ACT Association for Competitive Technology

# STATE OF THE DMA

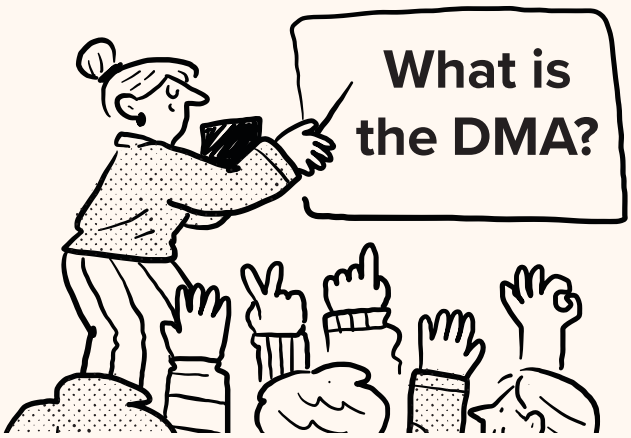
## The SME Perspective

# About the Association for Competitive Technology (ACT)

The Association for Competitive Technology (ACT) is a global trade association for small and medium-sized technology companies. Our members are small business innovators and startups in the software development and high-tech space around the world. As the world embraces mobile technologies, our members create the innovative products and services that drive the global digital economy by improving workplace productivity, accelerating academic achievement, and helping consumers lead healthier lives. Today, the digital economy is worth more than €5.4 trillion annually.1 We work with and for our members to promote a policy environment that rewards and inspires innovation while providing resources that help them raise capital, create jobs, and continue to build incredible technology.

# Key Findings

- After two years of enforcement, there is no evidence that the DMA has delivered measurable benefits to small and medium-sized enterprises (SMEs). Instead, EU enforcement has consistently advanced the interests of a handful of large third-parties at the expense of the broader app developer ecosystem.
- DMA compliance concerns have caused or contributed to documented delays in the EU launch of major AI products and features, including Apple Intelligence, depriving EU SMEs of the same access to frontier technologies enjoyed by their U.S. and UK counterparts.
- ACT's 2025 survey of more than 1,000 small technology companies found that EU startups lose between €94,000 and €160,000 per year, on average, compared to their U.S. counterparts because of the EU regulatory environment of which the DMA is a major component.
- By imposing uniform, top-down obligations and fee structures on the largest distribution platforms, the DMA undermines the inter-platform competition for SME business on revenue share, developer tools, integrated payments, and SME-facing services that historically gave small developers meaningful negotiating leverage. Handcuffing how the largest platforms compete with one another has weakened the position of the SMEs that depend on those platforms.
- The DMA's mandates effectively weaken curated app store distribution, undermining the security and trust mechanisms that disproportionately benefit small developers without established brands.
- The 2024 Draghi Report on European competitiveness warned that excessive EU regulatory and administrative burdens hinder the competitiveness of European companies.




**The Digital Markets Act (DMA) is the European Union's major legislative effort to increase competition in the online platforms market. DMA focuses on limiting the market power of large online platforms, including online search engines, app stores, and messaging services. The law grants the European Commission (EC) the power to designate certain of these platforms as 'gatekeepers' if they meet certain thresholds. Today, the companies the EC has designated as gatekeepers include Alphabet, Amazon, Apple, Booking, ByteDance, Meta, and Microsoft.**[2]

**To be considered a gatekeeper, a platform must:**

1. Have a turnover of at least 7.5 billion euro in the European Economic Area for at least three years or a market capitalization of at least 75 billion euro;

2. Have at least 45 million monthly active users and at least 10,000 yearly active business users in the EU;

3. Have 'an entrenched durable position', which is a qualitative assessment made in part by whether the user numbers have been maintained for three consecutive years.

Once designated a gatekeeper, a company must comply with special obligations established by DMA. These include allowing third-parties to interoperate with their services, allow access to business data generated on the platform, provide tools and information for advertisers and publishers to independently verify the ad business activity they conduct on the platform, and allow business users to contract with their customers outside the platform. Gatekeepers are prohibited under DMA from self-preferencing their own products in rankings, preventing consumers from signing up for businesses outside their platform, preventing the un-installation of pre-installed apps, or tracking users outside of the gatekeeper's platform for targeted advertising purposes without consent. Gatekeepers who do not comply with these obligations and prohibitions could face fines of up to 10% of the company's total worldwide annual turnover, or up to 20% for repeated violations, as well as other remedies such as imposed behavioural or structural changes.

DMA is a prime example of an ex ante regulation. As opposed to ex post regulations that apply to behaviour after the fact, ex ante regulations restrict behaviour before actions are taken. Where antitrust laws in other jurisdictions such as the United States provide enforcement powers against actions that have resulted in demonstrable harm to competition, DMA restricts a wide swath of behaviours on the part of gatekeepers before any particular harm has been shown to have occurred. As a result, many behaviours that would not have resulted in harm to competition and may have in fact benefited competition are barred, reducing opportunities for innovation by companies operating within the EU.

This structural feature is the root cause of many of the DMA's most damaging effects on small business innovators. Because the law presumes harm rather than proving it, enforcement priorities are not set by evidence of actual competitive injury and can be influenced by the complaints of larger entities, such as companies that can reasonably operate and market their own third-party store, rather than the experiences of SMEs and consumers. In addition, obligations expand into novel markets, including cloud services that were not contemplated during the formation of the DMA as well as artificial intelligence services that did not exist when the law was drafted, without the procedural discipline that ordinary antitrust review would provide.

# Evaluating the DMA's second year

**Since DMA's obligations became effective two years ago in May 2024, European regulators have been active in pursuing compliance with the law's provisions. These actions have in some cases led gatekeepers to make significant changes to their business models.**


## Steering

Some DMA regulatory actions this year focused on how gatekeepers manage the ability of app developers to direct their users to stores or payment systems outside the platform ecosystem, a process known as steering. While steering can allow developers to bypass certain platform restrictions, it can also introduce a free rider problem whereby apps that have reached a certain level of success can avoid paying back into the ecosystem.

- In April 2025, the European Commission fined Apple €500 million for DMA violations,[3] taking issue with Apple's terms regarding whether and how app developers can direct their users to alternative offers outside of the App Store and allow them to make purchases. Given 60 days to comply or face additional fines, Apple instituted new policies that would allow for apps to steer users outside of the App Store while instituting new rules for such purchases as well as a "Core Technology Commission" of 5%.[4] Proceedings to determine the adequacy of these changes to comply with DMA are ongoing, but the steering enforcement action illustrates the DMA's pattern of advancing the interests of large third-party developers seeking to disintermediate gatekeeper commerce systems, while imposing new complexity, new fees, and ongoing regulatory uncertainty on the small developers who depend on those systems and who lack the resources to negotiate bespoke distribution arrangements outside trusted digital platform.

## Data access

DMA enforcement this year also focused on policies relating to platform use of personal data.

- Also in April 2025, The European Commission fined Meta for €200 million for violating the DMA with its policies replacing a previously disallowed 'consent or pay' model, under which Meta provided EU users of Facebook and Instagram with an option to either consent to personal data combination for targeted advertising or paying a monthly subscription.[5] The Commission found that this structure was not allowed under DMA, and Meta eventually replaced it with a new model that used less personal data along with targeted advertising. The €200 million fine was for non-compliance during the eight-month period between the 'consent or pay' determination and the model that replaced it. Meta has challenged this fine before the EU's General Court.

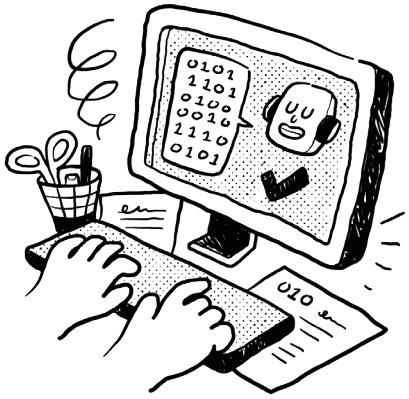
## Interoperability

Finally, DMA enforcement in its second year focused significantly on interoperability between platforms and outside services, and AI services in particular.

- In December 2025, the European Commission opened an investigation into Meta's policy instituted several months earlier prohibiting AI providers from using a tool within WhatsApp allowing businesses

to communicate with customers, which in practice prevents third-party AI assistants from integrating into WhatsApp.[6] Meta has offered compromise proposals while arguing that the Commission is incorrectly assuming the WhatsApp Business API is an important channel for AI chatbots. The Commission's decision to extend DMA obligations to artificial intelligence services that did not exist when the law was drafted, and that were never the subject of any market definition or evidentiary record before designation, exemplifies the mission creep that the DMA's open-ended *ex ante* structure invites.[7] Each such extension creates fresh compliance uncertainty for the entire ecosystem of small developers who build on top of these services.

In January 2026, the European Commission opened DMA proceedings against Google in two areas related to platform interoperability.[8] The first concerns DMA's requirement that Google must provide third-party developers with hardware and software features controlled by Android, in particular Gemini AI features. The second concerns DMA's requirement that third-party search engine providers have access to Google Search ranking, query, click, and view data. In April 2026, the Commission sent proposed measures for Google to resolve the Search data issue, detailing the scope of the data Google must share, the means of sharing it, who is eligible to receive it, anonymization requirements, and other matters. Such forced disclosures undermine the long-term investment incentives that produced the data in the first place, and risk privacy and security consequences for the EU users whose queries generated it.[9]



## Two features of how these actions are being pursued compound their effect on smaller firms.

### First

**The Commission's specification proceedings compress highly complex technical questions, such as how a mobile operating system should expose device features to third parties or how search data should be shared while preserving privacy, into short statutory windows, with final measures due within six months of a proceeding's opening,[10] a timeframe that leaves limited room for the careful, evidence-based assessment such questions demand and that raises the risk of measures whose consequences for security, privacy, and small developers are not fully worked through.**

### Second

**The interoperability and data-sharing obligations at issue are shaped largely through a dialogue among the Commission, the gatekeeper, and the largest complainants, a process in which the broader community of small developers is rarely represented.**

**Overall, the European Commission's actions in the second year of the DMA continued trends of the first year: focusing on the concerns of large third-parties while creating shifting policies and uncertainty for the small companies that rely on the platforms themselves.**

# The state of small business innovation in the EU


Statistics show that the regulatory environment in the EU has already led to significant disparities in the success and longevity of EU startups compared to those in other competitive markets. For instance, the United States boasts about three times as many startups than the EU.[11] Additionally, in 2022, venture capital investment in Europe was €29.6billion, significantly lower than the €108.8 billion invested in the United States and the €53.9 billion invested in Asia.[12] This investment gap reflects the impact of the current regulatory climate on EU tech startups' ability to scale, innovate, and—ultimately—exist. The stringent requirements of the DMA risk widening this disparity even further, making it more difficult for EU startups to compete globally.

In September 2024, former European Central Bank President Mario Draghi's landmark report on The Future of European Competitiveness, which was commissioned by the European Commission itself, warned in stark terms that EU regulatory and administrative burden constrains the growth and competitiveness of European companies, particularly in digital and technology sectors.[13] The Draghi Report calls for simplification of the EU regulatory rulebook, reduction of overlapping reporting requirements, and a shift toward innovation-friendly regulation. The Draghi Report warned that a sweeping ex ante framework, layered on top of other EU and Member State regulatory regimes, produces precisely the 'morass of EU legislation that has constrained innovation, especially in the tech sector' that Draghi identifies as a driver of innovation flight from Europe.

In October 2025, ACT released a report titled, 'The Hidden Cost of AI Regulations for EU and UK Startups and SMEs',[14] which provides a useful snapshot of the state of small business innovators in the EU compared to those in other jurisdictions. Based on surveys of more than 1,000 small technology companies across the EU, United Kingdom, and United States asking about their adoption of AI as users and developers, the report describes a widening transatlantic gap in innovation and opportunity. The EU policy environment, of which DMA is a major component, creates delays in the availability of new technology, which shrinks savings and increases costs; only half of EU startups actively use AI compared to two-thirds in the U.S., six in 10 EU startups face delayed access to frontier models, and as a result EU startups lose on average between €94,000 and €160,000 per year compared to their U.S. counterparts.

# Has the DMA helped small businesses? The evidence says no

The DMA is now imposing restrictions on digital platform markets, mandating the development of, and accommodation for, third-party app stores. After two years, has this endeavour proven to be a benefit to small businesses? Based on objective data and the SME digital economy experience writ large, the answer is no.

For years before the passage of DMA, offering an app was simple for SMEs. They could build a new app, submit it to Apple App Store and/or Google Play store, and instantly reach a global market with trusted users. SMEs operated in a market in which major distribution platforms competed

against one another for developer participation in areas including on revenue share, developer tool quality, integrated payments, fraud and piracy enforcement, intellectual property protection, marketing support, and discoverability. That inter-platform competition gave SMEs meaningful negotiating leverage because a developer dissatisfied with one platform's terms had a realistic alternative, and platforms had an ongoing incentive to improve the systems on which small developers depend. The DMA's prescriptive, uniform obligations and mandatory fee structures collapse much of that competitive dynamic into a single regulator-defined template, replacing platform-versus-platform competition for SME business with a regulator-versus-platform compliance dialogue from which SMEs are largely absent.

Under the DMA's new rules, many challenges to the previous status quo have arisen. These fall into four broad categories:

### Regulatory uncertainty and compliance burden:

- **Market Uncertainty:** Because DMA implementation is ongoing and constantly evolving, SMEs find it harder to plan marketing and outreach when market conditions are unstable.

- **Weak Market Controls:** Some new app stores attempting to capitalise on opportunities created by DMA may lack the important security systems the existing major app stores have developed to stop copyright infringement, malware, or deceptive design. SMEs that find their apps pirated, for example, may have little or no recourse at the app store level. In extreme cases, this can be an existential threat for startups.

- **Increased Compliance Burden:** Even for regulations that only target gatekeepers, SMEs now bear more of the regulatory compliance risk. For example, many have had their apps removed in the EU for not updating required contact details on time.

### Weakened curation, security, and trust:

- **Lower User Trust:** A significant share of SME revenue depends on consumer willingness to download apps from unknown developers, which in turn depends on the screening, content, and quality controls users associate with the storefront on which an app appears. By mandating that platforms must allow sideloading, third-party app stores, and generally reduce curation in various ways, DMA leads to the predictable result that more apps with harmful features will be permitted onto app store shelves than before. An increase in the share of app store apps containing malware and dark patterns will lead users to hesitate to download apps from companies they do not know. This harms trust in the app stores and operating systems themselves and the SMEs that rely on them. Especially vulnerable are SMEs and startups without established brands, making it more difficult for them to reach potential customers. As a prime example, AltStore PAL, one of the earliest alternative iOS marketplaces in the EU established in response to the DMA, in February 2025 launched 'Hot Tub', a pornography app made possible specifically because the DMA-mandated alternative distribution channels are not required to apply the content standards that ordinary app store distribution applies.[15] Such developments have directly eroded trust in alternative distribution as a credible channel for legitimate SME apps and reinforce user wariness of *any* digital platform.

- **Weaker Intellectual Property Enforcement:** Digital platforms historically give SMEs a single, reliable venue for policing piracy, cloned apps, and counterfeit listings, and compete on the strength of those protections. As distribution splinters across new marketplaces with divergent and often weaker enforcement practices, small developers without dedicated legal teams must monitor and pursue infringement across many channels at once, frequently with little or no recourse at the platform level. For startups whose core asset is their own intellectual property, the resulting erosion of enforcement can be an existential threat.

## Practical difficulties and increased costs of doing business:

- **Complex Distribution:** More app stores, especially new ones, add extra work in submitting and managing multiple channels. Different app stores also have different terms of service and different practices regarding user data privacy, advertising, and intellectual property protection. All these differences make compliance much more complex, and potentially out of reach for a small startup without a dedicated legal or compliance team.

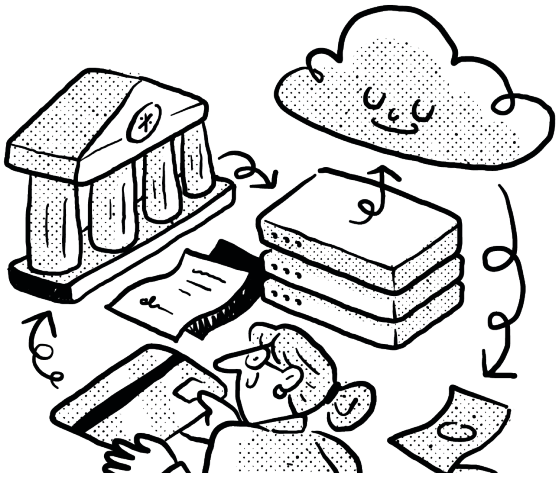
- **Launch Timing Issues:** Each store has its own approval process. SMEs must release apps at the same time across channels to avoid confusing users and losing revenue. This can quickly become a logistical nightmare.

- **Multiple Global Jurisdictions:** As more jurisdictions pursue regulatory frameworks similar to DMA, the cost of compliance for SMEs goes up. Instead of one global market, SMEs increasingly face different rules in each region, which requires more specialised compliance expertise.

- **Fragmented Marketing:** Global marketing now needs different marketing messages, documentation, and development for each market.

- **Increased Development Cost**: Different rules and different e-commerce systems often mean that multiple versions of the app need to be released with different coding paths. This not only takes significant developer resources, but it also increases testing complexity and the chances of errors.

- **Customer Support Challenges:** Recommendations vary by region and store. For example, a user might be in one country but use an account from another. These subtle but important differences affect how users need to be helped.



## Delayed access to frontier technology:

- **Slow Arrival of New AI Features:** The delay of AI availability such as Apple Intelligence, Google Gemini, and Meta's Llama in the EU market results from concerns around obligations under DMA to share data with third-parties. This dynamic could become a feature of technology development in years to come, as platforms hold back new features from jurisdictions under DMA-like legal regimes, preventing SMEs from taking advantage of new capabilities. In June 2024, Apple announced that it would not release Apple Intelligence, iPhone Mirroring, or SharePlay screen-sharing enhancements to EU users at the iOS 18 launch, citing concerns that DMA interoperability obligations would risk user privacy and data security.[16] In July 2024, Meta announced that it would not release its multimodal Llama AI model in the EU due to the unpredictable nature of the European regulatory environment, expressly contrasting the EU with the United Kingdom.[17] More recently, in June 2026, Apple announced that it would indefinitely delay the EU launch of its Siri AI features in iOS 27 and iPadOS 27, stating that there was no timeline for their availability after the European Commission rejected each of Apple's proposed compliance solutions, including a phased, 18-month rollout safeguarded by a new 'Trusted System Agent' intermediary designed to let third-party assistants securely access the same device capabilities as Siri AI.[18] These delays represent the leading edge of a recurring pattern in which EU SMEs and consumers receive frontier AI capabilities later than, or not at all relative to, their U.S., U.K., and Asian counterparts.

Unfortunately, the European Commission does not appear to be willing to fully grapple with the realities of life under DMA for small business and startup innovators. On April 28, 2026, the Commission released its first review of the DMA[19] and declared the law 'fit for purpose', highlighting options now provided to European users regarding data portability between services and changing default programs on devices.

> **The report did not, however, adequately address the uncertainty that DMA enforcement has generated across the wider ecosystem or mention at all the conflict between DMA enforcement and the privacy and security of EU citizens and businesses. More concerningly, the report was myopically focused on competition at the top of the market, rather than a more holistic view of the broader ecosystem in which small and medium-sized companies operate.**

The Commission's 'fit for purpose' conclusion is irreconcilable with the evidence its own peers and EU institutions have generated over the past year, including the Draghi Report's findings on regulatory drag, the documented withdrawal or delay of frontier AI products from EU markets, and a widening transatlantic divergence in SME AI adoption. By not engaging with this evidence, the Commission has substituted process metrics in place of outcome metrics, an approach that would be difficult to justify in any other domain of regulatory review.

Despite limited evidence of success, however, many countries around the world are in various stages of developing their own DMA-like legislation, including:

- **Brazil**
- **India**
- **Japan**
- **South Korea**
- **United Kingdom**

and even some legislative proposals in the United States. Some of these efforts have made improvements that are preferable to the DMA. The United Kingdom's Digital Markets, Competition and Consumers Act, for example, tailors conduct requirements to each designated firm, incorporates an explicit proportionality test, and commits the Competition and Markets Authority to a participative, evidence-based process. Japan's Mobile Software Competition Act is narrower in scope, allows designated providers to justify measures needed for security, privacy, and the protection of minors, and relies on continued dialogue among the regulator, platforms, and developers rather than the threat of very large fines.[20] But it remains the case that more jurisdictions are pursuing DMA-like frameworks year after year.

**As DMA spreads beyond Europe, the problems for small app developers outlined above will be compounded.**

# Conclusion

ACT members believe in and are well familiar with the power of competition to lead to better and more innovative products, services, and technology. Two years after its effective date, it is difficult to see how DMA has achieved this aim. Instead, the most concrete results have been delayed access to new features and technologies, uncertainty regarding implementation and enforcement, and increased work, cost, and risk for SMEs both in the EU and globally. Specifically, ACT urges the European Commission to:

- Pause further extension of DMA obligations to new services, markets, and technologies, particularly artificial intelligence and cloud computing, that were not part of the law's original evidentiary record;
- Narrow enforcement to conduct for which a concrete competitive or consumer harm can be identified, rather than presumed; and
- Reopen the 'fit for purpose' review to incorporate evidence on SME outcomes, security and trust effects, and the documented withdrawal or delay of frontier products in EU markets.
- Broaden and rebalance the third-party evidence it weighs when defining and specifying gatekeeper obligations, particularly on interoperability and data access, so that its decisions reflect the full range of affected businesses rather than the demands of a small number of large complainants; and
- Build structured opportunities for SME and startup input into its regulatory dialogue, both formal and informal, including specification proceedings, market investigations, and compliance workshops, so that the businesses most affected by DMA implementation are consistently heard.

**ACT further urges policymakers elsewhere in the world considering DMA-style frameworks to observe and learn from a credible, evidence-based assessment of the DMA before importing its architecture. Indeed, far more workable solutions have been developed in other countries such as the United Kingdom and Japan in the wake of the DMA's adoption and implementation. ACT continues to work with policymakers around the world to advance governance frameworks that empower entrepreneurship and innovation throughout the digital economy.**

# Endnotes

[1] ACT | The App Association, App Economy Fast Facts, https://actonline.org/wp-content/uploads/About-the-App-Economy-2023_162023.pdf.

[2] https://digital-markets-act.ec.europa.eu/gatekeepers_en

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[10] European Commission, Consultation on the proposed measures for requesting interoperability with Apple's iOS and iPadOS operating systems (DMA.100204), https://digital-markets-act.ec.europa.eu/dma100204-consultation-proposed-measures-requesting-interoperability-apples-ios-and-ipados-operating_en (the Commission must adopt its final specification decision within six months of opening the proceedings).

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[15] Sarah Perez, "Hot Tub, the first native iPhone porn app, arrives in EU," TechCrunch (Feb. 3, 2025), https://techcrunch.com/2025/02/03/hot-tub-the-first-native-iphone-porn-app-arrives-in-eu/; see also Chance Miller, "Apple responds after being forced to approve porn app on EU iPhones due to DMA," 9to5Mac (Feb. 5, 2025), https://9to5mac.com/2025/02/05/apple-forced-to-approve-porn-app-on-eu-iphones-due-to-dma/.

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