



**Computer & Communications Industry Association (CCIA)
Oral Intervention for the European Parliament CULT-Committee
Hearings on the Proposed Digital Markets Act (DMA)
17 May 2021**

**Intervention of Kayvan Hazemi-Jebelli (Competition & Regulatory Counsel).
Brussels, Belgium. 17 March 2020.**

Thank you MEP Kammerevert and colleagues for inviting the Computer & Communications Industry Association to speak today. Our association represents a wide range of European and international technology companies that will be affected by the rules of the proposed DMA. We have been fighting for nearly 50 years for fair digital markets where all players have a chance to succeed on the merits and we are grateful for this opportunity to exchange with the distinguished experts you have assembled today.

We hope the Parliament will improve the DMA proposal, by making it more flexible and effects-based in order to preserve value creation, growth and the competitiveness of Europe's digital economy.

I will very briefly summarise [our 2-page written submission](#) and then expand on how the DMA could harm the wider technology industry in Europe.

First, digital technologies are rapidly changing the media landscape. They have empowered creators by removing gatekeepers. Today, thanks to technology lowering entry barriers, creators only need 1000 true fans to make a business. This has caused a cambrian explosion of content creation that has been difficult for legacy media companies to compete with.

Speaking personally, my nephews are spending less and less time on traditional media and more time watching the content of individual creators on digital platforms. Entire channels dedicated to watching other people play videogames. I don't get it, but that's what's happening.

This trend continues. Emerging platforms are winning market share from incumbent platforms by focusing even more on empowering creators. There have already emerged entirely new technologies and platforms to support this creator economy and the infrastructure of what is called Internet 3.0.

The European Union needs a flexible enforcement tool that can work in these dynamically changing markets. The DMA as proposed, isn't a flexible tool, it applies 18 rules to platforms,

regardless of the services they actually provide or the markets where they are active, and regardless of the effects they will have.

Based on remedies from existing antitrust complaints, the DMA only serves to resolve disputes between billion dollar companies who have long been unable to resolve their own.

This won't be the end of such disputes, if anything it would only encourage more lobbying in the future.

There is a risk that these inflexible ex-ante rules set in legislation will break more things than they fix. **That is why we hope the EP will improve the DMA proposal, by making it more flexible and effects-based in order to preserve value creation and growth in Europe's digital economy.**

Last, I'd like to expand on how the DMA will impact the wider technology industry. Specifically, I hope the Parliament considers the impact on non-gatekeeper companies, the impact on consumers, on the business users who aren't involved in these giant competition cases, and on other technology players who need a fair market where they have a chance to succeed on the merits.

We often hear that our industry has nothing to worry about because the DMA will only affect GAFAM, that it is only a complement to the already extensive antitrust enforcement against big tech. But as a competition lawyer and a computer scientist there are three things that trouble me about this.

- One, **nobody knows what the actual economic impact will be.** The Commission's Impact Assessment does not look at the effects of the obligations, it is based on assumptions.
- Two, breaking big tech's tools and services in Europe will harm all the other players who use them. **It will make European companies less competitive, especially the smaller ones.**
- Three, **all the smaller platforms that use the same strategies to grow will be discouraged from doing so.** Prohibiting this conduct as "unfair" without looking at the effects raises lots of questions. For example, how can investors think about investing in European platforms when they know that they face this much liability on their business models and technical designs if they are successful? If these business decisions are "unfair" and illegal, will this discourage scale-ups and emerging gatekeepers from deploying them in Europe to grow? Will smaller companies risk liability under private litigation or national enforcement if they use strategies based on conduct prohibited by the DMA?

Given these and other questions, we think Europe's digital sovereignty is best served by encouraging the growth of strong digital platforms here in Europe, not by writing laws that say their business models and product design decisions are unfair regardless of their effect.

We therefore hope the EP will improve the DMA proposal, by making it more flexible and effects-based in order to preserve value creation and growth in Europe's digital economy.

Thank you.