. Moreover, some European policymakers have called for updating the list of CPSs to explicitly include GenAI⁸. Several academic proposals have advocated for adapting the DMA’s obligations to address the emergence of AI agents capable of acting autonomously on behalf of users⁹.

In this context, the review presents an opportunity to assess whether the DMA is well-equipped to address new and complex challenges. This will involve navigating important trade-offs.

⁵ For a tracker of competition authorities’ intervention, see Christophe Carugati, *Generative Artificial Intelligence, Digital Competition* (accessed 9 July 2025). Available at: <https://www.digital-competition.com/generativeai>

⁶ Klaus Kowalski, Cristina Volpin, and Zsolt Zombori, *Competition in Generative AI and Virtual Worlds*, Competition Policy Brief Issue 3, *European Commission*, September 2024 (accessed 9 July 2025). Available at: https://competition-policy.ec.europa.eu/document/download/c86d461f-062e-4dde-a662-15228d6ca385_en

⁷ Autorité de la concurrence, Opinion 24-A-05 of 28 June 2024 on the Competitive Functioning of the Generative Artificial Intelligence Sector, 28 June 2024 (accessed 9 July 2025). Available at: https://www.autoritedelaconcurrence.fr/sites/default/files/commitments/2024-09/24a05_eng.pdf

⁸ Peggy Corlin, *DMA Should Urgently Apply to Cloud and AI, Lead Lawmaker Warns*, *Euronews*, 30 January 2025 (accessed 9 July 2025). Available at: <https://www.euronews.com/my-europe/2025/01/30/dma-should-urgently-apply-to-cloud-and-ai-lead-lawmaker-warns>

⁹ Friso Bostoen and Jan Krämer, *Is the DMA Ready for Agentic AI?*, *CERRE*, 3 July 2025 (accessed 9 July 2025). Available at: <https://cerre.eu/publications/is-the-dma-ready-for-agentic-ai/>

On the one hand, the DMA's core function is to tackle practices that undermine contestability and fairness. On the other hand, it is not always clear whether emerging technological developments justify early regulatory intervention, particularly in the absence of robust evidence. Overly pre-emptive regulation risks disincentivising innovation by both gatekeepers and potential challengers that could fall under the DMA once the designation requirements are met. The review must therefore carefully consider how to balance the need to address potential competitive risks with the imperative to preserve innovation incentives in fast-moving markets.

Another important dimension is learning from the international regulatory environment. Several jurisdictions, including Germany and the United Kingdom, have adopted digital competition regimes. Given the global nature of digital markets, regulatory consistency helps reduce compliance burdens for designated firms, increases opportunities for interested third parties, and lowers enforcement costs for authorities. For example, the UK's Competition and Markets Authority (CMA) has proposed a range of conduct requirements in the context of Google's proposed designation under its new digital competition framework, including obligations related to transparency, attribution, and user choice regarding GenAI services. These proposals exceed current DMA requirements and offer valuable insights for the EU's own review process¹⁰.

4. Key Takeaways

The Commission's public consultation presents a timely and constructive opportunity to refine the DMA, drawing on nearly two years of experience and ongoing developments in digital competition policy worldwide.

For gatekeepers, the review provides a platform to share practical insights into compliance costs, implementation challenges, and their experience in regulatory dialogue with interested third parties, the Commission and other authorities.

¹⁰ CMA, Strategic Market Status Investigation into Google's General Search Services Roadmap of Possible Measures to Improve Competition In Search, 24 June 2025 (accessed 9 June 2025). Available at: https://assets.publishing.service.gov.uk/media/6859810eeaa6f6419fade671/Roadmap_.pdf

For business users and other interested parties, the review is a chance to present evidence on the opportunities the DMA has—or has not—created in digital markets, and to identify remaining barriers and issues.

For competent authorities, including national competition bodies, the consultation serves as a forum for reflecting on cooperation with the Commission and providing input on the future enforcement architecture.

At Digital Competition, we deliver impartial, high-quality commissioned research and strategic advice to support stakeholder engagement in the DMA review. For further information or collaboration inquiries, please contact: christophe.carugati@digital-competition.com

About

Digital Competition

Digital Competition (<https://www.digital-competition.com/>) is a digital and competition expert services for businesses, law firms and government agencies, dedicated to promoting open digital and competition policies that foster innovation. Led by Dr. Christophe Carugati, a passionate and impartial expert in digital and competition policy, we bring together legal, economic, and policy expertise to deliver cutting-edge research, strategic advice, think tank initiatives, regulatory intelligence, tailored training, and high-impact conferences. Digital Competition is committed to addressing the most pressing challenges in the rapidly evolving digital and competition policy landscape. This analysis was conducted independently and did not receive any funding.

This paper is part of our Digital Competition Regime Hub (<https://www.digital-competition.com/generativeai>). We provide research on the design, implementation, and enforcement of digital competition regimes worldwide.

Contact us for membership, service, or press inquiries.

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Dr. Christophe Carugati (christophe.carugati@digital-competition.com) is the founder of Digital Competition. He is a renowned and passionate expert on digital and competition issues with a strong reputation for doing impartial, high-quality research. After his PhD in law and economics on Big Data and Competition Law, he is an ex-affiliate fellow at the economic think-tank Bruegel and an ex-lecturer in competition law and economics at Lille University.