



## Computer & Communications Industry Association (CCIA) Submission for the European Parliament CULT-Committee Hearings on the Proposed Digital Markets Act (DMA) 14 May 2021

**CCIA was founded in 1972 to promote open markets, open systems, and open networks.** Since that time, technology companies around the world have created tremendous value by democratising access to digital tools and services, stimulating innovation and competition in ossified industries, and in particular, opening up media markets to millions of diverse content creators. Ensuring that everyone benefits from these and future digitally-enabled opportunities is core to CCIA's mission.

**Media creation, distribution and consumption is changing significantly.** Digital services have already made unlimited content available anywhere, at any time, on any device. Increasingly, citizens demand new forms of consumption incorporating interactivity, participation, engagement, recreation, remixing and reinvention. New technologies are facilitating this growing "creator economy",<sup>1</sup> made up of over 50 million independent content creators, curators, and community builders.<sup>2</sup> New digital tools remove gatekeepers and middlemen, helping audiences compensate creators directly for their work.<sup>3</sup> Patreon, one such digital service, estimates that creators from all over the world will be earning at least \$1 billion a year directly from their customers.<sup>4</sup> Another popular platform is Substack, which gives writers and journalists creative, editorial and financial freedom and control over their work through its digital distribution and infrastructure services. Its top 10 authors already collectively earn over \$7 million in annualised revenue.<sup>5</sup>

**Most traditional media companies are adapting successfully.** Studies confirm there is almost no evidence of the internet decreasing content creation or the size of any aspect of the content creation industry.<sup>6</sup> In fact, the opposite is happening. In Europe, the number of EU video content production businesses has increased, and employment in the EU video content sector has been growing.<sup>7</sup> The revenues of record labels and collecting societies continue to grow as well.<sup>8</sup>

**Europe's wider digital economy is growing quickly as well.** There are over 10,000 European digital platforms, and currently 208 billion-dollar European tech companies, with 13 new

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<sup>1</sup> Influencer Marketing Hub "The State of the Creator Economy (2021)" (May 2021), available [here](#).

<sup>2</sup> SignalFire "Creator Economy Market Map" (September 2020), available [here](#). The influencer marketing industry alone is set to grow to approximately \$13.8 Billion in 2021. Influencer Marketing Hub "The State of Influencer Marketing 2021: Benchmark Report" (February 2021) available [here](#).

<sup>3</sup> Andreessen Horowitz "The Passion Economy and the Future of Work" (October 2019), available [here](#).

<sup>4</sup> Patreon "Create on Your Terms with Your Community" (September 2020), available [here](#).

<sup>5</sup> Axios "Pandemic spurs journalists to go it alone via email" (September 2020), available [here](#).

<sup>6</sup> See e.g. Copia Institute and CCIA "The Sky is Rising" (2019), available [here](#).

<sup>7</sup> NERA "The Impact of Online Video Distribution on the Global Market for Digital Content" (2019), available [here](#).

<sup>8</sup> CCIA "Value Gap or Growth? How Digital Music Boosts Music Industry Growth" (December 2019), available [here](#).

venture-capital backed tech companies joining the European unicorn club in 2020 alone.<sup>9</sup> Hopin became the fastest ever European tech company to hit \$1 billion+ valuation, reaching \$2.1 billion only 17 months after its founding. These companies all rely upon robust technological ecosystems. Some are complementors, adding value to existing ecosystems. Others use the tools and infrastructure of existing incumbents to serve a particular niche, aspiring to grow their own ecosystems. They will succeed by attracting investment capital, acquiring the best human talent, minimising costs, and dynamically adapting in the evolving global environment.

**A flexible and effects-based DMA is necessary to preserve value creation and growth in Europe's digital economy.**<sup>10</sup> The European Commission's Impact Assessment for the DMA fails to adequately consider the effect it will have on Europe's economy.<sup>11</sup> There is an extensive record of evidence that the practices prohibited by the DMA contribute to value creation both offline and online.<sup>12</sup> Instead of trying to ensure fair economic outcomes through regulation that ignores foreseeable harms, the DMA should focus on ensuring effective competition in digital markets.<sup>13</sup> That means more effectively prohibiting practices that are harmful in context while maintaining the benefits to society of practices that are not. Europe's history of enforcement of both competition laws and ex ante regulation confirm that the best remedies are adapted to market circumstances, with the insight and participation of industry, and an eye towards future innovation and market growth. In dynamically competitive markets, CCIA submits that "the balance between over- and under-enforcement does not lead us away from a thorough effects analysis."<sup>14</sup>

While its stated objective is to create "contestable and fair markets in the digital sector", the provisions of the DMA as proposed would in fact grant the European Commission broad discretionary power to pick-and-choose from a variety of competing policy objectives.<sup>15</sup> It is for the co-legislators now to decide. Should the objective be to break the tools and services that have enabled this value creation? Create a safe-space for European technology rivals? Protect slow-to-adapt offline businesses and rivals? Or instead, should the DMA help platforms unlock their full potential by addressing at EU level concerns around harmful platform conduct? **CCIA supports the latter, and offers its suggestions to help make a European regulation fit for the digital era.**<sup>16</sup>

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<sup>9</sup> Atomico "State of European Tech 2020" (December 2020), available [here](#).

<sup>10</sup> CCIA "Preserving Dynamic Competition with the Digital Markets Act" (November 2020), available [here](#).

<sup>11</sup> Berkeley Research Group "Is the Proposed Digital Markets Act the Cure for Europe's Platform Ills? Evidence from the European Commission's Impact Assessment" (April 2021), available [here](#).

<sup>12</sup> OXERA "How platforms create value for their users: implications for the Digital Markets Act" (May 2021), available [here](#).

<sup>13</sup> M. Vestager "Fair markets in a digital world" (9 March 2018), available [here](#) ("So we don't need to replace the whole system of rules that lawyers and economists have developed over two generations. We don't need a new rule of fairness in our system. Because fair markets are just what competition is about.")

<sup>14</sup> J. Laitenberger "The Antitrust Journey" (29 June 2019), available [here](#) (Director-General of the Directorate-General for Competition, 2015-2019; Judge at the General Court since 26 September 2019).

<sup>15</sup> P. Colomo "The Draft Digital Markets Act: A Legal and Institutional Analysis" (March 2021), available [here](#), pg. 35 ("the Draft DMA minimises the constraints placed on the Commission when defining the scope of the regulation and the obligations to which gatekeepers would be subject. One should note, however, that effective judicial review demands that administrative action be subject to meaningful limits.")

<sup>16</sup> CCIA "CCIA Recommendations for Achieving an Effective and Proportionate Digital Markets Act" (March 2021), available [here](#).