Preserving Competition in Answer Engines Under the Digital Markets Act

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Executive Summary

Powered by artificial intelligence (AI), answer engines represent the natural evolution of general search engines. They respond to user queries by performing search tasks on the users' behalf.

In the European Union, the Digital Markets Act (DMA) shapes competition in the search engine market. Gatekeepers providing general search engines must comply with obligations that influence market dynamics at both the development (upstream) and deployment (downstream) stages.

This report proposes a framework to safeguard competition in answer engines under the DMA. It analyses how answer engines operate and assesses the DMA's impacts upstream and downstream.

Answer engines remain nascent and highly dynamic. Intense competition at both upstream and downstream levels drives continuous innovation, benefiting users and content creators alike. Users gain faster access to high-quality information, reducing search costs, while content creators attract engaged audiences and valuable traffic.

The DMA, however, could affect these dynamics. At the upstream level, Article 6(12) requires gatekeepers to offer fair, reasonable, and non-discriminatory access conditions to services. Questions remain about whether this requirement extends to data access. However, such an interpretation would be inappropriate. It could hinder market entry by raising data acquisition costs and risk misapplying the DMA to matters that copyright law may cover—an AI-related copyright issue that remains unsettled. At the downstream level, Article 6(5) restricts how gatekeepers may promote their own services within general search engines. The absence of a clear definition of "services" creates legal uncertainty, which could limit market contestability by impacting both gatekeepers' and rivals' ability and incentive to compete in the answer engine market. This uncertainty may negatively affect prices, quality, choice, and innovation for users and content creators.

Against this backdrop, the Commission should pursue pro-competitive actions. First, it should use the DMA's instruments to clarify and specify access conditions and self-preferencing obligations, preserving competition upstream and downstream. Second, it should promote cross-regulatory consistency through cooperation and advocacy.

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1. Introduction

Powered by artificial intelligence (AI), answer engines (also referred to as "*AI Assistants*" and "*AI Chatbots*") generate responses to user queries by performing search tasks on the users' behalf. According to the OECD, in its paper on AI competition in downstream markets, this type of AI adoption strengthens competition by lowering barriers to entry, reducing the minimum efficient scale, and enabling product differentiation and innovation (OECD, 2025).

These developments are reshaping competition dynamics and market structures. Answer engines are the natural evolution of general search engines, which provide lists of organic search results in response to queries.

In the general search engine sector, answer engines intensify competition and facilitate market entry. Established providers, such as Google, Microsoft, DuckDuckGo, and Ecosia, and new entrants, including Perplexity, OpenAI, and Anthropic, compete aggressively by releasing innovations frequently, including deep research, multimodal search, shopping search, and AI agents.

This restructuring has significant economic effects. According to McKinsey, in the United States, half of consumers already rely on answer engines, and these tools are projected to channel $750 billion in consumer spending by 2028. Answer engines also create a new source of answer traffic (also referred to in the press as "*AI referrals*") for content creators derived from citations in answers. In response, content creators now focus on Generative Engine Optimisation (GEO), which aims to ensure that content appears in answer results, rather than on traditional Search Engine Optimisation (SEO), which seeks to improve search rankings (Silliman et al., 2025).

Regulatory developments also shape competition in this space. In Europe, the Digital Markets Act (Regulation (EU) 2022/1925, DMA) governs the conduct of large online platforms designated as gatekeepers for core platform services due to their role as unavoidable gateways. Gatekeepers that provide general search services, such as Google Search, must comply with several positive and negative obligations[1]. By regulating self-preferencing (Article

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[1] For the list of gatekeepers, *see* Gatekeepers, *European Commission* (accessed 24 December 2025). Available at: https://digital-markets-act.ec.europa.eu/gatekeepers_en

6(5)) and access conditions (Article 6(12)), the DMA directly affects competition in answer engines at both the development (upstream) and deployment (downstream) levels.

Upstream, Article 6(12) may impact the development process. It aims to create fair conditions between gatekeepers and their business users. It requires gatekeepers offering general search services to apply fair, reasonable, and non-discriminatory (FRAND) terms of access to business users, such as publishers. Yet, questions remain about whether this requirement extends to data access. However, such an interpretation would be inappropriate. It could hinder market entry by raising data acquisition costs and risk misapplying the DMA to matters that copyright law may cover—an AI-related copyright issue that remains unsettled.

Downstream, Article 6(5) may create uncertainty for the deployment of services. It requires gatekeepers to apply fair and non-discriminatory conditions when ranking, indexing, and crawling both their own and rival services. Yet, the lack of a clear definition of "services" generates legal uncertainty, which could limit market contestability by impacting both gatekeepers' and rivals' ability and incentive to compete in the answer engine market. This uncertainty may ultimately undermine prices, quality, choice, and innovation for users and content creators.

Against this backdrop, this report proposes an analytical framework to assess how competition in answer engines can be preserved under the DMA.

The report first examines how answer engines operate. Drawing on market studies by competition authorities, consumer surveys, market data, and academic literature, it analyses the development and deployment of answer engines. It shows intense competition at both stages, which fuels continuous innovation, benefiting users and content creators alike. Users gain faster access to high-quality information, reducing search costs, while content creators attract engaged audiences and valuable traffic.

The report next provides a critical assessment of the DMA's implications for answer engines. Drawing on legal, economic, and policy analyses, it examines how the access conditions requirement applies to the development of answer engines. It clarifies that questions concerning access to business users' data fall primarily under the Copyright Directive (Directive (EU) 2019/790), rather than the DMA. The paper then evaluates the limits of the self-preferencing prohibition in the deployment of answer engines, cautioning against interpretations that would treat product improvements, such as answer engines, as separate services.

The report concludes with policy recommendations for the Commission to pursue pro-competitive actions. First, it highlights how the Commission can rely on the DMA's own instruments to specify and clarify access conditions and self-preferencing requirements in a manner that preserves competition both upstream and downstream. Second, it emphasises the role of cooperation and advocacy in ensuring cross-regulatory consistency.

Under the DMA, the Commission should focus on clarifying obligations. At the upstream level, as part of the mandatory DMA review due by 3 May 2026, it should clarify that the access conditions requirement applies to services, not data. At the downstream level, it should issue formal guidance confirming that the self-preferencing prohibition applies only where a gatekeeper offers a distinct service.

Through cooperation and advocacy, the Commission should also promote consistency between competition and copyright policies. In particular, it should leverage existing cooperation mechanisms to foster consistent implementation and enforcement, while DG COMP can engage with EU and national regulatory authorities to ensure that copyright initiatives support competition and innovation in AI.

2. The Functioning of Answer Engines

The answer engine sector is still nascent. It features intense competition and rapid innovation cycles both upstream and downstream (Section 2.1). It also positively impacts users and content creators (Section 2.2).

2.1 Intense Upstream and Downstream Competition Dynamics

Competition dynamics are strong. Upstream, answer engine providers continually optimise key inputs to deliver more cost-efficient engines, lowering entry barriers and reducing the minimum efficient scale for high-quality performance (Section 2.1.1). Downstream, they regularly introduce new features that drive product differentiation and fuel innovation among providers (Section 2.2.2).

2.1.1 Upstream

Answer engines are an application of Generative Artificial Intelligence (GenAI). The latter refers to AI systems capable of creating new content based on patterns learned from training data (OECD, 2025). The French competition authority, in its GenAI opinion, identifies three key inputs for developing GenAI: data, models, and computing power (Autorité de la concurrence, 2024). While all three matter for competition, this section focuses on data access and use, as data form the core input on which answer engines train and ground their results.

At the training stage, data access shapes market entry. Providers train their engines on public, proprietary, and synthetic data.

Public data lowers entry barriers. Developers rely on open datasets such as Common Crawl, public repositories such as HuggingFace, and web-scraped data made possible in Europe by the text-and-data mining exception of the European Copyright Directive, unless rightsholders opt out (Article 4). Public data enables developers to enter the market without incurring high acquisition costs. However, because many providers train on similar public datasets, these data sources offer limited scope for differentiation. As a result, providers increasingly pursue proprietary data.

Proprietary data can raise entry barriers. Providers use first-party data, such as from their own general search engines, and third-party data, such as that from publishers or image repositories. First-party data offers a competitive advantage in relevance and cost efficiency. Third-party data can expand the dataset and may help address copyright issues (**Box 1**).

Box 1: Copyright Issues in Data Access and Use

Some data holders have brought copyright actions alleging that certain developers use data, including publicly available content, without consent or remuneration[2]. The Portuguese competition authority, in its GenAI paper focusing on data, highlights the persistent legal uncertainty surrounding access to and use of such data, as both depend on the scope and interpretation of the applicable copyright framework, which protects rightsholders when their works are reproduced (Autoridade da Concorrencia, 2024).

In Europe, the question of whether data collected for model training is protected by copyright law is currently pending before the European Court of Justice (ECJ) in the *Like Company* copyright case. A central issue is whether the process of learning patterns from data amounts to a reproduction of the protected content and therefore falls within the scope of copyright protection[3].

While these legal questions remain unresolved, several data holders have restricted or blocked developers from scraping their content without authorisation[4]. In parallel, some model developers, such as OpenAI and Google, have implemented technical mechanisms that allow data holders to opt out of data collection for training purposes[5]. Moreover, several model

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[2] For example, the New York Times filed a copyright lawsuit in the United States against Microsoft and OpenAI. The Times Sues OpenAI and Microsoft Over A.I. Use of Copyrighted Work, *The New York Times*, 27 December 2023 (accessed 1st December 2025). Available at: https://www.nytimes.com/2023/12/27/business/media/new-york-times-open-ai-microsoft-lawsuit.html

[3] Case C-250/25 *Like Company* (Pending).

[4] Cloudflare Just Changed How AI Crawlers Scrape the Internet-at-Large; Permission-Based Approach Makes Way for a New Business Model, *Cloudflare*, 1st July 2025 (accessed 1st December 2025). Available at: https://www.cloudflare.com/press/press-releases/2025/cloudflare-just-changed-how-ai-crawlers-scrape-the-internet-at-large/

[5] For instance, content creators can disallow OpenAI's GPTBot, which enables OpenAI to access content for model training. Overview of OpenAI Crawlers, *OpenAI* (accessed 16 December 2025). Available at: https://platform.openai.com/docs/bots

developers have entered into licensing agreements with data holders to access third-party content, such as those between OpenAI and Le Monde and Prisa Media[6].

Competition authorities are increasingly assessing the risks associated with such agreements. The Portuguese authority, in its GenAI paper focusing on data, warns that exclusivity clauses may prevent rival developers from accessing essential datasets, particularly when those datasets are difficult to substitute or replicate. It raises similar concerns about discriminatory or preferential access that grant one developer more favourable terms than others (Autoridade da Concorrencia, 2024). The French authority, in its GenAI opinion, has also noted that, even in the absence of exclusivity clauses, high licensing fees can effectively prevent competitors from entering into similar agreements (Autorité de la concurrence, 2024). The Italian authority, in a G7 discussion paper focusing on GenAI, adds that copyright rules may limit late entrants' access to web-scraped data, putting them at a disadvantage relative to early movers (Autorità Garante della Concorrenza e del Mercato, 2024). Against this backdrop, developers increasingly turn to synthetic data.

Synthetic data reduces entry barriers, but with limitations. Providers now generate synthetic datasets as an alternative to real-world data through an algorithmic process by replicating patterns from real-world data, reducing acquisition costs while maintaining efficient training. Synthetic data, however, inherits errors and biases from original datasets and may limit engine performance. Moreover, the Portuguese authority, in its GenAI paper focusing on data, observes that some developers, such as OpenAI and Meta, restrict others from using data generated by their models to train competing models or improve them. In contrast, others, such as Nvidia, allow it. As a result, developers with privileged access to real-world data may still retain an advantage (Autoridade da Concorrencia, 2024).

At the grounding stage, data access enables differentiation. Providers ground answers in index or specific datasets to deliver relevant, up-to-date responses and reduce the risk of mistakes due to "*hallucinations*" when models generate answers. For example, Microsoft Bing bases its

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[6] Global News Partnerships: Le Monde and Prisa Media, *OpenAI*, 13 March 2024 (accessed 28 November 2025). Available at: https://openai.com/index/global-news-partnerships-le-monde-and-prisa-media/

answers on its Bing search index[7], while Mistral Le Chat draws on news content licensed under its agreement with Agence France-Presse (AFP)[8].

Alongside access, data usage is evolving rapidly. Some providers, such as OpenAI, now incorporate user-generated data, such as prompts and chat histories, to improve model performance, unless users opt out. According to Hagiu and Wright, these improvements operate at two levels. At the model level, it provides enhancements that benefit all users. At the user level, it offers personalised responses to users based on individual usage patterns. This dual improvement mechanism creates competitive advantages through positive data feedback loops: more users generate more data, which improves performance and attracts more users (Hagiu and Wright, 2025). In this context, the OECD, in its paper on AI competition in downstream markets, argues that data access and use jointly shape the pace of innovation and the scope for differentiation (OECD, 2025).

2.1.2 Downstream

Answer engines represent a new way to perform search. The sector is currently defined by frequent entry and rapid innovation.

The market remains at an early stage but is expanding quickly. Figure 1 below, from a September 2024 report on general search services by the Australian Competition and Consumer Commission (ACCC), shows that the sector emerged only after the launch of ChatGPT in November 2022 and has since evolved rapidly, with a diverse set of players—some of which did not exist three years ago—operating across multiple domains. These include standalone answer engines such as Perplexity and You.com; general-purpose GenAI applications such as OpenAI's ChatGPT and Anthropic's Claude; messaging services owned by Meta (Instagram, WhatsApp, and Messenger); and general search engines such as Google Search and Microsoft Bing (Australian Competition and Consumer Commission, 2024).

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[7] Yusuf Mehdi, Announcing the Next Wave of AI Innovation with Microsoft Bing and Edge, *Microsoft Blog*, 4 May 2023 (accessed 28 November 2025). Available at: https://blogs.microsoft.com/blog/2023/05/04/announcing-the-next-wave-of-ai-innovation-with-microsoft-bing-and-edge/?utm_source=chatgpt.com

[8] Purr-fectly Informed, *Mistral*, 16 January 2025 (accessed 28 November 2025). Available at: https://mistral.ai/fr/news/mistral-afp

Figure 1: Market developments of answer engines from November 2022 to July 2024
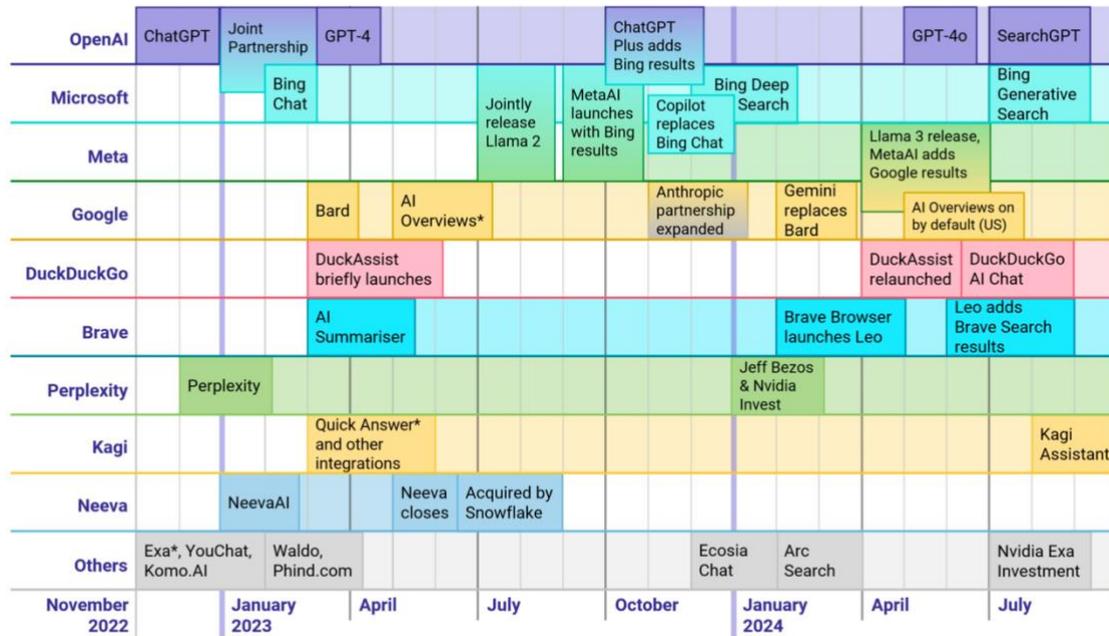
*Introduced under a different name

Source: (Australian Competition and Consumer Commission, 2024) from Figure 2.6: Key recent developments in AI-powered search.

General search engines now face growing competitive pressure. On the supply side, several firms rely on general search infrastructure—developed internally (e.g., Microsoft Bing and Perplexity) or sourced from third parties (e.g., OpenAI's use of the Microsoft Bing Index)—to generate answers to search-related queries. On the demand side, users increasingly turn to AI to find information. Figure 2, from a 2025 UK consumer survey conducted by Accent for the Competition and Markets Authority (CMA), shows that users employ AI for a range of search-related tasks, such as finding websites or products and obtaining simple or moderately complex information. While search apps and web browsers remain the primary channels, AI is most often used for less simple information (13 %) (Accent, 2025).

Figure 2: Use of AI for search-related queries[9]

Figure 2: Which search method do consumers use 'most often' across four use cases
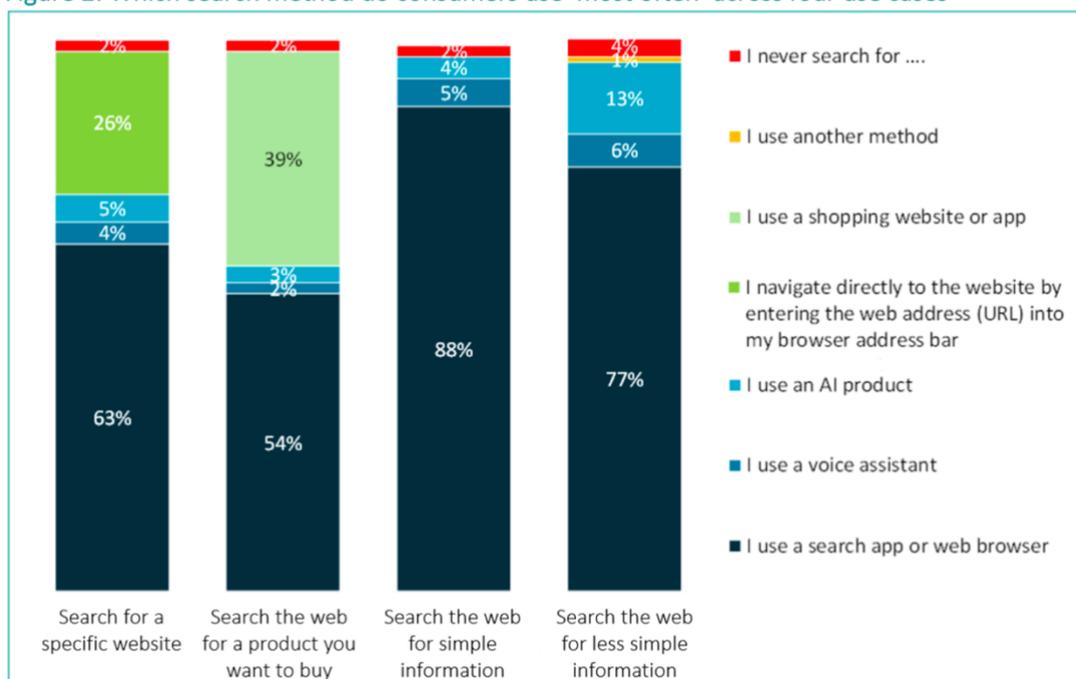
Base: All users, 2,851

Source: (Accent, 2025) from Figure 2.

Another consumer survey supports this. A 2025 UK study by Thinks Insight & Strategy for the CMA also finds that consumers continue to use general search engines alongside answer engines, indicating complementarity rather than substitution. However, most users expect their reliance on AI for search queries to grow (Thinks Insight & Strategy, 2025). Against this background, in its final report on Google Search and Search Advertising's designation under the UK Digital Markets, Competition and Consumers Act (DMCCA)—the UK equivalent of the DMA—, the CMA similarly observes that answer engines are complementary to general search today but represent "*an emerging competitive threat*" to Google's general search services. Some AI providers, including OpenAI and Perplexity, also explicitly state that they compete with Google Search (Competition and Markets Authority, 2025a).

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[9] The study explicitly considers AI product as referring to answer engines. Indeed, it notes that "*[t]he term 'AI product' is used in the next few questions to refer specifically to products such as ChatGPT, Gemini, Copilot, Claude, Perplexity AI, Meta AI, Brave Leo, and You.com (among others). These products are based on 'generative-artificial intelligence (AI)', which they use to provide responses to a range of human input. They are sometimes referred to as AI assistants, AI chatbots or AI answer engines. Note: these AI products do not include search engines such as Google Search or Microsoft Bing or voice assistants such as Alexa or Siri.*"

Strong competitive dynamics drive rapid innovation. The ACCC documents a succession of new features introduced between November 2022 and July 2024, ranging from AI-generated summaries to conversational search that provides complete, contextual answers from multiple sources (Australian Competition and Consumer Commission, 2024). Since then, providers have released further innovations, including:

- Deep search offers multi-step analytical answers to complex queries[10].
- AI-multimodal search combines text, image, and other inputs to provide more nuanced answers[11].
- Shopping search enables users to search for and purchase items through instant checkout within the same environment[12].
- AI agents can execute tasks such as booking travel with minimal user involvement[13].

These innovations are not only impacting the market structure, but also the web. Yang et al argue that AI agents accelerate the transition toward an "*agentic web*," where the agents—not humans—interact with online content and other agents (Yang et al., 2025) (**Box 2**).

Box 2: The Impact of AI Agents

AI agents are expected to play a central role in competition in digital markets. Professor Manganelli, for instance, argues that they could evolve into "*meta-gatekeepers*," namely, powerful intermediaries that orchestrate multiple ecosystems, potentially bypassing existing platforms and concentrating decision-making power (Manganelli, 2025). Likewise, the OECD, in its paper on AI competition in downstream markets, highlights the potential for AI agents to challenge incumbents by reducing search and transaction costs, thereby supporting more competitive digital markets (OECD, 2025).

As AI agents reshape web architecture, several answer engine providers, including OpenAI (Atlas), Perplexity (Comet), Microsoft (Bing), and Google (Chrome), have developed and deployed browsers designed for the agentic web. These browsers enable AI agents to navigate the web autonomously to perform tasks on the users' behalf. In doing so, AI agents spur fierce

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[10] As an illustration, *see* Introducing Deep Research, *OpenAI*, 2 February 2025 (accessed 2 December 2025). Available at: https://openai.com/index/introducing-deep-research/

[11] As an illustration, *see* Robby Stein, Bringing Multimodal Search to AI Mode, *Google Blog*, 7 April 2025 (accessed 2 December 2025). Available at: https://blog.google/products/search/ai-mode-multimodal-search/

[12] As an illustration, *see* Introducing Shopping Research in ChatGPT, *OpenAI*, 24 November 2025 (accessed 2 December 2025). Available at: https://openai.com/index/chatgpt-shopping-research/

[13] As an illustration, *see* Introducing ChatGPT Agent: Bridging Research and Action, *OpenA*I, 17 July 2025 (accessed 2 December 2025). Available at: https://openai.com/index/introducing-chatgpt-agent/

competition among web browsers for their distribution, thereby reshaping competitive dynamics in the web browser market

Although some firms currently hold strong positions in the browser market, new market entries and frequent innovations mean that incumbency does not guarantee a durable position in the new agentic browser war.

Historical experience supports this view. Previous "*browser wars*" in the PC and mobile eras show how competition can quickly reshape market positions and accelerate innovation. StatCounter data illustrate this dynamic. Microsoft Internet Explorer led the global browser market between 2009 and 2012, but Google Chrome later overtook it, reaching approximately 68% market share by 2025, compared with around 5% for Internet Explorer's successor, Microsoft Edge[14].

From a legal perspective, the Commission has also recognised this dynamic. In *Google Search (Shopping)*, it argued that in fast-growing markets characterised by short innovation cycles, high market shares may prove transitory and do not necessarily signal durable dominance[15].

2.2   Positive Impact on Users and Content Creators

Answer engines affect users, content creators, and advertisers. While all three dimensions are important, this section focuses on users and content creators, who are, respectively, the recipients and sources of answers. Users benefit from lower search costs and improved search quality (Section 2.2.1), while content creators benefit from increased traffic and greater engagement from citations in answers (Section 2.2.2).

2.2.1 Users

Answer engines reduce search costs and improve the quality of information users receive. They provide nuanced, contextually relevant answers, often accompanied by sources. As the ACCC

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[14] Browser Market Share Worldwide January 2009-September 2025, *StatCounter* (accessed 29 January 2026). Available at: https://gs.statcounter.com/browser-market-share#monthly-200901-202509

[15] AT.39740 *Google Search (Shopping),* 27 June 2017, para. 267.

notes, in its report on general search services, this leads to information that is "*more useful and richer*" (Australian Competition and Consumer Commission, 2024). Users have therefore shown a clear satisfaction (Box 3).

Box 3: User Satisfaction in the Use of Answer Engines

A 2023 global consumer survey by Capgemini reports high satisfaction among frequent GenAI users, including for search (76%) (Capgemini, 2023). Consistent with this, the 2025 Thinks Insight & Strategy research finds that users value the time and effort saved, particularly for tasks perceived as difficult (Thinks Insight & Strategy, 2025).

However, answer engines currently affect the speed at which results are delivered, but latency is improving. The ACCC underscores that consumers value low latency and that answer engines tend to respond more slowly than traditional general search engines that provide organic search results in the form of blue links (Australian Competition and Consumer Commission, 2024). Latency, however, varies significantly across models and is falling rapidly with model improvement. For example, Mistral Le Chat offers "*flash answers*" using low-latency Mistral models that can generate up to 1,000 words per second[16]. Mistral's latest model—Mistral Large 3—further improves speed through Nvidia's low-latency distributed inference framework[17].

Accuracy is another area where answer engines impact satisfaction, but error rates are declining. The ACCC notes, in its report on general search services, that both answers and their cited sources may be inaccurate, as answer engines can generate errors due to hallucinations (Australian Competition and Consumer Commission, 2024). The 2025 Thinks Insight & Strategy study also finds that users are concerned about errors in high-stakes contexts, such as product purchases or work-related research (Thinks Insight & Strategy, 2025). Nonetheless, error rates are expected to decline as models improve[18].

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[16] The All New Le Chat: Your AI Assistant for Life and Work, *Mistral*, 6 February 2025 (accessed 3 December 2025). Available at: https://mistral.ai/news/all-new-le-chat

[17] NVIDIA-Accelerated Mistral 3 Open Models Deliver Efficiency, Accuracy at Any Scale, *Nvidia*, 2 December 2025 (accessed 3 December 2025). Available at: https://developer.nvidia.com/blog/nvidia-accelerated-mistral-3-open-models-deliver-efficiency-accuracy-at-any-scale/

[18] For instance, OpenAI states that its latest models have lower hallucination rates. Why Language Models Hallucinate, *OpenAI*, 5 September 2025 (accessed 3 December 2025). Available at: https://openai.com/index/why-language-models-hallucinate/

2.2.2 Content Creators

Answer engines provide content creators with new sources of high-quality traffic. They generate answers with citations—sometimes presented in rich formats such as images, videos, or short descriptions—and these citations include links to the original websites. As a result, many content creators now receive answer traffic from answer engines and are optimising their content to appear in answers through GEO techniques (Box 4).

Box 4: Content Creators' adaptation to Answer Engines

Answer engines generate responses by citing multiple content creators to satisfy queries that are more natural and contextual. Content creators, in turn, rely on various GEO techniques to increase the likelihood that their content appears in generated answers.

Aggarwal et al identify several techniques, including adjusting the style of source content to be more authoritative and persuasive; incorporating quantitative statistics and query-relevant keywords; citing and quoting credible sources; simplifying language; improving textual fluency; and using original content as well as relevant technical terminology (Aggarwal et al., 2024).

Recent market data illustrate the scale of this shift. Drawing on Similarweb data, ModernRetail reports that ChatGPT now accounts for more than 20 % of referral traffic to Walmart and Etsy, nearly 15 % to Target, and 10 % to eBay, noting that "*[s]hoppers are increasingly clicking through links inside AI chat responses, pushing major retailers into the shopping journey historically dominated by Google search*[19]." Similarly, Similarweb data reported by TechCrunch shows that AI platforms generated over 1.13 billion referrals to the top 1.000 global websites in June 2025—an increase of 357 % compared to June 2024[20].

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[19] Allison Smith, ChatGPT is Now 20% of Walmart's Referral Traffic — While Amazon Wards Off AI Shopping Agents, *ModernRetail*, 24 September 2025 (accessed 3 December 2025). Available at: https://www.modernretail.co/technology/chatgpt-is-now-20-of-walmarts-referral-traffic-while-amazon-wards-off-ai-shopping-agents/

[20] Sarah Perez, AI Referrals to Top Websites Were Up 357% Year-Over-Year in June, Reaching 1.13B, *TechCrunch*, July 2025 (accessed 3 December 2025). Available at: https://techcrunch.com/2025/07/25/ai-referrals-to-top-websites-were-up-357-year-over-year-in-june-reaching-1-13b/

Among others, answer traffic benefits new publishers' websites. TechCrunch reports that AI referrals to news and media sites rose 770 % over the same period, with Yahoo receiving 2.3 million AI referrals in June 2025, followed by Yahoo Japan (1.9M), Reuters (1.8M), The Guardian (1.7M), India Times (1.2M), and Business Insider (1.0M)[21]. **Figure 3**, from Digiday, also citing Similarweb, shows that ChatGPT sent 243.8 million visits to 250 news and media sites in April 2025, up 98 % from January 2025[22]. Finally, a 2025 study by Search Engine Land further estimates that answer traffic accounted for 1.08 % of all web traffic, while organic search remains the largest share[23].

Figure 3: Answer traffic to publishers from ChatGPT between August 2024 and April 2025

Source: Digiday.

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[21] *Ibid*.

[22] Sara Guaglione, ChatGPT Referral Traffic to Publishers' Sites has Nearly Doubled this Year, *Digiday*, 22 May 2025 (accessed 3 December 2025). Available at: https://digiday.com/media/chatgpt-referral-traffic-to-publishers-sites-has-nearly-doubled-this-year/

[23] Danny Goodwin, AI Sends 1% of Website Traffic – and Most of it is From ChatGPT, *Search Engine Land*, 13 November 2025 (accessed 3 December 2025). Available at: https://searchengineland.com/ai-1-traffic-mostly-chatgpt-464653

Answer traffic also delivers strong engagement. According to Adobe Digital Insights, answer traffic outperforms other channels. For instance, in relation to retail queries, in May 2025, time spent per visit was 38 % longer and page views per visit 10 % higher[24].

Despite these benefits, answer engines may also affect the prominence of organic links, as they shift toward answers. The ACCC notes, in its paper on general search services, that organic links, which appear in search results, may be reduced as AI interfaces become more prominent. As the position of search results is the primary determinant of click-through rates to links, the ACCC highlights that it may affect the number of clicks websites receive (Australian Competition and Consumer Commission, 2024). The Guardian, relying on Authoritas data, reports that a site previously ranked first could lose around 79% of its traffic for that query if its link is pushed below Google's AI Overview—which is Google's feature that provides answers within Google Search[25]. However, this evidence relates to organic search traffic from general search engines rather than to answer traffic generated by answer engines, and it remains unclear to what extent the observed effects stem from AI Overview. More broadly, AI constitutes only one element of a wider transformation in media consumption, in which users increasingly turn to creators and influencers rather than traditional media institutions, consume content in diverse formats—particularly video rather than text—and access it through platforms, such as online social networking services and video-sharing platform services, instead of directly via news publishers' websites[26]. As general search engines gradually shift from organic search results to answer results, answer traffic is likely to increase over time, as shown in Figure 3. It may eventually absorb traffic that previously accrued to top-ranked search results through GEO techniques.

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[24] Abigail Winchell, AI-Driven Traffic Surges Ahead in Q2: Engagement and Value Climb Across Industries, *Adobe for Business,* 24 June 2025 (accessed 3 December 2025). Available at: https://business.adobe.com/blog/ai-driven-traffic-surges-ahead-in-q2

[25] Michael Savage, AI Summaries Cause 'Devastating' Drop in Audiences, Online News Media Told, *The Guardian*, 24 July 2025 (accessed 3 December 2025). Available at: https://www.theguardian.com/technology/2025/jul/24/ai-summaries-causing-devastating-drop-in-online-news-audiences-study-finds

[26] Nic Newman, Journalism, Media, and Technology Trends and Predictions 2026, *Reuters Institute*, 12 January 2026 (accessed 29 January 2026). Available at: https://reutersinstitute.politics.ox.ac.uk/journalism-media-and-technology-trends-and-predictions-2026

3. The DMA's Impact on Answer Engines

In the European Union, the DMA plays a significant role in shaping the competitive conditions for answer engines. At the upstream level, questions arise regarding the scope of the access conditions requirement and its potential application to data access (**Section 3.1**). At the downstream level, the scope of the self-preferencing prohibition creates legal uncertainty regarding the notion of services covered (**Section 3.2**).

3.1 The Scope of the Access Conditions Requirement

The DMA regulates how designated gatekeepers set general access conditions for business users. A legal and historical analysis indicates that this requirement concerns the terms under which business users access the gatekeeper's services, rather than the conditions governing access to their data (**Section 3.1.1**). From an economic and policy perspective, extending the provision to cover data access may pose risks to market entry and raise concerns about DMA consistency, given that the Copyright Directive may already address such issues (**Section 3.1.2**).

3.1.1 The Requirement Applies to Access to Services, Not Data

The requirement is broadly framed. Article 6(12) states that "*[t]he gatekeeper shall apply fair, reasonable, and non-discriminatory general conditions of access for business users to its software application stores, online search engines and online social networking services listed in the designation decision pursuant to Article 3(9). For that purpose, the gatekeeper shall publish general conditions of access, including an alternative dispute settlement mechanism.*" The wording could be broad enough to cover all general access conditions, including data.

However, the legislative interpretation does not support such coverage. Recital 62, the authoritative guide to the meaning of Article 6(12), makes clear that the provision concerns access to the service itself. It does not refer to data access and therefore targets downstream service access rather than upstream data access. This excludes technical mechanisms that restrict data access for model training from the scope of Article 6(12) (**Box 5**).

Box 5: Exclusion of Technical Mechanisms from the Scope of the General Access Conditions

Business users, including content creators, can block online search engines from crawling and indexing their content to prevent it from appearing in search results[27]. They can also prohibit access to their content for model training. In the case of Google Search, when content creators exercise such restrictions by implementing Google-Extended, their content is neither used for model training nor for grounding. Importantly, the restriction does not prevent the content from appearing in search results. It is also not used as a ranking signal in Google Search[28].

As these technical mechanisms pertain to upstream data access, they are not part of the general conditions for accessing downstream online search engine services and therefore fall outside the scope of Article 6(12).

The benchmarks for assessing fairness reinforce this interpretation. The recital focuses on discriminatory pricing or terms applied to similar business users when accessing the service. For example, it refers to differences in "*prices charged or conditions imposed*" by an app store for comparable services or user groups. Nothing indicates an intention to regulate data access.

Moreover, the obligation is limited to publishing and applying FRAND conditions. Although the DMA does not define FRAND, Carugati highlights that case law identifies unfair terms as those that are opaque, disproportionate, or difficult for business users to act upon (Carugati, 2023).

Crucially, Article 6(12) does not grant a right of access. The recital clarifies that gatekeepers may still refuse access on justified grounds, including compliance with obligations relating to illegal or unwanted content. By implication, business users cannot rely on Article 6(12) to compel negotiations or obtain access to a service when they reject the published FRAND terms.

The Commission's Impact Assessment (IA) confirms the narrow scope. The IA justifies Article 6(12) by referring exclusively to discriminatory terms in app stores, which were the only CPS covered by the Commission's IA and DMA proposal. To this end, it cites examples of differences in commission rates without a clear justification for such differentiation. One impact would be that gatekeepers "*would not be able to treat differently third parties on their respective platforms.*" Importantly, the IA explicitly states that the Commission rejected generic and

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[27] For Google Search, *see* Introduction to Robots.txt, *Google* (accessed 16 December 2025). Available at: https://developers.google.com/search/docs/crawling-indexing/robots/intro

[28] For Google Search, *see* List of Google's Common Crawlers, *Google* (accessed 16 December 2025). Available at: https://developers.google.com/crawling/docs/crawlers-fetchers/google-common-crawlers#google-extended

broader rules imposing general fair access conditions across all CPS (European Commission, 2020). Taken together, this evidence confirms that Article 6(12) applies solely to access conditions to services, not data.

3.1.2 Risks of a Broad Interpretation for Market Entry and DMA Consistency

Interpreting Article 6(12) as governing data access risk raises entry barriers in the answer engine market. Such an interpretation would require gatekeepers to offer FRAND terms for access to business user data, including publicly available data. This would increase data acquisition costs for gatekeepers developing answer engines. It would also create an asymmetry between gatekeepers and non-gatekeepers, allowing the latter to continue obtaining the same data without any FRAND requirement. As a result, it would force gatekeepers to enter into licensing agreements with business users, potentially raising the competition concerns discussed in Section 2.1.1.

More fundamentally, the DMA does not offer an appropriate or legally sound framework for regulating data access for model development. The use of third-party data, including publicly available data, raises issues that copyright law—in particular the Copyright Directive—may already govern. Consistent with this division of competences, the Portuguese competition authority, in its GenAI paper focusing on data, has stressed that data access remains primarily a matter of copyright law rather than competition law (Autoridade da Concorrencia, 2024). The French competition authority's decision in the *Google Related Rights* antitrust case further confirms this approach and illustrates the limits of competition enforcement in this area (Box 6)[29].

Box 6: The French *Google Related Rights* Antitrust Case

The French competition authority fined Google, which did not dispute the facts, for failing to comply with several commitments stemming from its obligation, under the French transposition of the Copyright Directive, to negotiate remuneration with news publishers for the use of their content in France.

In relation to its AI service, Google Bard (now Gemini), Google breached its transparency commitment by failing to inform publishers about the use of their content. It has also violated its commitment not to affect other economic relationships with press agencies and publishers.

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[29] Decision 24-D-03 of March 15, 2024 Regarding Compliance with The Commitments in Decision 22-D-13 of 21 June 2022 of the Autorité de la Concurrence Regarding Practices Implemented by Google in the Press Sector.

Indeed, Google linked the use of publishers' content for Bard to the display of protected content in Google Search, in the absence—until 28 September 2023—of technical solutions (Google-Extended) that allow publishers to prevent the use of their content for model training and grounding.

Crucially, the authority expressly acknowledged that it has not yet been established whether the use of press publications within an AI service falls within the scope of related rights protection.

By carefully refraining from resolving unsettled copyright questions through antitrust enforcement that would compel Google to negotiate for the use of press publications for AI services, the authority signals that competition law is not a substitute for copyright law or a means to pre-empt its interpretation.

The same logic applies to the DMA. As Professor Crémer observes, the DMA operates similarly to competition law (Crémer, 2025). Both instruments seek to protect the competitive process, not the rights of rightsholders.

Extending Article 6(12) to data access would therefore create overlap and legal uncertainty. The issue of whether data access for AI model development is protected under the Copyright Directive remains unresolved. In this context, turning the DMA into a parallel copyright instrument would risk creating conflicting interpretations. This would make the overall regulatory environment less predictable for gatekeepers and rightsholders alike due to potential inconsistency.

3.2. The Scope of the Self-preferencing Requirement

The DMA also limits the conditions under which gatekeepers may promote their own services. From a legal perspective, the scope of the self-preferencing requirement remains unclear regarding the identification of the services to which it applies (Section 3.2.1). From an economic perspective, this legal uncertainty may limit market contestability by affecting the incentives and ability of gatekeepers and rivals to compete effectively in the answer engine market (Section 3.2.2).

3.2.1 Uncertainty in the Definition of Services

The requirement remains unclear regarding the notion of services. Article 6(5) states that *"[t]he gatekeeper shall not treat more favourably, in ranking and related indexing and crawling, services and products offered by the gatekeeper itself than similar services or products of a third party. The gatekeeper shall apply transparent, fair and non-discriminatory conditions to such ranking."* The wording does not define services, which is crucial for distinguishing between a separate service and an improvement to an existing one, thereby leaving the scope unclear.

The legislative guidance adds limited clarity. Recitals 51 and 52 note that the rule applies to services owned or controlled by the gatekeeper and appear to focus on cases where the gatekeeper offers a *distinct* or *additional* service on its CPS. However, it does not define what counts as "*distinct*" from a demand perspective.

The economic literature recognises this ambiguity. Peitz observes that the DMA does not specify what constitutes a separate service and suggests two guiding questions: the service's destination and the existence of comparable standalone offers by rivals (Peitz, 2022).

Self-preferencing case law makes clear that the practice requires distinct services. Article 6(5) draws heavily on the *Google Search (Shopping)* decision under competition law. The Commission found[30], and both the General Court (GC) and the ECJ later upheld[31], that Google favoured its own comparison shopping service (CSS) over rival CSSs in its general search results by granting prominent placement to its own CSS while demoting rival CSSs through adjustment algorithms.

However, this case law addressed product improvement only when assessing the conduct. Google argued that the behaviour reflected a product improvement, but the GC held that such improvements are relevant only to objective justifications and efficiency gains[32].

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[30] AT.39740 *Google Search (Shopping)*.

[31] T-612/17 *Google and Alphabet v Commission (Google Shopping)*, ECLI:EU:T:2021:763, 10 November 2021. C-48/22 *Google and Alphabet v Commission (Google Shopping)*, ECLI:EU:C:2024:726, 10 September 2024.

[32] T-612/17, para. 188.

Tying case law has considered this issue at the market definition stage. In *Microsoft v Commission*, the GC established important precedents for distinguishing product improvement from distinct services in digital markets (Box 7).

Box 7: The *Microsoft v Commission* Judgment

The Commission found that Microsoft tied its Windows media players to its Windows PC operating systems, thereby breaching competition law. Microsoft appealed the case before the GC, arguing that there is no tying because both services formed a single, continually evolving product[33].

The GC acknowledged that in fast-moving industries, such as IT and communications, what begins as separate products may later form a single product, both from the technological aspect and from the aspect of the competition rules[34].

It assessed the circumstances at the time of the alleged harm and concluded—based on customer demand and other evidence—that operating systems and media players constituted separate products[35].

The DMA, however, does not rely on market definition but on the notion of CPSs. Recital 23 states that arguments related to market definition are irrelevant to gatekeeper designation. It remains silent on whether the concepts of market definition may nonetheless guide the assessment of distinct services for compliance with Article 6(5).

In this ambiguity, gatekeepers may turn to the CPS definition itself. Recital 14 emphasises that the definition of CPS should be technological neutrality. Following the logic of *Microsoft v Commission* about fast-moving industries, technological evolution may support an interpretation that the CPS definition evolves accordingly to remain technological neutral. For general search services, this suggests that the CPS concept could reflect the shift toward answer engines. On this basis, general search engines and answer engines would fall within the same CPS—and would not constitute distinct services—even if other firms offer answer engines on a standalone basis. This is supported by evidence that all general search engines,

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[33] T-201/04 *Microsoft Corp. v Commission of the European Communities*, ECLI:EU:T:2007:289, 17 September 2007, para. 912.

[34] *Ibid*, para. 913.

[35] *Ibid*, paras. 914-944.

regardless of their gatekeeper status, such as Google, Microsoft, Bing, DuckDuckGo, and Ecosia, are shifting toward answer engines.

3.2.2 Implications of Legal Uncertainty on the Ability and Incentive to Compete

Interpreting Article 6(5) to treat answer engines as distinct services risks constraining competition in the answer engine market. Under such an interpretation, gatekeepers would be required to treat their own answer engine features in the same way as comparable third-party services.

Neither the DMA nor the case law on self-preferencing defines the notion of equal treatment. Recital 52 states that gatekeepers should not engage in any differentiated or preferential treatment in ranking, indexing, or crawling, whether through legal, commercial, or technical means, but it does not identify the relevant criteria. In *Google Search (Shopping)*, the ECJ did not define equal treatment as such but endorsed a remedy requiring Google to subject its own (CSS) and those of rivals to the same positioning and display processes on its search engine results pages (SERPs)[36]. Applied to answer engines, this approach would risk harming competition by either inducing gatekeepers to withdraw their answer engine features or by forcing both gatekeepers and rivals to rely on identical technological processes.

In the first scenario, gatekeepers may withdraw their answer engine features to avoid any differentiated or preferential treatment. They would then offer only general search services and cease to compete directly with other answer engine providers. It would weaken competition in the answer engine market, to the detriment of users and content creators.

Competition drives innovation in the answer engine market. Pressure from a strong incumbent may incentivise rivals to invest and innovate to capture or protect profitable sales, thereby contributing to market contestability. Indeed, Professor Shapiro argues that contestability often arises from the prospect of gaining or defending sales, thereby spurring innovation efforts (Shapiro, 2011). Where such competitive pressure is absent or weakened, rivals may face reduced incentives to innovate or enter. In these circumstances, contrary to the DMA's objective of ensuring market entry and rivalry with gatekeepers (Recital 32), reduced competitive pressure could render the market less contestable.

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[36] C-48/22, paras. 98 and 140.

Recent developments in the answer engine market illustrate this dynamic. Providers such as OpenAI and Perplexity actively compete with Google, and Google has responded by introducing competing answer engine features. This rivalry has accelerated innovation. Reflecting this logic, the CMA, in its roadmap on Google's Search Services and Search Advertising, has recognised that Google should be able to compete strongly in areas such as AI assistants to stimulate its innovation rather than suppressing it (Competition and Markets Authority, 2025b).

A reduction in competitive pressure would also harm users and content creators. Users would lose access to innovative services and quality improvements that competition currently delivers. Content creators would, in turn, lose the benefits of strong engagement driven by answer traffic.

In the second scenario, gatekeepers may subject their own answer engine features and those of rivals to the same technological processes. Gatekeepers would effectively function as mandatory distribution channels for competing answer engine providers on their SERPs. This would limit their ability to appropriate returns on investment in their own answer engines, as identical treatment would lead to imitation. The resulting effects may again negatively impact competition, users, and content creators.

For gatekeepers, a reduced ability to recoup investments could weaken incentives to innovate in answer engines. This concern is particularly acute given the substantial upfront investment costs involved while viable monetisation strategies remain under development. Gatekeepers may thus delay entry or exit from the market, thereby further reducing competitive pressure. In turn, rivals' expected gains from innovation may diminish, thereby weakening their incentives to invest in new features. As a result, contestability in the answer engine market may decline.

For rivals, mandatory distribution on SERPs would be highly detrimental. Imitation would erode product differentiation, limiting the ability to compete through distinctive features and reducing incentives to innovate, since firms could no longer fully capture the economic value of their innovations. Indeed, Professor Shapiro argues that greater appropriability drives innovation by allowing firms to reap the benefits of product differentiation (Shapiro, 2011). Moreover, this approach could divert traffic from rivals' own websites to the gatekeeper's SERPs, weakening direct user engagement, undermining monetisation strategies, and potentially threatening rivals' economic viability (Box 8).

> **Box 8: Monetisation Strategies of Answer Engines**
>
> Answer engine providers rely on a range of monetisation strategies, most of which depend on direct user engagement. Providers typically adopt one or more of the following business models to generate revenue from end-user usage.
>
> Advertising-funded models offer free access to end users in exchange for displaying advertisements purchased by advertisers. This model requires a large user base to attract advertisers. Google and Microsoft already rely on this approach, and OpenAI has indicated that it may adopt it as well.
>
> Subscription-based models provide basic features or limited usage at no cost, while offering premium features or unlimited access in exchange for a subscription fee. OpenAI and Perplexity currently rely on this model.
>
> Commission-based models also provide free access to users but generate revenue by charging commissions to third parties. OpenAI, for example, is developing a commerce system under which merchants pay transaction fees when users complete purchases through instant checkout[37].

Such an approach may also have spillover effects on the web browser market. As discussed above, web browsers serve as an important distribution channel through which some answer engine providers deliver their services, including AI agents, designed for the agentic web. Turning the gatekeeper into a mandatory distribution channel may dampen rivals' incentives to invest in alternative routes to market, thereby weakening competition in the web browser space.

Finally, this scenario would also harm users and content creators. Users would face reduced choice and innovation due to undifferentiated services. Meanwhile, content creators would lose access to a diverse range of—potentially innovative—citation formats for generating high-quality answer traffic, as citation formats would become standardised.

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[37] Turn Chats into Checkouts, *OpenAI* (accessed 16 December 2025). Available at: https://chatgpt.com/merchants/

4.   Policy Recommendations

Preserving competition in answer engines under the DMA would generate positive effects on prices, quality, choice, and innovation for both end users and content creators. As the sole enforcer of the DMA, the Commission can take several pro-competitive actions to ensure that the DMA delivers these benefits in a rapidly evolving market. First, the Commission should rely on the DMA's own instruments to specify and clarify the access conditions and self-preferencing requirements in a way that preserves competition both upstream and downstream (Section 4.1). Second, it should ensure cross-regulatory consistency through cooperation and advocacy (Section 4.2).

4.1   Using DMA Instruments to Specify and Clarify Requirements

The DMA provides several instruments that allow the Commission to specify and clarify obligations. Upstream, in the context of the mandatory DMA review, the Commission should propose a modification clarifying that the access conditions requirement applies only to services, not data (Section 4.1.1). Downstream, the Commission should issue formal guidance specifying that the self-preferencing ban applies only where a gatekeeper offers a distinct service (Section 4.1.2).

4.1.1 Clarifying the Definition of the Access Conditions Requirement

The Commission must review the DMA. Article 53 obliges the Commission to evaluate the regulation and report to the European Parliament and the Council by 3 May 2026. This evaluation must assess whether modifications to the DMA's obligations, including Article 6(12), are necessary to ensure contestable and fair digital markets.

The Commission should clarify that Article 6(12) applies exclusively to services. As shown in Section 3.1.1, both the legal interpretation and the legislative history indicate that the provision concerns the conditions for accessing a gatekeeper's service. It does not govern access to business users' data.

Other legal frameworks may already address data access. In particular, access to data for model training and grounding may fall within the scope of the Copyright Directive. As noted by

both the Portuguese and French competition authorities, the copyright status of data collection for AI model development remains legally unsettled.

In the absence of such clarification, the Commission should refrain from extending the DMA beyond its intended scope. The DMA seeks only to promote competition in certain digital markets. It is neither a substitute for copyright law nor a vehicle to pre-empt its interpretation. Misapplying the DMA in this context risks creating legal inconsistencies with copyright law that could ultimately harm both gatekeepers and business users.

In practice, gatekeepers and business users are already addressing data-related issues through licensing agreements. As observed by the South African competition authority, in its media and digital platforms market inquiry provisional report, negotiated solutions may be optimal, as they allow parties, such as news publishers, to determine compensation in a context where valuing content use is particularly complex (Competition Commission South Africa, 2025).

Even when the Commission contemplates intervention, it should not determine the value of the agreements. Its role is to safeguard the competitive process, not to regulate price. At most, the Commission may assess whether the conditions surrounding negotiations comply with competition law, provided there is a legal obligation to negotiate, as in the French competition authority's *Google Related Rights* case.

In the context of answer engines, however, there is no clear basis for intervention. The Commission should not rely on competition law or the DMA to resolve unresolved copyright questions, particularly where copyright law may not impose any obligation to negotiate. Such intervention would risk undermining both the legal predictability of competition policy and market-driven solutions.

Finally, both the DMA and competition law should remain focused on preserving the competitive process. Shifting these instruments, in general, toward other policy objectives, such as promoting media diversity, risks protecting individual competitors—often complainants—rather than the process itself. This may result in less efficient markets, encourage rent-seeking on regulatory outcomes, and increase exposure to regulatory capture by politically influential interest groups.

4.1.2 Issuing Formal Guidance on the Self-Preferencing Requirement

The Commission can issue guidance under the DMA. Article 47 empowers the Commission to adopt non-binding guidelines on any aspect of the DMA, including Article 6(5), to facilitate effective implementation and enforcement. However, De Streel et al note that the Commission has not issued such guidance, despite repeated calls from stakeholders to do so (De Streel, Feasey, and Monti, 2025).

The Commission should issue Guidance on Article 6(5) to reduce uncertainty surrounding the notion of "*services*." As shown in Section 3.2.1, the DMA neither defines this notion nor provides a clear methodology for identifying services, resulting in significant legal uncertainty.

Regarding the scope of services, the guidance should clarify that the self-preferencing requirement applies only to distinct services. Drawing on the *Google Search (Shopping)* antitrust case, it should be made clear that Article 6(5) applies where a gatekeeper promotes a separate product or service—whether or not it is itself a CPS—within the gatekeeper's designated CPS.

Regarding the identification of distinct services, the guidance should set out a clear analytical methodology. This methodology should rely on demand-side and supply-side considerations, with particular emphasis on functional characteristics, to determine whether a service is distinct.

In the absence of such guidance, the Commission should clarify the meaning of technological neutrality. In the context of the DMA review, it should consider amending Recital 14 to reflect the logic of *Microsoft v Commission* for fast-moving industries, namely that the definition of CPSs must evolve with technological developments, such as AI, to remain genuinely technology-neutral.

If the Commission contemplates intervention in the absence of these clarifications, it should first engage in regulatory dialogue. De Streel et al note that regulatory dialogue plays a central role in the implementation and enforcement of the DMA by enabling informal resolution of compliance issues (De Streel, Feasey, and Monti, 2025). Given the intensity of competition in the answer engine market and its positive impacts on users and content creators, such dialogue should ensure that gatekeepers can deploy services swiftly, with legal predictability and certainty.

Finally, the DMA should remain focused on preserving market contestability. Contestability, together with appropriability, is a key driver of innovation for both gatekeepers and non-gatekeepers, fostering incentives. In fast-moving markets such as answer engines, the Commission should use its discretionary powers to ensure that these mechanisms operate effectively, without regulatory distortions that could affect the pace and direction of innovation.

4.2 Using Cooperation and Advocacy to Ensure Cross-Regulatory Consistency

The Commission can rely on cooperation and advocacy to ensure cross-regulatory consistency between competition and copyright policies. On the cooperation side, it can leverage existing cooperation instruments to ensure consistent implementation and enforcement (**Section 4.2.1**). On the advocacy side, the directorate responsible for the DMA and competition policy (DG COMP) can engage with other regulatory bodies at both the EU and national level to ensure that copyright initiatives support competition and innovation in AI (**Section 4.2.2**).

4.2.1 Leveraging Cross-regulatory Cooperation with Regulatory Bodies

The DMA establishes the High-Level Group (HLG) to foster cross-sectoral approaches to digital regulation at the EU level. Article 40 creates a cross-regulatory forum to support the Commission in implementing and enforcing the DMA. The HLG brings together key European regulatory bodies, including the Body of European Regulators for Electronic Communications (BEREC), the European Data Protection Supervisor (EDPS), the European Data Protection Board (EDPB), the European Competition Network (ECN), the Consumer Protection Cooperation (CPC) Network, the European Regulators Group for Audiovisual Media Services (ERGA), and the Commission.

The HLG has already endorsed a joint paper on AI that maps the regulatory interplay across AI-related issues. As part of this mapping exercise, the HLG identifies key DMA-related issues and broader cross-regulatory challenges across the AI value chain (European Commission, 2025).

Regarding the DMA, the HLG notes that the regulation applies to AI-related services. However, it also highlights the need for clarification on the specific AI services covered and the application of DMA obligations to them. This observation aligns with the concerns identified in this report (European Commission, 2025).

Regarding cross-regulatory issues, the HLG emphasises the interaction between several legal regimes. It identifies, in particular, the lack of consistent terminology for AI, the need to align requirements across regulatory frameworks, and the importance of coherent and coordinated enforcement.

Cross-regulatory cooperation is embedded in both the DMA and EU law more broadly. At the DMA level, the HLG's mandate enables enhanced coordination among EU regulatory bodies. In addition, Carugati observes that the DMA provides specific cooperation mechanisms with national competent authorities (Article 37), national competition authorities (Article 38), and national courts (Article 39) (Carugati, 2025a). More generally, the Treaty on European Union establishes a duty of sincere cooperation between regulatory bodies (Article 4(3) TEU). In *Meta Platforms and Others*, the ECJ confirmed that Member States, including their administrative authorities, must support one another, take all appropriate measures to fulfil EU obligations, and refrain from actions that could undermine EU objectives[38].

National competent authorities should therefore strengthen cooperation within their respective networks. In practice, Carugati recommends establishing structured collaboration frameworks, publishing annual work programmes to signal priorities to stakeholders, engaging regularly to develop a shared cross-regulatory culture, and fully using the cooperation tools provided by EU and national law to ensure consistent and cost-effective enforcement (Carugati, 2025b).

At the upstream level of the AI value chain, the Commission should seek clarity on unresolved copyright issues before intervening under the DMA or competition law. At a minimum, in line with the *Meta Platforms and Others* judgment, it should consult national authorities responsible for copyright protection on the application of copyright rules to AI model development[39]. Ideally, it should refrain from intervening while key copyright questions remain pending before the ECJ, to avoid regulatory inconsistency and legal uncertainty.

4.2.2 Advocating with Other Regulatory Bodies

DG COMP should play an active advocacy role in supporting AI development in Europe. It should engage with the directorate responsible for copyright protection and with the AI Office

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[38] C-252/21 *Meta Platforms and Others*, ECLI:EU:C:2023:53, 4 July 2023, para. 53.

[39] *Ibid*, paras. 56, 57 and 63.

to ensure that any copyright-related initiatives are coherent and support competition and innovation in AI.

In particular, DG COMP should contribute to the Commission's broader agenda on European competitiveness by identifying regulatory barriers that may unduly hinder AI development. As noted by Professor Draghi in his report on European competitiveness, AI is a key driver of competitiveness across several major European sectors, including energy, automotive, pharmaceuticals, and transport. At the same time, the report highlights Europe's relative weakness in digital technologies, including AI (Draghi, 2024). In response, the Commission has launched several initiatives aimed at advancing AI in Europe[40]. Among these, the Data Union Strategy seeks, inter alia, to increase the availability of high-quality data for AI development[41]. While the Strategy does not, at this stage, include specific copyright initiatives, DG COMP should ensure that it does not introduce regulatory barriers, including under copyright or competition law, that could undermine competition and innovation, for example by imposing obligations that disproportionately increase data acquisition costs. The Strategy also refers to the Data Labs, which are intended to facilitate data access for AI and to provide regulatory guidance and training on the application of EU law, including copyright and competition rules. In this context, DG COMP should support the Data Labs by ensuring that they have the necessary competition expertise to deliver effective guidance and training.

DG COMP should also support the Commission's efforts to simplify the EU digital regulatory framework by promoting cross-regulatory consistency and advancing pro-competitive, innovation-friendly digital rules. The Commission has launched two initiatives in this regard— the *Digital Omnibus*[42] and the *Digital Fitness Check*[43]—to streamline EU digital legislation. In particular, the Digital Fitness Check aims to identify overlaps between legal instruments, ensure regulatory coherence, and assess whether existing rules remain fit for purpose in a rapidly evolving world. Although the initiative does not target specific digital acts, DG COMP should ensure that copyright and competition law, as well as the DMA, support AI development

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[40] European Approach to Artificial Intelligence, *European Commission* (accessed 23 December 2025). Available at: https://digital-strategy.ec.europa.eu/en/policies/european-approach-artificial-intelligence

[41] European Data Union Strategy, *European Commission* (accessed 23 December 2025). Available at: https://digital-strategy.ec.europa.eu/en/policies/data-union

[42] Simplification – Digital Package and Omnibus, *European Commission (*accessed 23 December 2025). Available at: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14855-Simplification-digital-package-and-omnibus_en

[43] Digital Fitness Check – Testing the Cumulative Impact of the EU's Digital Rules, *European Commission* (accessed 23 December 2025). Available at: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/15554-Digital-fitness-check-testing-the-cumulative-impact-of-the-EUs-digital-rules_en

by addressing provisions that impede it, including those that lack legal clarity or create unnecessary barriers to data access.

Finally, DG COMP should advocate for a harmonised, pro-competitive interpretation of copyright rules at the national level. Copyright law is implemented and enforced by national courts and the competent authorities responsible for it. When engaging with these authorities on the application of copyright rules to AI, DG COMP should promote interpretations that facilitate data access for AI development, while remaining consistent with the objectives of the copyright framework.

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