



Brussels, 24 June 2021
CDO

EACB's Key Messages on the Digital Markets Act

The **European Association of Co-operative Banks** ([EACB](http://www.eacb.coop)) represents, promotes and defends the common interests of its 27 member institutions and of cooperative banks, with regard to banking as well as to co-operative legislation. Founded in 1970, today the EACB is a leading professional lobbying association in the European banking industry. Co-operative banks play a major role in the financial and economic system. They contribute widely to stability thanks to their anti-cyclical behaviour, they are driver of local and social growth with 2.800 locally operating banks and 51,500 outlets, they serve 209 million customers, mainly consumers, SMEs and communities. Europe's co-operative banks represent 84 million members and 713,000 employees and have an average market share in Europe of about 20%.

For further details, please visit www.eacb.coop

The voice of 2.800 local and retail banks, 84 million members, 209 million customers in EU

EACB AISBL – Secretariat • Rue de l'Industrie 26-38 • B-1040 Brussels

Tel: (+32 2) 230 11 24 • Fax (+32 2) 230 06 49 • Enterprise 0896.081.149 • lobbying register 4172526951-19
www.eacb.coop • e-mail : secretariat@eacb.coop



Introduction

Fair competition is key in the digital environment. As more economic activity moves online, the principle of "same activity, same risk, same rules" should be preserved, and a reform of competition enforcement is particularly important to this end. In this context, every company offering financial services should meet the same regulatory requirements, and no exception should be available to technology companies.

The European Association of Co-operative Banks therefore welcomes the European Commission's proposal contained in the Digital Markets Act (DMA). Such proposal should clearly target particularly large and internationally active platforms and should be properly applied and enforced in practice.

EACB's comments on the Digital Markets Act

➤ **Access to hardware and software features, including NFC functionalities**

For several years, BigTechs have been offering their own financial services. In doing so, they have restricted, by contractual and technical means, other providers from accessing their infrastructure.

This is the case, for example, with the offer of mobile payment methods with mobile phones using Near-Field Communication (NFC) and bundled devices.

- Payment apps must be capable to access the phone's NFC interface in order to initiate payments. Similarly, hardware (e.g., buttons for easy payment activation) or software functionalities (e.g., push notifications) must be accessible on fair terms and not restricted to other providers.
- Clarification is needed with regards to the fees of such an access. Especially for devices purchased by consumers, access to interfaces, hardware components and software functionality should be provided free of charge.

➤ **Scope of the proposal**

In the context of the proposal, it is also important to ensure that no regulatory caveats can be exploited by gatekeepers, for example by restructuring group structure, to avoid obligations. It will be important, notably, to ensure the reference to "undertakings" under Art. 3 will not detract from the definition of "providers of core platform services" for the purposes of assessing significant impacts on the internal market.

Finally, Art. 1(2) of the DMA does not properly define what is intended by "provision or offering of services". This could lead to reverse solicitation-based arrangements that should be avoided in



that they could prevent the Regulation from being applicable. To remedy this, we suggest insertion of a recital along the lines of Recital 8 and Art. 2(d) in the proposed Digital Services Act, specifying the conditions to prove a “substantial connection to the Union”.

Contact:

The EACB trusts that its comments will be taken into account.

For further information or questions on this paper, please contact:

- Ms Marieke van Berkel, Head of Department Retail Banking, Payments, Financial Markets (marieke.vanberkel@eacb.coop)
- Ms Chiara Dell’Oro, Senior Adviser for Digital Policies (chiara.delloro@eacb.coop)