

Consultation response: Digital Markets Act review

September 2025

The promise of the DMA was that a clear list of do's and don'ts would steer gatekeepers away from commercial practices that are known to harm business users and digital markets. In addition, that it would also facilitate swift and effective enforcement, while taking into account evolutions in the services of gatekeepers.

Unfortunately, the impact of the DMA on the business of news publishers has generally been disappointing. Fundamentally, the DMA has not led to meaningful changes in the commercial practices of gatekeepers that are most concerning and pressing for publishers.

While the DMA has had some early successes, these wins have mostly targeted consumer-facing issues rather than systemic imbalances affecting publishers, who remain constrained by the control of gatekeepers over advertising markets and traffic distribution.

Ambiguities and general lack of clarity in the obligations, leading to different interpretations

One of the main challenges is the ambiguity and lack of clarity in some of the DMA obligations, which results in diverging interpretations by gatekeepers, regulators, and business users.

Many of the DMA obligations such as those about self-preferencing and fair access to data, are broadly framed. For example, what constitutes “fair” or “reasonable” terms for access to data or ranking remains open for debate.

This lack of precision creates legal uncertainty for businesses meant to benefit from the DMA, such as news publishers, advertisers and app developers, who cannot rely on consistent enforcement or clear rights.

This also unnecessarily burdens the European Commission with the task of issuing clarifications or case-specific enforcement decisions. Ultimately, these ambiguities risk diluting the DMA's effectiveness, as protracted legal arguments delay meaningful changes in the market.

A more detailed example is that of Article 6(8) which requires gatekeepers to provide advertisers and publishers with the “data necessary” to carry out their own “independent verification” of the “advertisement inventory”, including aggregated and non-aggregated data.

The meaning of several of those terms is unclear. Platforms may interpret this narrowly, disclosing only limited aggregate data rather than full, transaction- and auction-level details that would enable the meaningful auditing of gatekeeper services.

For publishers, this lack of clarity means they continue to face significant information asymmetries in digital advertising markets, limiting their ability to verify value, optimise

revenues, and compete effectively. Instead of increasing transparency, vague provisions allow gatekeepers to comply formally while withholding the granularity of data that publishers need.

Lack of ambition and insufficient obligation concerning online advertising

Access to auction-level data is critical to achieve meaningful transparency in online advertising. Without insight into how individual impressions are priced and allocated in real time, publishers and advertisers remain dependent on the opaque and questionable self-reporting practices.

This means that publishers are unable to verify the integrity and fairness of auctions or whether hidden fees and self-preferencing practices distort outcomes. Aggregate or delayed data is inherently insufficient because it masks discrepancies in bidding behaviour, pricing strategies, and demand.

Auction-level transparency would enable publishers to understand the real value of their inventory, strengthen their negotiating position, and foster competition among advertising technology intermediaries. In this sense, it is a catalyst for accountable competition in online advertising.

More broadly, the DMA is insufficiently far-reaching in addressing structural conflicts of interest in online advertising. The dual presence on the buy- and sell-sides gives gatekeepers the ability to unfairly set rules for auctions in which they participate, such that competition is artificially reduced.

This vertical integration creates inherent incentives for self-preferencing and discriminatory practices that transparency obligations alone cannot remedy. To ensure fairness, contestability and fair competition in the advertising ecosystem, the Commission should mandate structural separation between buy-side and sell-side functions.

Designating generative AI services as a core platform service

The integration of generative AI in search engines and other core platform services is shaping how users access information, content, and advertising. Yet standalone generative AI services are not a core platform service under the DMA, meaning the obligations on fairness, transparency, and non-discrimination may not apply. This creates a regulatory gap.

For example, when a generative AI system delivers answers directly to users, traffic to third-party sites including publisher sites can be diverted without transparency or fair compensation.

Without clear designation as a core platform service, regulators lack the authority to impose obligations and prohibitions such as those about audience measurement and self-preferencing. To keep pace with technological change, the DMA should explicitly cover generative AI services deployed by gatekeepers.

Google's AI Overviews: an enforcement case study

Google's launch of AI Overviews illustrates the urgent need for the enforcement of rules on self-preferencing and on fair, reasonable, and non-discriminatory (FRAND) terms. By presenting AI-generated summaries directly on top of search results, Google diverts significant traffic away from publishers, and towards their own products and properties.

This dynamic mirrors past concerns over Google's preferential treatment of its shopping service, which the Commission previously sanctioned. If AI Overviews systematically reduces the visibility of publishers while keeping users within Google's ecosystem, this amounts to self-preferencing. Moreover, ensuring FRAND terms is essential so that publishers are not excluded from the new AI-driven interfaces.

Without strong and consistent enforcement, AI Overviews are a direct threat to the business model of media companies, their financial sustainability, and by extension to media pluralism and freedom. The Commission must act decisively to clarify obligations in this area and prevent gatekeepers from using AI as a new means of entrenching dominance.

If the Commission's assessment is that this not possible or justified, then the DMA should be amended to facilitate this kind of enforcement action.

Sector-specific enforcement guidelines for the media

To complement the various points already raised in this submission, the Commission should consider developing specific DMA enforcement guidelines for the media sector.

This is both necessary to better achieve the objectives set out in the DMA but also to protect the integrity and resilience of Europe's information space requires, a political priority already recognised across multiple EU initiatives.

It follows that better coordination between the DMA and the European Media Freedom Act (EMFA), which was adopted to support media pluralism, and the European Democracy Shield initiative must be facilitated.

Such guidelines should at least seek to:

- minimise algorithmic bias against media
- ensure a diverse range of sources in recommender systems
- clarify the application of FRAND terms to media content
- clarify the application of the prohibition against self-preferencing
- aligning the DMA and EMFA enforcement of provisions on audience measurement
- aligning the DMA and EMFA enforcement of provisions on the notification of concentrations.

Addendum: restrictions on political advertising

Recent policy changes by Google and Microsoft to their advertising services illustrate a growing risk to media pluralism and democratic debate in Europe.

Both companies have announced decisions to withdraw from political advertising services ahead of the entry into force of EU's Political Advertising Regulation as of October 2025.

The implications are serious:

- **Restriction of freedom of expression and democratic debate:** By limiting publishers' ability to promote content on fundamental social issues, gatekeepers constrain citizens' exposure to diverse perspectives and democratic debates. We think that this undermines the notion of fairness in digital markets referred to in Article 1(1), which the DMA seeks to protect and which should be interpreted broadly with reference to the Charter of Fundamental rights, as specified in Recital 109.
- **Negative market impact on press publishers:** The changes will prevent publishers from using Google's and Microsoft's advertising tools to finance and disseminate content, harming the internal market for political advertising services. We are concerned about a breach of Article 5(4) which prohibits gatekeepers from preventing business users from communicating, promoting offers and concluding contracts with end users.
- **Unfair and unreasonable contractual conditions:** While platforms are entitled to set limits on their services, the unilateral and arbitrary imposition of such policies highlights the lack of negotiating power for press publishers. Once again, gatekeepers' terms and conditions conflict with European values. We are concerned about a breach of Article 6(12) which requires gatekeepers to apply fair, reasonable, and non-discriminatory general conditions of access to search engines, social networks and app stores.

This development underscores the importance of the DMA in safeguarding against gatekeeper practices that undermine democratic debate, restrict media pluralism, and disadvantage European publishers in digital advertising.