

Digital Markets Act Position paper

Key messages

- Schibsted welcomes the Commission's proposal and believes that it will contribute to a fairer and more competitive digital economy. The proposed obligations for digital gatekeepers will enable digital companies such as Schibsted to innovate, grow and develop new services for users in all our markets.
- We agree with the proposed approach to establish a combination of clear qualitative and quantitative criteria for defining gatekeepers, and stress the need to ensure obligations fully and exclusively target only those gatekeepers that cause the most harm to the digital market. To ensure legal certainty, it is important to be clear from the outset which companies will be designated as gatekeepers according to the Regulation.
- We support the proposal to specify specific, self-executing obligations (Art.5) which could allow remedies to be introduced quickly and efficiently, in particular the obligations related to greater transparency in online advertising (Art.5(g)).
- Some of the obligations in Article 6, such as the obligation to provide business users with their own customer data in Art.6.6(i), are of such importance for Schibsted's ability to develop our services that they should be moved to Article 5 for legal certainty and speedy implementation.
- We concur that enforcement of the Regulation should take place at the EU level and is clearly in the hands of the EU Commission. However, we see a risk that a lengthy designation process may lead to these rules not being applicable for a long time. We therefore support the use of interim measures (Art.22) for speedy adoption.

Background

[Schibsted](#) is a family of digital consumer brands based in the Nordics with world-class Scandinavian media houses, leading classified marketplaces and tech start-ups in the field of personal finance and collaborative economies. Schibsted constitutes an ecosystem of various brands that offer different products and services to users and customers. We utilize data across the ecosystem both to attract users and customers, develop and personalise our products and services as well as keep users and customers engaged.

Giant global digital platforms are at the heart of the economy, and some of them have become digital gatekeepers that – due to their size and scale – are able to set the rules in the market and act as private regulators of the relationship between businesses and their users. Consumers rely on the gatekeepers to access information and services, and businesses need them to access users and user data, to promote services and generally to operate more efficiently.

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Although these platforms are an essential part of the economy and can create great business opportunities, valuable innovation and useful choices for consumers, we experience unfair and uncompetitive practices in accessing data about our users on these

platforms and lack of transparency in the online advertising market that is crucial for our income generation.

We are therefore very supportive of the proposal for a Digital Markets Act and hope that negotiations will proceed swiftly to allow the Regulation to enter into force and deliver practical results as soon as possible.

Scope

We are of the opinion that the scope must be limited only to those digital players that are truly unavoidable trading partners for business users and their customers, present across vertically-integrated markets across a majority of EU Member States. These gatekeepers exercise a market power that gives them the ability to charge excessive intermediation/access fees and/or exhibit abusive negotiation power by, for example, imposing unfair conditions on their business users.

We agree with the proposed qualitative and quantitative criteria in the draft Regulation. Especially the fact that gatekeepers have a significant impact on the market and are unavoidable trading partners for businesses to reach their customers are important elements to consider. The criteria must be clear and future-proof to prevent gatekeepers from either circumventing them by company arrangements or unreasonably challenging or delaying the designation process.

We would support clarifications, for example, in the definition of “monthly active end users” in Art. 3.2.b and to clarify Article 3.2 (a) so that the undertaking needs to provide the same core platform service in at least three Member States.

We see significant risk of legal uncertainty in slow, lengthy designation procedures and delegated acts, and this is a concern widely reflected by companies operating in the digital market. The process laid out in Articles 3.3-7 must not lead to a lengthy and overly-administrative process that will delay the implementation of the obligations in the Regulation.

Obligations for gatekeepers (Articles 5 and 6)

We have been calling for specific obligations on gatekeepers that are important to develop our digital services and to stay relevant with our users. In particular we have called for obligations that add predictability, fairness and transparency to the relationship between us as a business user and the gatekeepers, but also obligations that ensure that we can get access to our own customer data when our customers access our services via a gatekeeper platform.

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We are supportive of the proposed obligations in Article 5 and 6 and believe that these will help level the playing field in the digital market.

The inclusion of the obligations in the DMA are particularly important for the ability of companies like Schibsted to continue to grow and innovate:

- (Article 5 (a) - refrain from **combining personal data** sourced from these core platform services with personal data from any other services offered by the gatekeeper;
- (Article 5 (g) - **Transparency for advertisers and publishers about the pricing and remuneration in advertising** services provided by the gatekeeper);
- (Article 6.1 (a) - refrain from **using, in competition with business users, any data** not publicly available, which is generated through activities by those business users ;
- (Article 6.1 (d)) - refrain from **treating more favourably** in ranking services and products offered by gatekeepers itself ;
- (Article 6.1 (f) - allow business users and **providers of ancillary services** access to and interoperability with the same operating system;
- (Article 6.1 (g)) - **provide advertisers and publishers, upon their request and free of charge, with access to the performance measuring tools**
- (Article 6.1 (i)) - **provide business users, or third parties authorised by a business user, access and use of their user data ;**
- (Article 6.1 (k) - apply **fair and non-discriminatory general conditions** of access for business users to its software application store .

In particular, Article 6.1(i) is important for Schibsted as a digital news provider. We sell digital subscriptions through app stores and experience problems in accessing information about those purchasing the subscription. For example, Apple requires some of Schibsted's news media apps to exclusively implement Apple's payment system (IAP) for customers to purchase in-app subscriptions. Customers purchasing subscriptions through the iOS App Store become customers of Apple even though they are signing up to one of our services. As the news publisher, we are not able to establish a customer relationship and cannot offer relevant content to them, help them via our customer service or understand their preferences to innovate and develop our products and services.

It is of utmost importance to us that we have access to data so that we can offer the most relevant content to our customers. We therefore must have free access to our own customer data and be able to decide how to comply with legal obligations when it comes to the processing of our user data. We believe that gatekeepers should not take the role of regulators and dictate how we should comply with legal obligations.

It is also important that a gatekeeper that is active in multiple markets cannot use data generated on their platform to compete with other players in the same market. Well applied, Article 6.1(a) can tackle situations where a gatekeeper such as Google, because of its dominant position in search, maintains a lock on all kinds of data generated by publishers, advertisers and other intermediaries to maintain its dominant position across the broader digital advertising ecosystem. It can also prevent gatekeeper platforms tying separate

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products and services to their core platforms and favouring their own services to the detriment of competitors. For example, Facebook has artificially boosted its Facebook Marketplace classifieds service with unprecedented growth by leveraging its social network to drive ads and traffic to that service.

We also support greater transparency obligations in Articles 5(g) and 6.1(g) that aim to ensure publishers and advertisers have the possibility to understand market dynamics (such as pricing) and access performance measurement tools in the online advertising chain. Today, Google can lock the YouTube ad inventory into its own advertising network, thereby hindering the development of alternative advertising networks.

We therefore call on the EU institutions to maintain these obligations in the Regulation.

Given the vital importance of the obligations set out in Articles 6.1(a), (g) and (i), and to ensure they cannot be diluted or circumvented in the process of ‘regulatory dialogue’, we propose these provisions are inserted in Article 5.

Enforcement

To avoid regulatory fragmentation in the digital single market, we support enforcement of the DMA at the EU level and in the hands of the EU Commission. We stress the importance of the Commission setting aside enough resources to ensure efficient and speedy implementation.