Introduction:

1. **The Digital Markets Act (DMA) is a novel and complex law, with limited precedent guiding its implementation. The European Commission (EC) also has considerable discretion in enforcing the DMA. Without adequate consideration of market conditions, a measured approach to enforcement, and effective safeguards limiting regulatory discretion, DMA enforcement could do more harm than good and fail to deliver its intended outcomes**. The EC's approach to DMA enforcement has already raised several concerns that merit closer scrutiny. Mainly:
    a) The DMA is having unintended consequences on end users and business users;
    b) The EC's enforcement of the DMA has been arbitrary and disproportionate;
    c) The norms of due process must be respected. DMA processes must be improved to increase legal predictability, transparency and trust among all parties;
    d) The DMA risks undermining its own contestability objective.
2. The DMA does not effectively prevent **regulatory fragmentation** in the EU, and Article 1(6) of the DMA should be updated. For example, the German Federal Cartel Office recently announced its statement of objections against Amazon concerning practices that are already squarely covered by the DMA and that were the core focus of the EC's earlier investigation and Amazon's Commitments in 2022. This clearly is not how an efficient and coherent European regime should operate.
3. Rather than seeking to address competitive concerns that may arise within various markets, the DMA applies a premature, **one-size-fits-all** approach that fails to address business practices that harm consumers and competitors. For example, the data portability obligation does not fit with the Retail sector, where customers rarely seek to transfer "Personal data" such as their order history – and where such requirements can introduce new data security risks without clear upside for contestability.
4. The designation thresholds are **arbitrary and discriminatorily target US companies.** For example, the DMA distorts competition in retail by imposing asymmetric obligations on a single player, although there are several other prominent e-commerce marketplaces operating in the EU. This asymmetry is particularly evident in 10 EU countries where other online marketplaces hold leading positions, e.g. AliExpress (Alibaba) leads in Lithuania, Bulgaria, Portugal, Latvia, Croatia, and Estonia. Temu is the largest player in the Czech

Republic and Hungary, and has significant presence in other countries like Denmark, Finland, and Sweden. Meanwhile, large European marketplaces like Bol.com in the Netherlands and Allegro in Poland are the largest players in their respective countries.

5. The DMA has led to **unintended harms** to EU consumers, businesses, growth, and productivity without yielding the pro-European, pro-innovation outcomes proposed at the DMA's inception. For example, the DMA's restrictions on data combination and use have had unintended consequences for small and medium-sized businesses relying on targeted advertising to reach potential customers. Broad interpretation of DMA obligations (e.g., around interoperability) raises questions about the role of the integrity, security and privacy safeguards as well as the regulator's expertise and competences in issue of platform and user security. The EC's current approach to DMA enforcement has already created challenges for both consumers and the businesses that rely on digital platforms (including SMEs
6. DMA implementation is **costly** to the EC, to designated companies, and indirectly, to European businesses and consumers. The EC had initially estimated that total aggregated DMA annual compliance costs for all designated companies would be around 10-20 million euros. However, the actual costs have far exceeded these projections. According to CCIA estimates, the average annual cost of complying with the regulatory provisions for a large US company is $430M annually per company, amounting to $2.2 billion across the five largest US tech companies. This is counter to the recommendations of the Draghi report, especially when thinking about the balance between innovation and regulation.
7. The DMA **fails on process**. Designated companies should have the right to request an oral hearing and recourse to an independent hearing officer to resolve issues relating to confidentiality, legal privilege and access to file, like under Regulation 1/2003. The absence of these undermines the rights of defense of designated companies.
8. The DMA contemplates **extraordinarily high fines** while requiring companies to surmise acceptable compliance measures, with limited to no public guidance from the regulator.
9. The Commission, or the European Court of Auditors, should undertake a thorough review of the effectiveness of the DMA, following the **'better regulation'** principles. The Court of Auditors has proven expertise in evaluating complex regulatory frameworks, as demonstrated by its 2020 review of EU antitrust proceedings - which identified crucial gaps in enforcement capabilities and monitoring effectiveness - and its 2020 assessment of the

EU Emissions Trading System, which provided evidence-based recommendations for improving regulatory impact. It would be premature to suggest any scope expansions without evidence that the DMA has yielded actual benefits for competition and consumers in the sectors already regulated; and those benefits have exceeded costs.

10. Negative impacts of DMA's enforcement should be rebalanced through European Commission guidelines

The DMA's initial rollout has created operational disruption, degraded user experiences, and slowed innovation. Evidence is accumulating of substantial economic harm, with one study estimating spill-over effects reducing EU business turnover by up to €114 billion annually. These losses arise from diminished digital reach, higher transaction costs, and the removal of integrated features that previously drove efficiency and consumer value. To mitigate these effects, the European Commission should issue guidelines refining the DMA's application in three critical areas:

a) Rebalancing Article 6(5).

Current enforcement of the self-preferencing rule disproportionately benefits a small group of large intermediary aggregators, often at the expense of direct suppliers such as hotels, airlines, and retailers, many of which are European SMEs. The negative consequences are already visible. In hospitality, organic traffic to hotel websites has fallen by 20 percent, while revenue from free booking links has dropped by nearly a third. This has forced hotels to rely more heavily on paid channels, increasing distribution costs by an estimated 18 percent. Airlines and retailers report similar patterns of declining visibility, new dependencies on intermediaries, and rising costs. Guidelines should clarify that the principle of fairness and non-discrimination in ranking applies to all business users, including direct suppliers (i.e. hotels, retailers etc.) and gatekeepers. This would ensure that the DMA promotes broad-based competition rather than merely shifting market power to intermediaries.

b) Ensuring a harmonised enforcement approach.

The interaction between the DMA and national competition law risks creating legal fragmentation. Articles 1(5) and 1(6) allow Member States to apply their own competition rules, including Article 102 TFEU, to practices already addressed by the DMA. This opens the door to parallel investigations, forum shopping by complainants, and inconsistent legal standards across the Single Market. National regulators can also launch DMA investigations, increasing compliance costs for the in-scope companies. Commission

guidelines should establish a clear enforcement hierarchy and a coherent division of responsibilities to prevent overlapping cases and secure predictability for businesses.

c) Strengthening due process: regulatory dialogue

Enforcement risks being driven by the narrow commercial interests of a few well-organized complainants rather than by objective principles that enhance innovation. Guidelines should promote a constructive regulatory dialogue anchored in transparent and objective criteria. Prioritizing outcomes that improve user experience and foster innovation will ensure that enforcement serves the wider European economy rather than the goals of a small group of commercial actors.

11. No new service-type should be regulated under the DMA without evidence of anti-competitive practices. In particular, the **cloud computing and AI** sectors are nascent and extremely dynamic, and warrant no ex-ante regulation in addition to what already exists in the EU.

Question 1: Do you have any comments or observations on the current list of core platform services?

a) **There is no justification for applying ex-ante regulation to online retail marketplaces given the intense competition in retail across both online and offline channels.** The DMA does not seek to address business practices within industries that pose a competitive concern. Instead, the DMA applies to a single retailer and targets retail practices that are ubiquitous throughout the European and global retail sector. The retail sector features strong competition between various business models, including traditional brick-and-mortar stores, pure-play online retailers, and omnichannel players. Consumers have multiple options for purchasing goods, and retailers compete vigorously on price, selection, and convenience. The presence of numerous alternative sales channels and low switching costs for both consumers and sellers demonstrates that no single e-commerce marketplace holds a position that would warrant ex-ante regulation.

b) **If the DMA does regulate online retail marketplaces, it should ensure a level playing field and capture national champions and Chinese marketplaces.** The current regulatory framework creates an uneven playing field by targeting specific companies while leaving out major national and international competitors. Market data shows that in several EU member states, Chinese online marketplaces are significant players. AliExpress (Alibaba) leads in Lithuania, Bulgaria, Portugal, Latvia, Croatia, and Estonia. Temu is the largest player in the Czech Republic and Hungary, and has significant presence in other countries like Denmark, Finland, and Sweden. Meanwhile, large European marketplaces like Bol.com in the Netherlands and Allegro in Poland are the primary players in their respective countries. Yet, these marketplaces operate without the same costly compliance measures imposed by the DMA. In addition, the regulation does not cover brick and mortar retail across Europe, which competes with online retail providers. This asymmetric regulation disadvantages the regulated companies while allowing other major players to operate without similar obligations.

c) **It would be premature to regulate any new services under the DMA without first proving positive effects for services already captured and without evidence of anti-competitive practices in those sectors.** The implementation of the DMA has already shown significant costs and unintended consequences for existing regulated services, with compliance costs multiple orders of magnitude higher than initially estimated by the EC (see relevant questions below). Before expanding the scope to new services, there

should be a thorough assessment of the DMA's effectiveness and actual benefits for competition and consumers in the services already regulated. In addition, any scope expansion should be supported by evidence of anti-competitive practices in the sectors subject to regulation.

d) Cloud services should not be regulated under the DMA.

The cloud computing sector is extremely dynamic, and the AI revolution is attracting increased investments in the sector, making it more dynamic. IT services are highly competitive and characterized by constant innovation and disruption from new and existing businesses. Cloud services providers compete with on-premises hardware vendors, private and co-located data centre providers and software providers. There is a large body of evidence demonstrating that the cloud sector is characterised by a rapid pace of innovation, declining prices, and fierce competition. Less than 15% of IT spend is on cloud services, whereas approximately 70% of IT workloads are on-premises[1]. This means there is much left to play for, and competition remains fierce from new entrants capitalising on this opportunity, as well as from on-premises IT providers. The emergence and rapid spread of AI has accelerated new entry and expansion from all types of players, *e.g.*, other cloud providers (including EU providers like Scaleway and Ionos), emerging "neocloud" companies (*e.g.*, CoreWeave, Lambda Labs, Vultr, and Nebius etc) and on-premises providers (*e.g.*, Dell, HPE, Nvidia etc.), as well as private cloud providers, disrupting existing positions and intensifying competition across the industry. As the EU seeks rapidly to increase the total computing capacity available in the EU such a move would be counterproductive to is ambitions to boost competitiveness.

Key DMA obligations like data transparency, portability and interoperability are already adequately addressed in the cloud computing services sector by existing regulations (e.g., Data Act) and industry initiatives (data switching framework). Introducing an additional regulatory layer in the sector would go against the Commission's efforts for regulatory simplification, which has been recognized as an important driver of competitiveness and growth. Largely thanks to on-demand IT services, which provide customers with the flexibility to design easily portable and interoperable solutions, the costs to move data and change IT providers are lower than ever before and customers

[1] See https://www.gartner.com/en/newsroom/press-releases/2024-04-16-gartner-forecast-worldwide-it-spending-to-grow-8-percent-in-2024, https://www.gartner.com/en/newsroom/press-releases/11-13-2023-gartner-forecasts-worldwide-public-cloud-end-user-spending-to-reach-679-billion-in-20240 and https://www.goldmansachs.com/insights/articles/cloud-revenues-poised-to-reach-2-trillion-by-2030-amid-ai-rollout.

have never had more freedom of choice. Multi-clouding is also very popular with IT customers. In addition, the EU Data Act, which applies to all cloud services' providers introduces obligations intended to further enhance data portability, interoperability, and openness. Industry initiatives also complement legal obligations, like the CISPE Cloud Switching Framework providing technical requirements to help cloud providers and their customers comply with the EU Data Act and the Switching Cloud Providers and Porting Data (SWIPO) Codes of Conduct.

e) AI services should not be regulated under the DMA as self-standing Core Platform Services.

The EU has identified AI deployment and innovation as a key lever to close its innovation and competitiveness gap, as noted in the Draghi report, in the Competitiveness agenda and in the AI continent action plan. At a time where the EU is already the only jurisdiction in the world to have introduced far-reaching obligations on the AI sector through the AI Act, and when the United States and China double down on AI investments, imposing new regulatory obligations through the DMA would only hamper the EU's AI competitiveness objectives. As AI is not a service or a business model, but a technology, regulating it as a CPS under the DMA would also violate the EU's commitment to technological neutrality to the detriment of Europe's AI ambitions.

AI technologies are highly competitive and rapidly evolving, with increased availability and intense competition at all levels, including in the computing infrastructure necessary for building and training foundational models, the development of the models themselves, and the applications that incorporate these models in diverse ways[2]. For instance,

> Developers of generative AI now have more compute options than ever, including on-premises solutions (which represent the vast majority of IT solutions used today), online solutions provided by cloud services providers (including AI-specialized providers), solutions deployed in a co-located environment and hybrid solutions combining these options.
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> Model developers include well-known companies like Microsoft, Meta, NVIDIA, and Google, but competition is also being led by dozens of innovative start-ups

[2] CERRE. 2025. *A Competition Policy for Cloud and AI*, by Zach Meyers and Marc Bourreau. June 18. Brussels: Centre on Regulation in Europe. https://cerre.eu/publications/a-competition-policy-for-cloud-and-ai/ and RBB Economics. "Competitive Dynamics of Generative AI." Computer & Communications Industry Association, June 12, 2025. https://www.datocms-assets.com/79198/1749664324-competitive-dynamics-of-generative-ai.pdf

such as OpenAI, Anthropic, Hugging Face, Stability AI, Mistral AI, Aleph Alpha, EleutherAI, Cohere, Adept, Character.ai, Midjourney, AI21 Labs, poolside, Model Zoo, Mosaic, Technology Innovation Institute, LightOn Runway, Jasper, Inflection, and many others.

Europe's AI landscape is thriving, marked by a surge in innovative startups, widespread adoption of AI solutions across businesses of all sizes, and a robust network of specialized AI service providers backed by active venture capital funding.3 This dynamic environment demonstrates the sector's inherent vitality. Applying the DMA to this rapidly evolving field would stifle innovation and jeopardize the EU's flourishing AI industry.

Question 2: Do you have any comments or observations on the designation process (e.g. quantitative and qualitative designations, and rebuttals) as outlined in the DMA, including on the applicable thresholds?

a) **The designation thresholds are arbitrary and discriminatorily target US companies.** In the retail sector, multiple European and Chinese companies operate outside these regulations despite their significant positions in certain Member States. In some EU countries, national competition authorities have found some particular online marketplace dominant - yet they are not constrained by the DMA obligations.

Question 3: Do you have any comments or observations on the current list of obligations (notably Articles 5 to 7, 11, 14 and 15 DMA) that gatekeepers have to respect?

a) **Re-opening the DMA would add unnecessary complexity to a regulatory landscape that is already facing significant implementation challenges.** Such a move would run counter to the growing calls from European policymakers to simplify rules and focus on effective execution. Mario Draghi's report on the "Future of European Competitiveness" highlights overregulation as a central obstacle to EU growth. It urges a "radical pruning" of regulatory barriers that stifle innovation and emphasizes the need to remove complexity rather than introduce new legislation that treats rapidly evolving technologies as static services. The Commission's Competitiveness Compass echoes this message. It identifies streamlined regulation and the removal of Single Market barriers as essential to improving

[3] See for example: https://www.eu-startups.com/2025/05/the-ai-uprising-20-european-startups-rewriting-the-rules-in-2025/

productivity and creating the conditions for growth. Adding new obligations for tech companies or extending the DMA to cover new digital services such as AI or cloud would generate uncertainty for businesses and divert institutional resources away from the immediate priority: ensuring the existing framework functions effectively for the European economy.

b) **An "enforcement" inspired approach by the EC.** The recent cases where the EC adopted non-compliance decisions against a designated company show that the EC interprets DMA provisions very broadly (explicitly dismissing arguments based on the principle of proportionality). Both designated companies that were found non-compliant have appealed the decisions. Taking overbroad approaches and then waiting for courts to claw it back is an enforcement-like approach to the DMA. Yet, the EC repeatedly highlights the nature of the DMA as *ex ante* regulation and being different from competition law. If the EC wants the DMA to be effective, it should be guided by proportionality to address the circumstances that matter – not the most expansive and extreme approach.

c) **The DMA's one-size-fits-all approach fails to account for the diverse nature of different services, leading to ill-suited obligations for some sectors.** While some DMA obligations seem tailored to address specific conduct or service offerings by particular providers, they are not well-adapted across the full range of Core Platform Services (CPSs). A prime example is the data portability obligation, designed for messaging/communications or social media, which is poorly suited for the retail sector. In retail, customers rarely seek to transfer "personal data" such as their order history between marketplaces, unlike in other sectors where data portability might be more relevant. Despite this, the DMA requires all designated companies to implement these blanket obligations, necessitating significant engineering solutions and investments. This approach ignores whether these solutions actually deliver meaningful benefits for customers or genuinely improve competition. This issue has been identified by multiple designated companies. A blanket application of all DMA obligations to designated CPSs - even where those obligations were obviously designed with other, specific business models in mind - only add regulatory and compliance costs, for the EC, for gatekeepers and eventually for European business users and consumers. Such an approach contradicts not only the Commission's 'Better Regulation' principles, but also its commitment to regulatory simplification as a key lever of its efforts to boost the EU's economic competitiveness. At a time where the Commission needs to deal with a growing

number of policy responsibilities, this is not an efficient use of the Commission's tightly constrained resources.

d) **Implementation of data portability and inter-operability obligations creates significant security and privacy risks without clear benefits.** Over 75% of applicants are based outside the EU, with many being data aggregators with unclear data usage policies. Most applications lack basic business verification information, and many applicants become unresponsive when asked to complete standard privacy and security assessments. This pattern suggests that many requests for data access may come from actors who cannot demonstrate appropriate safeguards for handling sensitive customer information. The DMA's requirements thus create a challenging balance between compliance and protecting customer privacy - while companies must enable data portability under the DMA, they must simultaneously protect personal data and maintain security standards under GDPR, creating regulatory tension that puts customer data at risk. There is nothing that prevents third-party data aggregators that do not have appropriate measures in place from targeting end users to build out mass databases of sensitive end-user data. A number of studies such as ECIPE Policy Brief from February 2025 or CERRE Better Lawmaking from January 2025 have also warned against unintended consequences of the DMA on platform integrity and security. This in exchange undermines the EU's Economic Security Agenda. **Compliance and profiling report templates (Art.11) should be simplified to focus on new measures and information directly relevant to demonstrating compliance.** While the compliance and profiling reporting system provides a structured framework for documenting DMA compliance solutions, it requires companies to provide an excessive amount of information and data, often going beyond what is necessary to demonstrate compliance with DMA obligations. For example, the templates currently require data on end-user uptake and other metrics that aren't directly related to showing compliance. The relevant data collection and response preparation requires the involvement of multiple business teams and represents a significant administrative burden that increases operational costs. Simplifying the templates would reduce administrative complexity and support more effective compliance while still maintaining appropriate oversight.

Question 4: Do you have any other comments in relation to the DMA obligations?

a) **There should be a procedure to lift obligations when they clearly serve no purpose in a sector, e.g. data portability for retail.** In some sectors, certain DMA obligations may not be relevant or may even be counterproductive. For instance, in retail, the data portability requirement adds significant compliance costs and potential security risks without clear benefits to consumers or competition. A formal process to review and potentially lift such obligations would allow for more efficient and targeted regulation, ensuring that the DMA remains relevant and effective across different sectors without imposing undue burdens where they are not needed. A framework for assessing not only the need for regulation but also the path to de-regulation would be consistent with the EU's regulatory simplification aims.

b) **There are overlapping obligations in the DMA and other legislation, e.g. data portability in the DMA and interoperability in the Data Act.** This regulatory overlap creates potential conflicts and redundancies, increasing compliance complexity for businesses. For example, the DMA's data portability requirements may conflict with or duplicate similar provisions in the Data Act. The Data Act prevents designated gatekeepers under the DMA from getting access to data, as a third-party, under the Data Act. This situation not only increases the regulatory burden on companies but also creates potential legal uncertainties. A more coordinated approach across different EU regulations would reduce these overlaps and ensure a more coherent and effective regulatory framework. As part of the EU's regulatory simplification agenda to boost EU competitiveness, EU policymakers have identified regulatory overlaps between various EU regulations as a key source of regulatory burden and uncertainty in the digital sector. The former Polish presidency of the Council recently circulated a non-paper exploring issues of regulatory overlap and potential streamlining options, mentioning the DMA along with other regulations such as GDPR, cybersecurity legislation and the Data Act.[4] The Commission has launched various initiatives and studies on regulatory overlap, including joint EC-EDPB Guidelines on the interplay between the DMA and GDPR, upcoming EC Guidelines on the interplay between the AI Act and other regulations, and a broader exercise of regulatory streamlining due to be reflected in the upcoming Digital Omnibus Package and Digital Fitness Check. The DMA review should be an integral part of this simplification effort.

[4] https://data.consilium.europa.eu/doc/document/ST-9383-2025-INIT/en/pdf

Question 5: Do you have any comments or observations on the tools available to the Commission for enforcing the DMA (for example, whether they are suitable and effective)?

a) **The efficiency and effectiveness of Requests for Information (RFIs) could be improved through a more collaborative approach.** Currently, RFIs can be broad and sometimes lack clear focus. A more structured process involving preliminary discussions about the scope, purpose, and format of requested information could lead to more targeted and useful responses. This approach would help companies understand what is being sought and allow them to provide relevant information more efficiently based on their internal data structures.

b) **There should be a clear distinction between informal inquiries and formal non-compliance investigations.** More comprehensive RFIs should be reserved for formal non-compliance investigations with clear timelines. The EC appears to use "informal" inquiries as a protracted vehicle for investigating companies without opening a formal investigation, as they are not bound by any timelines. Unlike formal investigations, which the EC should aim to conclude within 12 months from opening, informal inquiries can drag on indefinitely. This lack of structure in informal inquiries can create uncertainty and prolonged periods of investigation without clear endpoints or formal protections for the companies involved and can ultimately increase eventual fines.

c) **The effectiveness of regulatory dialogues could be enhanced if the Commission shared concerns identified during informal inquiries more openly.** This would allow designated companies to address issues proactively. Increased transparency regarding the EC's interactions with other regulatory bodies, such as the European Data Protection Board (EDPB), could also be beneficial.

d) **Specification process needs to be improved.** The EC’s approach to specification decisions has been to impose prescriptive compliance solutions, rather than engage in genuine regulatory dialogue with gatekeepers based on a shared understanding of the unique selling points of their platforms. It is unclear when the EC will resort to specification proceedings and when it will resort to non-compliance obligations. The EC’s specification proceedings to date have essentially been used to bypass the DMA’s text and expand its obligations, rather than following the letter of the law. Furthermore, the specification process lacks procedural guarantees that allow a genuine regulatory dialogue, effectively

compelling gatekeepers to comply with the EC's view of how the DMA must be interpreted pending the resolution of such matters in an appeal.

e) **The compliance deadlines are unrealistic**: Compliance deadlines, particularly those for the specification decisions, underestimate the volume of engineering work (and timetables for reviews/quality control) required for compliance.. This has led to rushed technical solutions for which the EC has not properly considered its trade-offs and compliance procedure, leaving very little room for genuine regulatory dialogue focused on finding the best technical solutions available. It also leads to very important resources being diverted from innovation

f) **Fines under the DMA should be more proportionate.** The EC should take into account various factors, e.g. the novel nature of DMA obligations, the current lack of clarity from the Courts on their scope, and the level of constructive engagement from designated companies in regulatory dialogues when setting fines. This approach could help ensure that enforcement actions are fair and proportionate to designated companies' intention to comply and the nature of any harmful effects of non-compliant behaviors.

g) **There's potential to enhance legal certainty by ensuring more consistent enforcement processes across different EC Directorates-General (DGs) and case teams.** Currently, there can be procedural differences between DG COMP and DG CONNECT in their approaches to DMA enforcement. Aligning these processes more closely could provide clearer guidance for companies navigating these regulations.

h) **When making document requests, it could be helpful to consider ways to make them more targeted and avoid overly broad scopes.** For instance, requesting documents from an entire list of employees subject to Retention Order decisions might inadvertently encourage companies to limit the number of employees included in such orders. A more focused approach could potentially lead to more efficient and effective information gathering.

Question 6: Do you have any comments in relation to the enforcement of the DMA?

a) **Gatekeepers require reliable and consistent direction on how the Commission interprets the DMA, and any tensions with existing EU legislation should be resolved at an early stage.**

The DMA's Article 5 obligations are not "self-executing", as was presumed by lawmakers. The EC, therefore, has a very high level of discretion to decide what compliance should look like without the possibility for gatekeepers to seek further clarification. This given the EC's unprecedented powers to interpret the DMA, in ways that were not foreseen by the lawmakers. At the same time, the DMA's policy goals are insufficiently clear. Additionally, the EC has over-relied on the input of certain highly vocal developers, some of which are direct competitors of gatekeepers, who have conflicting interpretations of the DMA, when assessing compliance. Furthermore, certain motivated third parties including other gatekeepers have sought to weaponize DMA enforcement to favour their own interests, which may not necessarily support the DMA's underlying objectives.

However, the EC has not developed a consistent approach to DMA implementation that provides certainty, constantly moving the DMA's compliance goalposts. DMA enforcement to date has lacked clear signals on priority areas and led to multiple iterations of compliance solutions, creating additional costs and complicating long-term planning. Discussion with the regulators also take place under very compressed timeline, regardless of the technical complexity of the issue at hand - particular in the context of specification processes. Finally, the fact that the DMA regulators are embedded within the European Commission, which is also in charge of policy-making and plays a political role, increases the risk of politicised enforcement, which in turn leads to uncertainty for all market participants.

Gatekeepers have very limited procedural recourse available to them and are effectively required to comply with the European Commission on specific issues or face the real prospect of daily fines. EC decisions have all been non suspensory, meaning that gatekeepers have to abide by them (or risk facing fines) while potential legal challenges are ongoing.

First, the Commission should provide precise clarification of how it understands key obligations, particularly around pivotal concepts such as "combination" and "cross-use" under Article 5(2) and avoid misinterpretations. Clear interpretative guidance is essential for ensuring that gatekeepers can comply in a predictable and transparent manner. Second, when applying and interpreting these obligations, the Commission should take into account broader factors that reinforce the DMA's core objectives of fairness and contestability, including the promotion of innovation and the delivery of quality products to consumers. At the same time, interpretations must remain firmly anchored in the DMA's

legal scope. Extending them to advance wider policy agendas risks eroding the regulation's credibility and weakening its standing internationally. Lastly, for the DMA to be implemented consistently and effectively, any overlaps or conflicts with other EU rules should be anticipated and resolved before no1n-compliance findings are issued. Addressing such legal uncertainties upfront is essential for safeguarding business predictability, regulatory integrity, and legal certainty across the internal market.

b) **DMA enforcement should include a systematic integrity, security and privacy assessment to ensure that compliance solutions do not have unintended consequences for end users and business users.** This requires the EC to develop a consistent approach in its assessment that relies on clear independent expertise in those fields. The EC should also ensure that tested approaches to preserve user security and privacy are considered in its interpretation of 'integrity', and that DMA enforcement does not conflict with parallel policy objectives (e.g. security) or legal rights (e.g. privacy, data protection and IP). Intellectual property rights should also be explicitly recognised as a parameter that should be taken into consideration by the regulator, rather than this being tested in courts.

c) **The EC should adopt a more proportionate approach to enforcement and the interpretation of DMA provisions more broadly.** It should focus on the application of DMA provisions (e.g. around interoperability) in areas where clear contestability risks exist, and where there is a proven market for smaller competitors. The EC could look to the UK CMA, which announced that it will focus on areas of clear demand and would not require interoperability by design, as this is impractical.

d) **The EC should seek detailed input from technical experts on certain aspects of DMA implementation at all enforcement stages.** This can be done by:

   Consulting other Commission DGs with relevant expertise (e.g. DG JUST on privacy, DG CNECT Units on security and innovation) and National Data Protection Authorities.

   Consulting the DMA High Level Group (HLG), which includes privacy experts (EDPB/EDPS), more systematically throughout the DMA compliance process. Additionally, ENISA, which has cybersecurity expertise, should be invited to join the HLG.

e) The DMA should ultimately be enforced by a fully independent body, as it would minimise the risk for political involvement and help create more legal certainty. The fact that the DMA regulators are embedded within the European Commission, which is also in charge

of policy-making and plays a political role, increases the risk of politicised enforcement, which in turn leads to uncertainty for all market participants.

f) **Article 1(6)(b) DMA's provision for "further obligations" through national competition law enforcement requires careful interpretation to preserve the DMA's harmonization objective.** While the provision allows National Competition Authorities (NCAs) to apply national competition rules, it should not serve as a backdoor for Member States to introduce supplementary regulations under their Art. 102 equivalents (e.g. Germany's Article 19a). This issue is already manifesting - for example, the German Federal Cartel Office recently announced its statement of objections against Amazon with an explicit objective to require Amazon to promote higher priced independent sellers' offers, covering Store features that are already squarely covered by the DMA. To prevent such regulatory fragmentation and ensure a coherent European regime, the EC should issue clear guidance on Article 1(6)(b)'s scope and "further obligations" should be interpreted narrowly to mean only those obligations addressing conduct not already covered by the DMA. The Draghi and Letta reports both highlight the role of EU single market fragmentation in the EU's declining economic competitiveness, with Mario Draghi even citing IMF estimates according to which the EU's internal market barriers amount to an internal tariff of 45% for manufacturing and 110% for services. The Draghi report highlights the importance of EU competition policy in supporting EU competitiveness- an observation that Commission President von der Leyen endorsed in her Competitiveness Compass, calling for a "new approach" to EU competition policy. Since the start of its mandate, the von der Leyen II Commission has launched a comprehensive regulatory simplification exercise, which it has identified as one of the key tools of its Competitiveness agenda. Addressing the regulatory barriers and internal fragmentation caused by inconsistent antitrust and DMA enforcement should play an integral part in this effort.

g) **Given the ex-ante and novel nature of the DMA, designated companies spend a significant amount of time on regulatory dialogue, which should be disregarded when calculating the duration of any infringement and fine.** Companies must respond to numerous detailed EC Requests for Information and provide multiple submissions. This extensive engagement time should be disregarded when calculating the duration of any infringement and fine, particularly when the designated company has engaged constructively with the EC throughout the process.

h) **The Commission should set out clear enforcement priorities and accompany each non-compliance ruling with a systematic assessment of its economic and regulatory effects, reinforced by annual reporting and meaningful stakeholder engagement.** To guarantee that DMA enforcement is both balanced and effective, stronger accountability mechanisms are required. The Commission should be obliged, under Article 53, to monitor on an ongoing basis how its interpretations and decisions may negatively affect the European economy, rather than limiting such reviews to a triennial exercise.This would call for more regular exchanges between regulators and industry on the practicalities of compliance. A well-grounded understanding of gatekeepers' business models, technical systems, and infrastructure is indispensable for setting realistic expectations and ensuring workable compliance outcomes.

i) **The EC does not provide clear guidance or direction on what constitutes compliance.** While we observe continued efforts to enforce compliance with certain requirements, the EC has not provided clear metrics or indicators for what constitutes successful compliance. This lack of clarity makes it difficult for companies to assess whether their substantial investments in compliance measures are achieving the desired regulatory outcomes.

j) **The EC could increase transparency and procedural fairness in third-party inclusion by issuing consultation guidelines on criteria, procedures, and the use of third-party input.** The EC should explore how it could establish a more structured and inclusive approach to seeking third-party feedback that yields diverse perspectives.

k) **The EC should move away from understanding "effective compliance" as a change in market outcomes, but rather define it by whether proposed compliance plans effectively meet legal thresholds.** As elaborated in an upcoming study by King & Spalding (sponsored by CCIA), there are multiple procedural improvements the Commission can make to better enable gatekeepers to effectively comply with the DMA. These include oral hearing rights, a compliance presumption or more guidelines on process.

l) **The DMA should ultimately be enforced by a fully independent body, as it would minimise the risk for political involvement and help create more legal certainty.** This was recently supported by Alexandre de Streel (CERRE Director), who called for an agency independent of the EU's executive political decision-making.

Question 7: Do you have any comments or observations on the DMA's procedural framework (for instance, protection of confidential information, procedure for access to file)?

a) Procedural standards for DMA investigations should be aligned with those applied in antitrust proceedings. This requires setting out clear operational protocols, guaranteeing full access to case files, and adopting a more rigorous cost-benefit assessment when considering third-party contributions. While efficiency in Commission investigations is important, it must not come at the expense of procedural safeguards—for instance, ensuring gatekeepers have meaningful access to case materials. At present, DMA investigations lack adequate procedural protections, which hampers effective cooperation and generates operational uncertainty. These gaps highlight the need for a more structured and transparent regulatory framework. Without well-defined procedures and clear accountability, the DMA risks failing to deliver on its objective of fostering fair and competitive digital markets.

b) **EC should announce any public consultation in the context of specification proceedings and market investigations to improve transparency of proceedings.** While third parties provide valuable market insight in the DMA proceedings, it is unclear when the EC consults them. The EC should conduct a public consultation in the context of specification proceedings and market investigations on systematic non-compliance. The EC has discretion for non-compliance proceedings, rebuttal requests, and market investigation into new services. The EC appears to seek market feedback in other stages of proceedings as well, but the process is opaque.

Question 8: Do you have any comments in relation to the Implementing Regulation and other DMA procedures?

a) **Designated companies should have the right to request an oral hearing and recourse to an independent hearing officer to resolve issues relating to confidentiality, legal privilege and access to file.** Unlike under the DMA, Regulation 1/2003 provides the right to an oral hearing, which is explicitly linked to the right to be heard following communication of a Statement of Objections. The DMA does not provide

for an oral hearing at all, including in non-compliance proceedings. Further, the absence of a hearing officer under the DMA, to whom designated companies may address procedural disagreements with the EC, undermines procedural fairness and limits the rights of defence of designated companies. More generally, The Commission should consider implementing a formal commitments process, similar to that under Article 9 of Regulation 1/2003, for DMA non-compliance investigations. Such a process would provide gatekeepers with legal certainty and a structured framework for addressing the Commission's concerns. This collaborative approach to compliance would prioritize achieving the best possible outcomes for users, rather than relying solely on adversarial enforcement.

Question 9: Do you have any comments or observations on how the gatekeepers are demonstrating their effective compliance with the DMA, notably via the explanations provided in their compliance reports (for example, quality, detail, length), their dedicated websites, their other communication channels and during DMA compliance workshops?

a) **The DMA's compliance costs are multiple orders of magnitude higher than initially estimated by the EC.** The EC had initially estimated that total aggregated DMA annual compliance costs for all designated companies would be around 10 million euros to 20 million euros. However, the actual costs have far exceeded these projections. According to CCIA estimates, the average annual cost of complying with the regulatory provisions for a large US company is $430M annually per company, amounting to $2.2 billion across the five largest US tech companies. These figures demonstrate that the true cost of DMA compliance vastly exceeds the EC's initial impact assessment. Furthermore, a study by the Digital Markets Competition Forum estimates that the DMA's effects on European businesses could result in an aggregate loss of revenue ranging from a minimum of EUR 8.5 billion (considering only the effect on personalized ads) up to EUR 114 billion when accounting for the adoption of more sophisticated online services and tools. This corresponds to a loss between 0.05% and 0.64% of the total turnover of the sectors considered, representing an average loss of revenue per worker across these sectors of up to EUR 1,122 per year. These figures demonstrate that the true cost and economic impact of DMA compliance vastly exceeds the EC's initial impact assessment. This not only contradicts the Commission's 'Better Regulation' principles, but also its commitment

to regulatory simplification as a key lever of its efforts to boost the EU's economic competitiveness.

b) **Cost of compliance includes actual compliance as well as the cost of demonstrating that compliance through reports, workshops, dedicated websites.** Designated companies have to respond to dozens of detailed European Commission Requests for Information, file mandatory DMA Compliance Reports of hundreds of pages and participate at compliance workshops organized by the European Commission and separately by the European Parliament. The Commission should replace public workshops with more frequent, structured 'state of play' meetings with gatekeepers. We recommend discontinuing public workshops as the primary forum for discussing compliance solutions. Instead, regular, structured meetings would facilitate more meaningful engagement and progress toward the DMA's objectives.

c) **The resources spent on compliance could have been used for creating jobs or other beneficial investments in Europe.** The substantial funds allocated to DMA compliance represent significant opportunity costs for these companies. These resources could have been directed towards job creation, infrastructure development, or innovation initiatives that would have more direct positive impacts on the European economy. For instance, such investments could potentially lead to the establishment of new facilities or expansion of existing ones, which typically generate thousands of direct and indirect jobs, contribute millions in local tax revenue, and significantly boost regional economies. Additionally, such funds could have been used for research and development, leading to innovative products and services, or for sustainability initiatives that align with EU environmental goals. The diversion of these resources to regulatory compliance may thus be indirectly impacting economic growth and job creation across various EU member states. At a time when the EU's overarching priority is to boost its economic competitiveness, this is the wrong signal and the wrong policy. The recent Commission-EEAS Joint Communication on an International Digital Strategy for the EU explicitly recognizes the link between tech innovation, competitiveness and sovereignty. Burdensome regulations like the DMA run counter to this objective.

Question 10: Do you have any concrete examples on how the DMA has positively and/or negatively affected you/your organisation?

a) **The DMA distorts competition in retail by imposing asymmetric obligations on American business, although there are several other prominent non-American e-commerce marketplaces operating in the EU.** This asymmetry is particularly evident in 10 EU countries where other online marketplaces hold leading positions. Market data shows that in several EU member states, Chinese online marketplaces are significant players. AliExpress (Alibaba) leads in Lithuania, Bulgaria, Portugal, Latvia, Croatia, and Estonia. Temu is the largest player in the Czech Republic and Hungary, and has significant presence in other countries like Denmark, Finland, and Sweden. Meanwhile, large European marketplaces like Bol.com in the Netherlands and Allegro in Poland are the primary players in their respective countries. Yet, these marketplaces operate without the same costly compliance measures imposed by the DMA. This asymmetric regulation disadvantages the regulated companies while allowing other major players to operate without similar obligations.

b) **As a result of the DMA, local partners' (including European SMEs) advertising campaigns have become less effective, and their sales have suffered.** The DMA's restrictions on data combination and use have had unintended consequences for small and medium-sized businesses relying on targeted advertising to reach potential customers. The impact is particularly pronounced for European SMEs, who often rely heavily on these targeted advertising tools to compete with larger businesses. Without access to effective, data-driven advertising, these smaller businesses find it more challenging to reach their target audience, potentially stunting their growth and competitiveness in the digital marketplace. This situation demonstrates how the DMA's requirements, while intended to protect consumer privacy and promote competition, have had unintended negative consequences for the very businesses it aimed to support. The reduced effectiveness of these advertising campaigns directly impacts the sales and growth potential of European SMEs operating on online marketplaces, potentially undermining one of the key objectives of the DMA. Likewise, European consumers - 80% of which have indicated they prefer more limited, relevant advertising[5] - are now being exposed to generic advertising, worsening the customer experience.

[5] https://iabeurope.eu/wp-content/uploads/IAB-Ad-Funding-Online-Services-Report-2025.pdf; https://about.fb.com/news/2025/05/metas-personalized-ads-boost-europes-economy-e213-billion-in-value-and-almost-1-5-million-jobs/

Question 11: Do you have any comments in relation to the impact and effectiveness of the DMA?

a) **EC should follow the 'Better Regulation' principles in assessing the impact and effectiveness of the DMA.** A thorough regulatory cost-benefit analysis is essential to understand the full implications of this legislation. Such analysis needs to consider both immediate compliance costs and broader economic impacts, including effects on innovation, competition, and consumer welfare across the European digital economy.

b) **The costs of the DMA have manifested in several concerning ways.** For instance, the EC has not carefully and adequately considered the technical feasibility and the complexity associated with certain compliance solutions. Furthermore, short timeframes for DMA compliance require firms to engineer significant changes quickly, increasing the risk of vulnerabilities, which could be exploited by bad actors. European consumers and businesses are experiencing a growing innovation gap as they lose access to cutting-edge features and technologies. This is particularly evident in the AI sector, where European users are being left behind - Meta is not releasing Llama 4 in Europe, its European AI version is limited to text-only capabilities, and Google's AI-powered search features faced significant delays in European markets. This technological lag could have long-term implications for Europe's competitiveness in the global digital economy as well as reduce consumer utility and result in a diminished online experience for users of digital services in the EU. The delays reflect the difficulty in developing DMA-compliant products that also properly protect users' privacy, security and safety.

c) **The impact on European businesses, particularly SMEs, has been substantial.** While the EC initially estimated modest compliance costs, the reality has proven far more burdensome. The combined effect of the DMA and DSA could lead to a €71 billion cost increase for European companies - equivalent to 0.3 percent of EU GDP. Increases in regulatory costs for the companies subject to these regulations could be estimated to lead to about a 5 percent increase in European firms' spending on technology services. This burden falls disproportionately on SMEs, who would bear almost half of these costs, potentially affecting around 40,000 European jobs. A recent survey of over 500 European firms revealed that 28% would pass costs on to customers, 30% would switch to poorer-quality technologies, and 20% would either reduce their technology adoption or cut employment rather than reduce spending on digital services.

d) **The DMA evaluation should assess the implications of the DMA on intellectual property and innovation.** The EC has interpreted the DMA as completely setting aside legally protected IP rights. More broadly, the DMA poses serious threats to innovation, and its current enforcement disincentivizes further investment in research and development of new products by requiring the gatekeeper to grant access to proprietary technology free of charge.

e) **When measured against the EC's own stated objectives, the DMA has fallen short of its promises.** The EC advocated that the regulation would create a fairer business environment, but evidence suggests otherwise. Changes to Google search have actually reduced traffic to European businesses, particularly affecting hotels and airlines, while driving customers toward large intermediaries. The promise of new opportunities for innovators and start-ups has been undermined by limited access to cutting-edge AI technologies, with some companies considering relocation to the US to maintain technological competitiveness.

   The regulation's impact on consumer choice and innovation has also been concerning. Rather than delivering more and better services as promised, consumers have experienced the removal or delay of several features in the EU. The claim that designated companies would maintain their ability to innovate has been challenged by the reality of regulatory uncertainty and compliance costs, which have led to delayed or canceled launches of new features in the EU.

   The DMA's impact on small and medium-sized businesses has been particularly problematic, especially in the realm of digital advertising. European SMEs are finding their advertising campaigns less effective due to new restrictions on data combination and use. When customers don't consent to data sharing, businesses can't effectively target their advertisements, resulting in less relevant ad placements and reduced visibility for their products. This particularly affects smaller businesses that rely on targeted advertising to compete with larger enterprises. Without access to effective, data-driven advertising tools, these SMEs struggle to reach their target audience, potentially limiting their growth opportunities and competitiveness in the digital marketplace.

Question 12: Do you have any additional comments and attachments, concrete examples on how the DMA has positively and/or negatively affected you/your organisation?

a) **The EC and national competition authorities should take DMA compliance into account in the context of other competition investigations where similar (potential) conduct is assessed.** Companies that have invested significantly in DMA compliance measures, including substantial technical and operational changes to their systems, should have these efforts recognized in parallel or subsequent investigations. For example, when similar conduct is being assessed in merger reviews, particularly regarding the prohibition of self-preferencing, the company's DMA compliance efforts and measures should be considered. This would not only acknowledge the substantial resources already invested in addressing these issues but would also help ensure consistency in regulatory approach and avoid duplicative or conflicting requirements. The compliance measures already implemented under the DMA represent significant structural changes to business operations and should inform related competition assessments.

b) **We observe an increasing trend of legislative proposals - at EU and Member State level - with discriminatory provisions specific to companies designated under the DMA, including for services that are not CPSes.** This clearly contravenes Art.1(5) and general principles of EU Internal Market law, therefore the EC should object to any such legislative proposals. This trend risks creating further regulatory fragmentation and undermines the DMA's harmonization objective. As Executive Vice-President Vestager noted during the DMA's development: "We want a single European rulebook. We have tabled this proposal to avoid fragmentation." The reality of implementation, however, shows increasing fragmentation. This situation creates several problems:

   - It undermines the concept of a single market and harmonized rules,
   - It creates legal uncertainty for businesses operating across multiple EU jurisdictions,
   - It increases compliance costs as companies must navigate overlapping and potentially conflicting requirements,
   - It creates an uneven playing field where some companies face multiple layers of regulation while others face none,
   - It contradicts the DMA's original purpose of creating a unified approach to digital market regulation.

   The proliferation of additional national regulations on top of the DMA leads to precisely the kind of inefficient fragmentation that Commissioner Vestager warned against, potentially undermining the effectiveness of both EU-level and national regulatory frameworks.