

Dr. Andreas Schwab

Vice President and Commissioner for
A Europe Fit for the Digital Age and Competition
Margrethe Vestager
European Commission
BRU-BERL 10/106
1049 Brussels

Wahlkreisbüro Freiburg
Eisenbahnstr. 64
79098 Freiburg
Tel.: (+49) 0761 217 13 13
Fax: (+49) 0761 217 13 14

Europabüro Rottlil
Tel.: (+49) 0741 41506
Fax: (+49) 0741 43112

Büro Straßburg (EP)
Tel.: (+33) 03 88 177938
Fax: (+33) 03 88 179938

www.andreas-schwab.de

Brüssel, 11. April 2024

Dear Vice-President, dear Margrethe,

following up on our exchange during the IMCO committee meeting regarding the implementation of the Digital Markets Act (DMA), particularly concerning gatekeepers' compliance models, I would like to draw your attention to some concerns and ideas raised by experts aimed at ensuring strong and effective enforcement, important for achieving the expected outcomes of this regulation.

After the exchange in the committee, it seems that in order to achieve effective and meaningful compliance, there is a need to develop principles for testing gatekeepers' compliance. For instance, in assessing compliance with the no self-preferencing obligation of Article 6(5), it is not sufficient to assess the parameters that are traditionally analysed but it seems equally necessary to include others: precise information about performance, including the number of units sold, clicks generated, and downloads or purchases made. Unlike Article 40 of the Digital Services Act (DSA), the DMA regulation only grants to the Commission the right to request such information.

Considering the Commission's limited resources and the importance of ensuring effective enforcement, such data should also be available to third parties who can then assist the Commission in assessing enforcement effectiveness.

With this in mind, we would like to inquire whether the Commission is working on compliance test principles for each obligation, and if so, will they be made available? Additionally, have you ever considered whether algorithm transparency, hence asking gatekeepers to open the algorithm, could be a solution? Finally, to what extent will the Commission be able to publicly share the data received under investigation with the community to ensure the future proofing of the enforcement?

Kind regards,

Andreas Schwab

