

European Commission vs. BigTech : how does the DMA and DSA look like in practice?

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Back in the April 2024 edition of AGEFI Luxembourg, we presented two major new EU regulations: the Digital Services Act ("DSA"), primarily focused on a broader regulation of online intermediaries offering their services in the EU (such as illegal and harmful online activities and curb the spread of misinformation); and the Digital Markets Act ("DMA"), aiming more specifically to regulating the aforementioned gatekeepers in view to ensure a fair and competitive digital economy for all actors. Since then, the European Commission has not waited to make use of these new tools in its regulatory arsenal.

Regulatory fees - Not just sanctions

Article 43 of the DSA provides that the European Commission shall charge in-scope entities (i.e., providers of very large platforms ("VLOPs") and very large online search engines ("VLOSEs")) a supervisory fee to cover the estimated costs to be incurred by the Commission in the enforcement of the DSA. Further to a report from the European Commission to the European Parliament of March 2025 (COM/2025/150), these supervisory fees amounted to €58,2 million, including notably human resources of 81 full time employees. No recovery of such fees has been initiated as of that date.

As noted in the aforementioned report, there are currently five ongoing court proceedings initiated by major players against the amounts of such regulatory fees: "the provider of TikTok (Case T-58/24 relating to the supervisory fee charged in 2023 and Case T-88/25 relating to the supervisory fee charged in 2024), and to the provider of Google Maps, Google Play, Google Search, Google Shopping and YouTube (Case T-92/25 relating to the supervisory fee charged in 2024)".

The Facebook and Instagram case (Case T-55/24 relating to the supervisory fee charged in 2023 and Case T-89/25 relating to the supervisory fee charged in 2024)



resulted in a recent judgement of 10 September 2025 in favour of the claimants, criticising the methodology of the Commission as not taking correctly into account the number of average monthly active recipients of the claimants' services ("AMAR"). Whilst the supervisory fee of 2024 needed to be recalculated, the supervisory fee for 2023 is however validated.

No fines yet under the DSA, but multiple pending investigations

Article 74 of the DSA empowers the Commission to sanction VLOPs and VLOSEs "fines not exceeding 6 % of its total worldwide annual turnover in the preceding financial year where it finds that the provider, intentionally or negligently" breached the DSA.

The European Commission keeps a public database of the designated services under the DSA (available at <https://lc.cx/UScRzo>), which reveals 6 opened formal proceedings (Twitter/X in December 2023 on i.a. dissemination of illegal content; Facebook and Instagram in April 2024 on multiple points including visibility of political content and moderation of said content, in May 2024 on protecting minors; Temu on i.a. illegal products in October 2024; Tiktok regarding improper mitigation of risks on election integrity in December 2024; Pornhub, Stripchat, XNXX, and XVideos on protecting minors in May 2025) and 2 closed with accepted commitments (Tiktok on the Tiktok Lite Rewards programme in 2024; Aliexpress on illegal products in June 2025). The vast majority remain however at the stage of requests for information.

It should be noted that the European Commission takes notes or private litigation and complaints (by e.g., civil society organisations) in the scope of its investigations under the DSA. For instance, in June 2024, the European Commission took note of LinkedIn's decision to disable targeted advertising following the complaint made by EDRI to the European Commission on that topic.

In terms of legal proceedings, Zalando has seen its challenge on its designation under the DSA rejected by judgement of 3 September 2025 of the General Court of the EU. An appeal is currently pending before the Court of Justice. Amazon's similar challenge is still pending before the General Court, but was denied interim relief both before the General Court in September 2023 and the Court of Justice in March 2024.

EUR 700 million fines under the DMA

Article 30 of the DMA foresees administrative fines for non-compliance with the DMA could amount to up to 10% of the company's total annual worldwide turnover in case of a first offense and rise to 20% with additional corrective measures in case of repeat offenses. The European Commission again keeps a public database of its decisions rendered under the DMA as a sub-section of its database of competition law cases (available at: <https://lc.cx/G6igYg>).

No decisions accepting commitments have yet been made under the DSA. We can however note 10 decisions mainly relating to potential designation of services having been closed further to rebuttals from the investigated entities (such as Microsoft, Tiktok, Twitter/X's respective online advertising services).

As of writing, the European Commission nevertheless issued 2 administrative fines both announced in April 2025.

Apple was fined €500 million (DMA.100109) for failure of Apple's App Store to comply with the DMA provisions, mainly related to app developers being able to steer customers away from the official app

store and towards alternatives for downloading smartphone applications or making payments inside said applications.

It should be noted that Apple was also facing another investigation regarding their iOS operating system (DMA.100185) regarding i.a. the ability of end users to un-install any (pre-installed) applications. This investigation was however dropped in April 2025 noting that such changes have been made in iOS 18.2.

Meta was fined €200 million (DMA.100055) in relation to their 'Consent or Pay' advertising model, as it offers only a binary choice of using the service with ads or not accessing it, whereas the DMA foresees the middle ground of "offering a less personalised but equivalent alternative, and without making the use of the core platform service or certain functionalities thereof conditional upon the end user's consent" (recital 36).

In addition to the above fines, the European Commission also adopted mandatory measures to be complied with by Apple (DMA.100203 – regarding opening the features for connected physical devices to third parties, such as the graphical integration of AirPods within iOS).

3 other formal proceedings are currently ongoing (Google's regarding their search engine and app store, and Apple's business terms).

Key takeaways

The recent enforcement actions and hefty fines under the DMA highlight not only the EU's determination to regulate the digital market, but also the increasing convergence between competition law and regulatory frameworks like the DSA and DMA, whilst remaining distinct. This is demonstrated by the €2.95 billion fine imposed on Google by the Commission on abusive practices in online advertising, despite such topic being also covered by the above DSA and DMA decisions.

Amid growing political pressure notably from the Trump administration to temper such enforcement, and the Von der Leyen Commission's recent push for 'red-tape' reduction, these moves underscore not only their key role in shaping the digital space, but also the growing importance of competition law for any actor present in this space – both in terms of opportunities for competitors and risks for leading players in Europe.