EU Digital Markets Act: One Year Later

About ACT | The App Association

ACT | The App Association is a global trade association for small and medium-sized technology companies. Our members are entrepreneurs, innovators, and independent developers within the global app ecosystem that engage with verticals across every industry. Today, the digital economy is worth more than $6.3 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.

Background

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.[2] Additionally, in 2022, venture capital investment in Europe was $34.3 billion, significantly lower than the $116.7 billion in the United States and $62.5 billion in Asia.[3] 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.

[1]ACT | The App Association, *App Economy Fast Facts*, https://actonline.org/wp-content/uploads/About-the-App-Economy-2023_162023.pdf.
[2]https://mikelmangold.com/usa-vs-europe/
[3]https://dealroom.co/guides/global

How do small businesses and digital platforms interact?

How Developers Distributed Software Before Platforms

Much has changed for consumers and developers since the early days of software applications. In the early 1990s, consumers were tasked with the challenge of locating and then traveling to a brick-and-mortar store that happened to sell software. Once internet connectivity became a standard feature in most private residences, consumers began to download applications from the comfort of their homes without having to step foot in a physical store. Despite the changes brought by internet connectivity, the golden age of personal computer (PC) software pales in comparison to the size and scale of the mobile app revolution during which software developers evolved into app developers. During this transition to online distribution, consumers were often unable to trust software downloaded from the internet because the vetting function of platforms had not yet been introduced.

Before the ubiquity of mobile platforms, the software ecosystem ran on PCs, and software companies had to cobble together a distribution plan, including the creation of consumer trust from the ground up. This forced early app companies, often with teams of one to two developers, to wear many hats to develop, market, and benefit from the sale of their products. App companies were not only required to write code for their products, but they were also responsible for:

1. Managing their public websites;
2. Hiring third parties to handle financial transactions;
3. Employing legal teams to protect their intellectual property; and
4. Contracting with distributors to promote and secure consumer trust in their product

The skillsets required to manage the overhead of online software distribution were often not core competencies of small development companies, and the additional steps cost app developers valuable time and money, with little tangible benefit.

In the internet economy, immediate consumer trust is almost impossible without a substantial online reputation, and not attaining it spells death for any app company. However, what does “trust” mean? In this context, trust refers to an established relationship between the app company and consumer where the consumer demonstrates confidence to install the app and disclose otherwise personal information to an app company. Prior to platforms, software developers often had to hand over their products to companies with a significant reputation to break through the trust barrier.

Developers in a pre-app store world experienced difficult and oppressive distributor requirements. When dealing with retail distributors, these small businesses were required to guarantee a competitive price, pay 3-6 percent of sales as a marketing fee in addition to fees for product launch marketing, shipping to deliver their products to distributors, and buying back unsold products. Once contracts were negotiated, software developers were often required to spend additional money so that in-store catalogues would feature their product or retail stores would place their product on an endcap display, all before consumers even saw the products.

However, with the advent of the smartphone and app stores, the experience of these innovative small businesses became a relic of the past. The smartphone, in its brief history, revolutionized the economy at large and established a symbiotic relationship between software platforms and developers. The fact that developers have a choice in which platform to use to reach their consumers and clients underscores that platforms compete not only as app marketplaces but as developer services providers. Even when developers distribute an app through an internet browser, and not through a platform's app store, the developer still benefits from the trust consumers have that the web browser running on their phone is safe to use.

The Impact of Platforms on Software Distribution: What Makes an Ecosystem Work?

The app ecosystem has grown exponentially alongside the rise of the smartphone. These companies drive a global app economy valued at more than $6.3 trillion. However, the app economy's trajectory is due to a variety of factors. The single most important factor in the app ecosystem's dynamic growth and unrivalled success is the presence of curated online marketplaces, or app stores. Trusted app stores serve as a vital foundation for the growing uses of apps across industries and enterprises. Three key attributes led to the revolution in software distribution:

1. Cost-effective access to a global market;
2. Instantaneous and cost-effective consumer trust mechanisms; and
3. The provision of a bundle of services that reduces overhead costs.

Today, every successful platform for mobile, desktop, gaming, and even cloud computing must provide these features or risk failing in the marketplace. And increased competition amongst platforms has provided an unprecedented avenue for entrepreneurship.

The Mobile App Economy Shows Strong Signs of Competitiveness, Growth, and Job Creation

Smartphones are the single most rapidly adopted technology in human history, outpacing innovations like the printing press and the steam engine. In just 15 years, and with the union of app stores (or platforms), mobile, and cloud, apps changed the phones, devices, and services we use every day. The entry of platforms created novel opportunities for consumers and developers. But while platforms provide some of the infrastructure, developers and companies bring smart devices to life. Without apps, a smartphone is just a phone.

Platform competition from a small business perspective

Many discussions about platform competition tend to focus on only two platforms—those of Apple and Google. However, for developers the market is much wider, with different choices being most desirable based on the use case and potential customer base. Certainly, Apple' and Google app stores offer immense value that developers realize through lower overhead and compliance costs, built-in customer trust, increased speed to market, and wider distribution and market access, as discussed elsewhere in this comment. These platforms provide a centralized framework for app developers to engage and secure visibility to app users worldwide, but App Association members routinely leverage many further options for developers. A game developer can choose platforms like Epic or Steam, and enterprise developers can look to hundreds of proprietary, custom platforms or could create their own. Moreover, for developers looking to reach a general audience, using the web is an alternative, especially for companies that are looking for different kinds of distribution or search services than those available on platforms. Additionally, software developers could choose to distribute their products through Amazon, advertise on Facebook, or leverage further platforms. It is worth noting, however, that there are some important distinctions between software platforms—like the App Store or Google Play which provide a marketplace for software apps—and social media platforms or "aggregators" that connect people with information and are fueled by data. Aggregators like Facebook and X (formerly Twitter), for example, connect people with information and other people (and generate valuable data in the process), while the Google Play store and Apple's App Store provide a marketplace for consumers and app developers to transact directly. These differences illustrate the diversity in the market for distribution methods, as developers may prefer one model over another.

Although developers can choose from multiple platforms, there is no such thing as a perfect software distribution platform. Some, but not all, app developers pay a fee to platforms for developer services, and they expect those services to meet their needs. Just as online companies must clearly communicate their data practices to consumers, so must platforms clearly define the requirements and details of their terms of service to developers. For example, when platforms change their developer guidelines, they must communicate clearly and ensure developers understand what the changes mean for them and their customer relationships. The App Association continuously fights for improvements in these areas on behalf of its small business developer community.

What is the DMA?

The Digital Markets Act (DMA) is the European Union's most 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[4].

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

To be considered a gatekeeper, a platform must:

- 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;
- Have at least 45 million monthly active users and at least 10,000 yearly active business users in the EU;
- 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 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 percent of the company's total worldwide annual turnover, or up to 20 percent for repeated violations, as well as other remedies such as imposed behavioral or structural changes.

Evaluating the DMA's first year

Since DMA's obligations became effective one year ago on March 7, 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.

- In June 2024, the EC announced its findings in a non-compliance investigation against Apple looking into whether the company's policies regarding a number of the requirements of DMA, including whether developers can freely communicate and promote offers, whether users can easily uninstall pre-downloaded apps and change default settings, and whether the choice screens provided in iOS allowing users to change default programs like browsers are effective.[5] In response, Apple implemented a number of changes for users and businesses within the EU's jurisdiction, including alternative terms allowing EU app developers to distribute web apps from their own websites and use alternative payment systems. These alternative terms include the charging of a Core Technology Fee charged per download to apps with over one million annual installs or over 10 million euros in revenue. Apple also updated its iOS operating system to allow EU users to use third-party app stores and to sideload apps. Opening iOS to allow sideloading and third-party app stores would later prevent Apple from excluding apps with objectionable content.[6]

---

https://www.techpolicy.press/european-commission-targets-apple-in-digital-markets-act-enforcement-action-/
https://apnews.com/article/apple-app-store-porn-495465278f404b38eb9ec472cd2ca6e3

- In July 2024, Apple and Google both announced that they would not be able to make their then-forthcoming artificial intelligence (AI) features available to EU customers at launch due to concerns about how the new capabilities would interact with requirements under EU regulations including DMA.[7] Among these concerns are security risks posed by exposing new features and parts of the operating system to third parties as necessitated by DMA's interoperability requirements. Apple Intelligence, for example, is still not available in the EU, although Apple recently announced that availability will begin with an upcoming software update in April 2025.[8]

- In December 2024, the EC opened proceedings into whether DMA interoperability provisions require Apple to give even greater access to third parties to the inner workings of its iOS and iPadOS operating systems.[9] Apple responded[10] by highlighting the risk that increased interoperability requirements would open users' devices and sensitive personal data to third-party companies with questionable privacy practices. Apple pointed directly to Meta having made multiple requests for access to users' SMS and iMessage, AirPlay, CarPlay, and app interaction information, which could enable significant insight into and control over a user's device.

- In February 2025, EU regulators announced their intent to charge Google for DMA violations related to its search practices, investigating whether it is favoring its own services such as Google Flights and Google Shopping over those of competitors.[11]

Has the DMA helped small businesses?

DMA set out to impose restrictions on digital platform markets. Existing platforms already provide many benefits, as discussed above. However, DMA's proponents sought to mandate the development of and accommodation for third-party app stores, which may benefit specific larger app companies, but has not proven to be a benefit to small businesses.

---

[7]https://actonline.org/2024/07/08/balancing-innovation-and-regulation-the-impact-of-the-eu-regulatory-environment-on-smes/
[8]https://www.apple.com/newsroom/2025/02/apple-intelligence-expands-to-more-languages-and-regions-in-april/
[9]https://www.techpolicy.press/digital-markets-act-roundup-december-2024january-2025/
[10]https://developer.apple.com/support/downloads/DMA-Interoperability-Dec-2024.pdf
[11]https://finance.yahoo.com/news/the-cfpb-just-dropped-a-bunch-of-its-own-lawsuits-as-the-agencys-future-hangs-in-limbo-214153537.html?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guce_referrer_sig=AQAAAI9_Cjb2BQLLQmOiP62ogosx8flo1A8HBjgq9XpgZSGn5GifO-34QsH4Hv725mKi63rgBMXfUsIEC-GbKnlkZ48sv1jfMswrOwKzr6NSTT8lrUUsjSl0P1Pz3ajivi0JdllPlxQYuxfgt8GokYxJXB7-mvhVj_4HhPgdV1dmKFz0

For years before the passage of DMA, offering an app was simple for small and medium-sized enterprises (SMEs). They could build a new app, submit it to the Apple App Store and/or Google Play store, and instantly reach a global market with trusted users. Under the DMA's new rules, many challenges to the previous status quo have arisen:

- **Weak Market Controls:** Some new app stores attempting to capitalize on opportunities created by DMA 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.

- **Lower User Trust:** One of the benefits of today's major app stores for SMEs is the built-in user trust they have generated through years of curation and quality enforcement. 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 disproportionately harms SMEs and startups without established brands, making it more difficult for them to reach potential customers.

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

- **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 specialized compliance expertise.

- **Fragmented Messaging:** 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.

- **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.

- **Slow Arrival of New Features and Technologies:** 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.

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, the United Kingdom, and even some legislative proposals in the United States. As DMA spreads beyond Europe, the problems for small app developers outlined above will be compounded.

Conclusion

App Association members believe in and are well familiar with the power of competition to incent better and more innovative products, services, and technology. One year 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. At this milestone, the App Association urges policymakers in the EU and around the world to assess the policy's effectiveness in achieving better outcomes for SMEs and consumers before continuing down the path set forth by DMA.