

Contribution to the European Commission's consultation on the first review of the Digital Markets Act (DMA)

Arcep – September 2025

The entry into application of the Digital Markets Act (DMA)¹ represents a major step forward in limiting the market power of the most structuring platforms (the “gatekeepers”) and in prohibiting practices that are detrimental to the development of a competitive, open and fair digital ecosystem. Arcep welcomes the European Commission's active enforcement of this regulation, notably with the opening of several investigations, some of which have already resulted in findings of non-compliance and fines. However, given the developments that characterise digital markets, the technological ones in particular, the regulatory intervention must now adapt to new challenges. Arcep has been actively involved in defining and implementing regulations targeting the most influential digital platforms.

Arcep contributes – via BEREC² – to the DMA High Level Group, co-leads BEREC's opinions to the European Commission on the implementation of instant messaging interoperability under the DMA, and regulates cloud services and data intermediaries at the national level. Arcep's contribution to the European Commission's consultation³ is based both on discussions that the Authority has had with stakeholders and on the expertise that it has developed in the course of its regulatory action. It therefore focuses on cloud services, artificial intelligence (hereafter, ‘AI’), instant messaging services, as well as regulatory monitoring and cooperation with national authorities and European networks.

All the proposals made by Arcep in this response can be implemented without legislative procedure, i.e. through the adoption of delegated acts⁴.

1 Designating major cloud service providers as gatekeepers and imposing obligations aimed at increasing contestability and fairness in the cloud market and in adjacent markets

As early as 2020, the European data strategy⁵ identified the regulation of the cloud sector as a major factor to promote the emergence of a data-driven economy. The high concentration of the market and user lock-in (notably due to poor interoperability and limited data portability), as well as the low

¹ Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act).

² The Body of European Regulators for Electronic Communications.

³ Consultation on the first review of the Digital Markets Act (launched on 3 July 2025), https://digital-markets-act.ec.europa.eu/consultation-first-review-digital-markets-act_en

⁴ According to Article 12 DMA, the Commission is empowered to adopt delegated acts to supplement the DMA with regard to the obligations laid down in Articles 5 and 6 (e.g. to extend an obligation that applies only in relation to certain core platform services, to other core platform services).

⁵ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, “A European strategy for data”, 19 February 2020.

market share of European cloud service providers and the risks associated with the European Union's dependence on non-European providers, are mentioned as the main issues to be tackled.⁶ The Data Act⁷, which came into force on 12 September 2025, aims to remove a number of barriers to switching cloud service providers and to using multiple providers simultaneously – whether they are contractual, technical or price-related.

Within the national legislative framework of the French SREN law⁸ and in anticipation of the Data Act, Arcep has conducted several consultations with the stakeholders, in particular with cloud service providers and users.⁹ The consultations revealed that, although the Data Act can address a number of identified issues, other competition problems, stemming in particular from structural market features (significant fixed costs, economies of scale, vertical integration, etc.) and the dependence of other adjacent markets (e.g. the AI model market¹⁰ and software markets), require a regulatory intervention targeting a limited number of particularly powerful players. The DMA, which aims “to ensure that markets where gatekeepers are present are and remain contestable and fair”,¹¹ can be an appropriate regulatory tool.

Cloud services are already included among the core platform services (CPSs) listed in the DMA, as they present features such as strong network effects, a significant degree of dependence on their services of both business users and end users, lock-in effects, vertical integration and data driven-advantages.¹² However, despite the high concentration of the cloud markets around very few dominant players, known as ‘hyperscalers’ (Microsoft, Amazon and Google), no cloud service provider has been designated as a gatekeeper yet.

1.1 Contestability of the cloud market

During the consultations conducted by Arcep, criticism was levelled at the practices of some vertically integrated players, who are said to be exploiting their market power over their widely-used software, in order to promote their own cloud offerings. These players, which are the long-standing suppliers of software which is essential to many businesses (such as office suites), also offer their own cloud platforms on the IaaS and PaaS layers.

For many businesses that use this software, being able to continue using it on the cloud of their choice is a key factor when choosing their supplier. However, while it is easy to continue using this software in SaaS (Software-as-a-Service) on the cloud of the same vertically integrated provider, alternative cloud providers may not be able to obtain a licence agreement to offer this software to their customers

⁶ The DMA impact assessment, which identified cloud services as core platform services, also highlighted these issues. It states for instance that “the vertical integration of the large cloud services providers and the business model they deploy has contributed to further concentration on the market, where it is very difficult for other less-integrated players, or market actors operating in just one market segment to compete”. See Commission Staff Working Document – Impact Assessment Report accompanying the document proposal for a DMA, 15 December 2020.

⁷ Regulation (EU) 2023/2854 of the European Parliament and of the Council of 13 December 2023 on harmonised rules on fair access to and use of data and amending Regulation (EU) 2017/2394 and Directive (EU) 2020/1828 (Data Act).

⁸ French Law n° 2024-449 on safeguarding and regulating cyberspace (SREN).

⁹ Arcep, « [Régulation des services d’informatique en nuage \(cloud\) : Faciliter le changement de fournisseurs de services cloud et la mise en œuvre d’architectures multi-cloud grâce à un nouvel encadrement tarifaire et technique](#) » (in French), public consultation held from 14 October to 16 December 2024 ; « [Projet de recommandation relative à l’interopérabilité et à la portabilité des services d’informatique en nuage \(cloud\)](#) » (in French), public consultation held from 17 June to 18 July 2025.

¹⁰ And in particular the market for AI foundation models.

¹¹ Recital (11) DMA.

¹² Recital (2) DMA.

and would therefore face disadvantages due to the unavailability of this software on their cloud platforms. Furthermore, even for cloud providers that have entered into such an agreement, their customers would face significantly higher fees for using this software than those applied to customers of the vertically integrated provider's cloud platform.¹³ These licensing practices could significantly reduce the contestability of the cloud market: for long-standing users of this software, changing cloud providers at the IaaS and PaaS layers would entail either extra costs due to additional licensing fees, or even the unavailability of certain key software.

It should be noted that such practices were also highlighted by the Competition and Markets Authority's (CMA) investigation into the cloud services market conducted in the United Kingdom between October 2023 and July 2025.¹⁴ In principle, the British market does not present any particular specificity compared to the European market in this respect.

Thus, an investigation into the cloud market – to be conducted under Article 17 of the DMA – may be relevant in order to examine the possibility of designating vertically integrated players offering both software (in SaaS mode) which is essential for businesses, and cloud platforms on the IaaS and PaaS layers. If the investigation were to result in a designation, an extension of the scope of Article 6(12) of the DMA to cloud services (including SaaS) could be considered in order to allow alternative providers to operate this software in SaaS mode on their own cloud platforms under fair, reasonable and non-discriminatory conditions.

Therefore, Arcep invites the European Commission to:

- **Conduct a market investigation under Article 17¹⁵** to assess whether vertically integrated hyperscalers, offering both software (in SaaS mode) essential for businesses and cloud platforms on the IaaS and PaaS layers, should be designated as gatekeepers providing the CPS of cloud computing services (including SaaS).

Following the potential designation, Arcep proposes to:

- **Examine the possibility of extending the scope of Article 6(12) to cloud computing services (including SaaS)**

1.2 Fairness in adjacent markets

As mentioned above, beyond the cloud market, some practices of the largest cloud service providers may also have an impact on other markets, services and technologies that are heavily dependent on the cloud services, such as AI.

A number of partnerships have been established between AI developers and cloud providers to facilitate access to the computing capacity needed to train and use AI models. However, already-dominant cloud providers could use these partnerships to leverage their position on the AI market. The 2025 investigation by the US Federal Trade Commission suggests that cloud providers have access to a substantial amount of diverse data from partner AI developers, such as training data, performance data, financial data on models, as well as certain assets protected by intellectual property rights.¹⁶ Such

¹³ CISPE, « [Unfair Software Licensing Practices](#) », 21 June 2023 ; Competition and Markets Authority, « [Cloud infrastructure services: Final decision report](#) », 31 July 2025 (especially Appendixes [S](#) and [T](#)).

¹⁴ Competition and Markets Authority, « [Cloud infrastructure services: Final decision report](#) », 31 July 2025.

¹⁵ According to Article 17, the Commission can conduct a market investigation for the purpose of examining whether an undertaking providing core platform services should be designated as a gatekeeper pursuant to Article 3(8) and shall endeavour to conclude it within 12 months.

¹⁶ Federal Trade Commission, « [Partnerships Between Cloud Service Providers and AI Developers](#) », January 2025.

data and information greatly facilitate the ability of these cloud providers to develop their own AI models, thus enabling them to compete unfairly with AI developers.

Like AI services, most digital services today are developed as SaaS, relying on the flexible and scalable computing resources provided by cloud platforms, particularly those of the hyperscalers. Through their cloud platforms, hyperscalers can thus access large amounts of data from business users, allowing them to easily position themselves in new markets (such as AI), to the detriment of their own customers or of other competitors.

Article 6(2) of the DMA, which prevents gatekeepers from using, “*in competition with business users, any data that is not publicly available that is generated or provided by those business users in the context of their use of the relevant core platform services*”, may limit the market power of hyperscalers in adjacent markets, provided that they are designated as gatekeepers. Given the central role of cloud services in the development of digital services, this designation appears necessary to ensure fair competition in digital markets.

Therefore, Arcep invites the European Commission to:

- **Conduct a market investigation** under Article 17 to assess whether hyperscalers should be designated as gatekeepers in relation to their cloud platforms.
- **Ensure the proper application of Article 6(2)** to the newly designated gatekeepers providing cloud services.

2 The DMA enforcement must take into account the integration between CPSs and AI services¹⁷

Like cloud services, other CPSs are crucial for building and delivering digital services, including AI. Their role is all the more important with the emergence of agentic AI. AI agents are generative models (particularly reasoning models) which are combined with other digital tools and services that enable them to perform actions autonomously in order to achieve a specific goal. These digital services used by AI agents may be CPSs that are already designated under the DMA. For example, search engines integrated into conversational models enable them to browse the web in real time; AI integrated into operating systems enables the coordination of tasks among different applications installed on the device, thereby streamlining the user experience; other services such as web browsers and instant messaging services now also incorporate AI.¹⁸

The integration between AI models and other digital services, such as operating systems or search engines, strengthens the market power of vertically integrated gatekeepers and increases the risk of practices such as tying or self-preferencing. These practices may further restrict competition both in markets for AI-integrating services and more generally in the market for AI models.

The DMA, which was designed in particular to address these issues, can be a relevant regulatory tool in this regard.

¹⁷ In order to ensure effective competition within the services covered by the DMA and in the AI market, Arcep considers that an effective enforcement of the DMA obligations, taking into account the integration conditions between CPSs and AI services, must be a priority. In the longer term, agentic AI has the potential to become a new gateway to online content and services (see De La Raudière, L., “[Pour un développement de l’IA au service du bien commun](#)”, Annales des Mines, No. 29, 2025), and it may be appropriate – depending on market developments and industry practices – to designate AI services as CPSs.

¹⁸ See Section 3.

2.1 The tying of CPSs and AI services

Some gatekeepers are also developing their own AI services and may be tempted to integrate them in a privileged or even exclusive manner into their CPSs, such as operating systems, search engines or instant messaging services.

The tied provision of these core platform services with the gatekeepers' AI services not only restricts users' freedom to choose the models that suit them, but also gives these vertically integrated players an advantage over third-party AI developers in their ability to reach end users. Some obligations under the DMA may therefore be adapted to allow users to freely choose alternative AI services to those of the gatekeeper in cases of tying. For example, Article 6(3) already allows end users to change the default settings of specific CPSs (operating systems, web browsers and virtual assistants) that direct or steer end users towards other products or services of the gatekeeper, such as a search engine. Article 6(7) allows alternative developers to become interoperable with the gatekeeper's operating systems and virtual assistants in order to offer their services to end users and thus technically enable the emergence of a diversity of choice for users. In addition, Article 5(7) prevents gatekeepers from requiring business or end users to use an identification service, a web browser or a payment service of that gatekeeper in the context of services provided by the business users using that gatekeeper's CPSs.

In addition to their current scope, the extension of these articles to instant messaging services (see Section 3), search engines and cloud services (particularly SaaS) could be assessed in order to (i) avoid the by-default, or even exclusive, integration of AI services, as it is currently the case e.g. with Microsoft Copilot and Microsoft 365, or with Meta AI and WhatsApp; and (ii) enable, through vertical interoperability, the provision of AI services by alternative players.

Therefore, Arcep proposes to **examine the possibility of extending the scope of:**

- **Article 6(3) to cloud computing services (including SaaS), search engines and instant messaging services** (see Section 3), and to consider adding AI services to the list of services to which end users should no longer be directed or steered to by default.
- **Article 6(7) to search engines, cloud computing services (including SaaS) and instant messaging services** (see Section 3).
- **Article 5(7) to AI services.**

2.2 Conditions of access by AI agents to CPSs

Conversely, some CPSs, particularly search engines and some intermediation services (such as mapping and navigation services), have gradually been integrated into conversational AI models. Some AI agents can now access the search engine they have been equipped with in order to respond to user queries. Other models can also access a mapping and navigation service to locate places and provide directions. Access to these services significantly reduces the risk of model hallucination¹⁹ when the user's query relates to knowledge that is not contained in the training data.

By relying on CPSs, agentic AI further strengthens the gatekeepers' market power. Indeed, since they provide both their own AI models and the tools that these models access to respond to a query, these vertically integrated players control, and can therefore restrict, the conditions of access for AI agents provided by third parties.

¹⁹ In the field of AI, the term hallucination refers to an output generated by an AI model that contains false, misleading or invented information presented as plausible or correct.

In order to allow third-party AI agents to access these digital tools and services on fair, reasonable and non-discriminatory terms, an extension of the scope of Article 6(12) could be considered.

Therefore, Arcep proposes to:

- **Examine the possibility of extending the scope of Article 6(12) to intermediation services** (and in particular digital mapping and navigation services).
- In the application of Article 6(12), take the conditions of access to these services by business users for the purpose of developing AI agents into account.

3 Measures to encourage the interoperability of instant messaging services and to limit the conglomerate effects of vertically integrated players

Instant messaging services are now one of the main means of communication between users. The DMA already imposes obligations on such services provided by Meta (WhatsApp and Messenger).

3.1 Horizontal interoperability

Under Article 7 DMA, the gatekeeper Meta must make the basic functionalities of its services WhatsApp and Messenger interoperable with those of competitors who request it. BEREC has issued three opinions to the European Commission on the implementation of this obligation.²⁰

However, at the time of writing, no competitor has made itself interoperable with Meta's services.²¹ While some smaller players have shown interest in taking up this obligation, some specificities of the DMA may partly explain this reluctance. These include, in particular, (i) the limitation of interoperability to communications between end users only. Indeed, the lack of interoperability for business-to-consumer (B2C) services could represent a real obstacle to the take-up of the DMA provisions by competitors, as B2C services often play a crucial role in a third party's ability to monetise the implementation of interoperability with a gatekeeper; (ii) the lack of multi-device options;²² or (iii) a degraded user experience compared to communications between Meta users.

Therefore, Arcep proposes:

- After discussions with the stakeholders on the potential relevance of this proposal, **to examine the possibility of extending the scope of Article 7 to communications between users in the broad sense** (i.e. including B2C services).
- Continuing cooperation between the European Commission and BEREC in assessing the gatekeeper's reference offers²³ to ensure that the list of features to be made interoperable reflects market developments and user expectations. Under Article 12(3), the Commission could adopt delegated acts to amend, where necessary, the basic functionalities listed in Article 7(2).

²⁰ Article 7 DMA. Opinions are available here: https://www.berec.europa.eu/en/all-topics/ni-ics-interoperability?language_content_entity=en

²¹ It should be noted, however, that these provisions have only been applicable since March 2024 and that more time may be needed for horizontal interoperability of instant messaging services to be implemented.

²² The ability to synchronise conversations between multiple devices (e.g. smartphone, tablet and computer) is a common feature which is offered by many instant messaging service providers, but not explicitly required by Article 7.

²³ Recital (64) DMA.

3.2 The evolution of instant messaging services

In recent years, instant messaging services have also introduced a variety of features aimed at business and end users, including targeted advertising, conversational tools (based on AI, see Section 2), and payment and content distribution services. Some of these services have been integrated into instant messaging services without users being able to freely express their choice (e.g. Meta AI).

Thanks to an increasingly rich offering of integrated services, users rely less on services offered by third parties (e.g. online search), and instant messaging services are becoming essential intermediaries between business users and end users.

This lack of freedom of choice for users has the potential to make them captive, to strengthen the dominant position of integrated players in the instant messaging market, and to allow them to leverage their market power into other markets (e.g. via the by-default integration of their AI services). Therefore, Arcep proposes to **explore the possibility of extending the scope of:**

- **Article 6(3) to instant messaging services, search engines and cloud computing services** (see Section 2)
- **Article 6(7) to instant messaging services, search engines and cloud computing services** (see Section 2)

Moreover, it will also be necessary to:

- Continue to monitor the market and to assess the relevance of designating other instant messaging service providers that represent a major access point between business users and end users.

4 The European Commission could set up a mechanism for monitoring market evolutions and rely more on national authorities and European networks

The European level is the most appropriate for enforcing the DMA, and the DMA High Level Group is a suitable forum for assisting the Commission in implementing this regulation.

However, given the challenges and the ambitions of the DMA, it would be relevant **to introduce some mechanisms to ensure that gatekeepers comply with the obligations and to monitor both the effects of the regulation and market developments.**

Indeed, the collection of objective, structured and easily comparable data contributes to the successful implementation of an ex ante intervention. Such data could, for instance, concern traffic and usage of gatekeepers' services and their specific functionalities,²⁴ price levels and commission rates, etc. Such data would also allow to measure the effects of regulation and to adapt it if necessary. It could be collected from gatekeepers, business users and end users (e.g. through crowdsourcing), or more generally from other market players.

Under Article 21 DMA, the European Commission can already request "*all necessary information*" from undertakings, but the text does not currently provide for systematic data collection for monitoring purposes. The DMA would benefit from being supplemented by a provision such as that provided for

²⁴ For instance, the chat functionalities of an online social networking service.

in the Digital Services Act (DSA),²⁵ which requires regulated players to give access to national regulators, the European Commission and approved researchers, to the data necessary to monitor and assess compliance with the regulation.

In order to facilitate the data collection, the European Commission could benefit further from the expertise of national authorities and European networks who are competent in digital matters. Thanks to their proximity to national undertakings (including SMEs) and end users, willing national authorities could make a useful contribution to data collection and to monitoring compliance with obligations and their effects on the markets.

Beyond data collection, European networks, and in particular BEREC, have already contributed to the harmonisation of indicators and collection approaches at supranational level. The DMA High Level Group would provide an appropriate forum for further harmonisation between European networks.

In addition, under the guidance of the Commission, national authorities and their European networks could contribute more – thanks to the information they collect and their exchanges with national stakeholders – to monitoring the use of services covered by the DMA or the gatekeepers' practices. This would enable them to report to the Commission any situations that could restrict the implementation of the DMA or limit its effects.

²⁵ See Article 40 DSA: *“Providers of very large online platforms or of very large online search engines shall provide the Digital Services Coordinator of establishment or the Commission, at their reasoned request and within a reasonable period specified in that request, access to data that are necessary to monitor and assess compliance with this Regulation”*.