



Leaseurope feedback to the Digital Markets Act

Leaseurope, the European Federation representing the leasing and automotive rental industries, fully supports the European Commission's aim to improve transparency and oversight of online platforms through the Digital Markets Act. We also support an ex-ante regulatory approach in the context of large online platforms, and believe this is a vital step in facilitating fair competition in the digital marketplace.

Duties and obligations of online platforms

We fully support the Commission's goal to clarify the obligations of platforms who take on a "gatekeeper" role, and the definition provided. Nonetheless, we do feel the current definition for when a platform will be regarded as a "gatekeeper" needs to be clarified (e.g. are users reached monthly counted as those navigating the platform or only those buying goods and services from it), and that the current classification could overlook platforms with significant power in certain industries (such as the car rental industry) since they do not have a large enough general reach to be considered a "gatekeeper", despite their significant power within an individual industry. Essentially, we feel a platform has the potential to have a gatekeeper type of role within a certain industry without meeting the criteria and metrics used to define them as such under the current Digital Markets Act proposal, and that this possibility should be addressed, possibly through broadening the scope of which entities meet the criteria to be defined as a "gatekeeper" or setting a second tier of obligations for players with a significant market power.

By way of example, potential new types of gatekeepers, such as original equipment manufacturers, would not qualify as such according to the current threshold which is quite high, thereby avoiding being regulated by the DMA.

A similar situation would occur for all sort of connected assets the leasing industry is managing, in which gatekeepers offer their services to business users, behaving *de facto* as online platforms. We believe that these kind of use cases need to be addressed.

The lack of a level playing field is leading to monopolies and in many respects the current DMA proposal is not future proof.

Use of data, increased data sharing and data portability

Leaseurope also supports the measures contained in the Digital Markets Act aimed at regulating how user data is used, since this often works to bolster the already advantageous

position of gatekeepers, who typically have access to a much larger pool of user data than their competitors. We welcome measures set in Article 6 to ensure this situation is avoided, such as obligations, and the ability to safely transfer data in real time. We agree that this would not only enhance competition, but would also enable users to fully exercise their right to data portability, in line with Article 20 of the GDPR. It is crucial that consumers are able to control their data and are not locked into services.

Nowadays data access costs are increasing for business users and no level playing field is ensured. In particular, the current way in which a car collects data and acts as a platform occurs in two ways:

1. Collection of data happens via the connected car service platform in which the OEM acts as a gatekeeper. The OEM has full control on how to regulate this platform, data mass, frequency, etc. The DMA needs to tackle such use cases, whereas the current Art 3 is rather weak in its ability to designate OEMs as gatekeepers, as the criteria to be met are too high for now (in terms of turnover).
2. Platform for digital services – because the car has its own operating system, it serves itself as an online platform. Many cars use already existing operating systems (Google, Android, Nvidia), but regardless of whether a software is proprietary or not, the DMA should apply to such situations.

We are particularly supportive of paragraphs (b) and (c) of Article 6 regarding the possibility to allow end users to un-install any pre-installed software applications on its core platform and the possibility to allow the installation and effective use of third-party software applications.

Article 6 paragraph (k) is indeed very relevant since cars are becoming more and more connected and app stores for vehicles are likely to become increasingly popular. Therefore, it should be ensured that such environments are transparent and non-discriminatory

Moreover, clarity is needed in relation to interoperability since provisions in Article 6 paragraph (f) only refer to interoperability with systems used by gatekeeper of ancillary services.