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## **THE EUROPEAN UNION’S DIGITAL MARKETS ACT AND THE REGULATION OF TECH-OVER PROCESSES**

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### **ABSTRACT**

The rise of the digital economy has intensified market concentration within a few dominant technology ecosystems, a phenomenon described as “Tech-Over.” This study explores how the European Union’s Digital Markets Act (DMA) addresses the risks of such digital monopolization through ex-ante regulation. By designating “gatekeepers” and imposing obligations on data access, interoperability, self-preferencing, and acquisition transparency, the DMA introduces a preventive framework to ensure fairness and contestability in digital markets. The paper analyzes the legal, economic, and institutional structure of the DMA, its interaction with traditional competition law, and its practical implications for market dynamics, innovation, and consumer rights. Furthermore, it evaluates the potential adaptation of DMA principles to Uzbekistan’s evolving digital ecosystem, proposing regulatory mechanisms such as platform supervision, interoperability standards, and RegTech tools. The research concludes that proactive, technology-neutral regulation—anchored in openness and competition—is essential for sustaining innovation and preventing excessive digital concentration.

### **KEYWORDS**

Digital Markets Act (DMA); Tech-Over; gatekeepers; digital competition law; platform regulation; data portability; interoperability; self-preferencing; ex-ante regulation; RegTech; European Union; Uzbekistan; digital economy governance

## 1. Introduction

Over the past decade, the digital economy has transformed global markets, reshaping traditional competition paradigms. Platform-based business models—spanning search engines, social networks, mobile app stores, online intermediation services, operating systems, browsers, advertising technologies, and cloud infrastructures—have become dominant actors in the marketplace. Their extensive integration has led to growing market concentration and an increasing imbalance between large “gatekeeper” platforms and smaller market participants.

This process, often referred to as “**Tech-Over**”, represents the concentration of economic and informational power within a limited number of digital ecosystems. Through data aggregation, algorithmic control, and cross-platform integration, major technology companies can establish self-reinforcing network effects, effectively locking users and businesses into their ecosystems and reducing overall market contestability. In this environment, new entrants face significant entry barriers, consumer choice becomes limited, and innovation is channeled through selective ecosystems dominated by large technology firms.

Traditional **ex-post antitrust enforcement**—which reacts to proven abuses of dominance or collusive conduct—has proven too slow to address the fast-moving and self-perpetuating dynamics of digital markets. As a response, the **European Union (EU)** introduced a new regulatory instrument, the **Digital Markets Act (DMA)**, aimed at ensuring fairness and openness in the digital sector. Unlike classical competition law, the DMA establishes **ex-ante obligations** for “gatekeeper” platforms to prevent anti-competitive behaviors before they occur. It seeks to enhance interoperability, facilitate data portability, and prohibit unfair self-preferencing practices that distort competition.

This paper examines the legal, economic, and institutional design of the DMA as a mechanism to control Tech-Over phenomena, analyzes its effectiveness in curbing data-driven concentration, and explores its potential adaptation to developing digital economies—particularly Uzbekistan’s emerging platform environment.

### 1. The Concept of Tech-Over: Dynamics and Risks of Concentration

The term **Tech-Over** captures a multidimensional process of technological consolidation. Unlike traditional mergers or monopolies confined to a single market, Tech-Over manifests through **ecosystemic expansion**—where one platform integrates diverse services such as search, advertising, messaging, e-commerce, payments, and cloud computing. Each additional service reinforces the platform’s data advantage and user lock-in effect.

The main features of Tech-Over include:

- **Ecosystem Integration:** A dominant platform merges multiple complementary services under one interface, reinforcing dependency and reducing multi-homing.
- **Data Concentration:** Control over vast and diverse datasets enables platforms to refine algorithms, predict user behavior, and create non-replicable advantages.
- **Entry Barriers:** Smaller rivals face difficulty accessing comparable datasets or interoperability standards, limiting market entry.
- **Self-Preferencing:** Platforms promote their own services or products more prominently, disadvantaging competing offerings.
- **Lock-In Effects:** Users and business partners find it difficult or costly to migrate to competing platforms due to non-transferable data or incompatible systems.

Such structural and behavioral patterns pose challenges to **competition, consumer choice, and innovation**. Tech-Over creates markets where “the winner takes most,” entrenching digital monopolies that can influence not only economic outcomes but also information flows and consumer autonomy.

## **2. The Legal Rationale and Architecture of the Digital Markets Act**

The **Digital Markets Act (DMA)**—formally *Regulation (EU) 2022/1925 on Contestable and Fair Markets in the Digital Sector*—entered into force in November 2022. It complements traditional competition law by establishing **ex-ante obligations** designed to ensure contestability and fairness in digital markets. Whereas Articles 101–102 TFEU prohibit anti-competitive agreements

and abuses of dominance, the DMA proactively regulates specific conduct by **systemically important platforms**.

## 2.1 Gatekeeper Designation and Core Platform Services

The DMA identifies “**gatekeepers**” as companies providing **core platform services (CPS)** that occupy a structurally significant intermediary position between business users and end-consumers. These CPS include:

- Online intermediation services (e.g., marketplaces, app stores),
- Search engines,
- Social networking services,
- Video-sharing platforms,
- Number-independent interpersonal communication services,
- Operating systems,
- Web browsers,
- Virtual assistants, and
- Cloud computing services.

A company may be designated a gatekeeper if it:

1. Has a significant impact on the EU internal market, with an annual turnover of at least €7.5 billion in the EU or a market capitalization of €75 billion or more;
2. Provides core platform services to at least 45 million active monthly end-users and 10 000 active yearly business users in the EU; and
3. Holds an entrenched and durable position, or it is foreseeable to maintain such a position.

This framework recognizes that some platforms function as essential intermediaries—**digital bottlenecks**—that can shape the competitive conditions of entire markets.

## 2.2 The Logic of Ex-Ante Regulation

Unlike traditional antitrust, which reacts *after* a violation occurs, **ex-ante regulation** seeks to prevent foreseeable harms. The DMA thereby introduces a **predictive governance model**: platforms identified as gatekeepers must comply with predefined obligations, ensuring fair access, data sharing, and non-discrimination from the outset. This structure aims to preserve competition before markets become irreversibly concentrated—a direct response to the Tech-Over phenomenon.

### 3. Gatekeeper Obligations as Tools Against Tech-Over

The DMA imposes a series of conduct obligations and prohibitions that directly target Tech-Over mechanisms.

#### 3.1 Prohibition of Self-Preferencing

Gatekeepers are prohibited from ranking or displaying their own products or services more favorably than those of third parties within their platforms. For example, an app store cannot prioritize its proprietary applications, and a search engine cannot manipulate results to favor its affiliated services. This measure counters one of the core tactics of Tech-Over—**internal ecosystem bias**—and seeks to restore fairness in visibility and access.

#### 3.2 Data Access and Interoperability

Gatekeepers must allow business users to access data generated through their activities on the platform, subject to privacy protections. This promotes **data symmetry** and prevents dominant platforms from leveraging exclusive data advantages to foreclose competitors. Furthermore, interoperability obligations require gatekeepers to ensure that competing services—such as messaging apps or operating systems—can interact seamlessly, reducing lock-in effects.

#### 3.3 Data Portability and User Mobility

Users must be able to easily transfer their data to alternative platforms in a structured, commonly used format. Data portability enhances user autonomy, facilitates switching, and indirectly promotes competition by lowering switching costs.

#### 3.4 Transparency and Fair Contract Terms

Gatekeepers are required to maintain transparent and non-discriminatory terms for business users. They must refrain from imposing unfair conditions, discriminatory pricing, or hidden technical restrictions. These provisions aim to remove “**access tolls**” and promote equality among all market participants.

### **3.5 Notification of Acquisitions**

Although the DMA is not a merger control instrument, gatekeepers are obliged to inform the European Commission of any intended acquisitions in the digital sector, particularly those involving potential competitors or innovative start-ups. This **early-warning system** helps identify “killer acquisitions” before they eliminate emerging competition.

### **3.6 Enforcement and Sanctions**

Non-compliance with DMA obligations may result in fines of up to **10% of the gatekeeper’s global annual turnover**, or up to **20%** for repeated infringements. The Commission may also impose **structural remedies**, including divestitures or service unbundling, to ensure compliance. This robust sanctioning regime signals a decisive regulatory stance against Tech-Over consolidation.

## **4. Interaction Between the DMA and Traditional Competition Law**

The DMA does not replace EU competition law; rather, it **complements** it. While antitrust law focuses on individual cases of abuse (ex-post enforcement), the DMA establishes a preventive framework (ex-ante obligations) for systemic risks inherent in digital markets.

This dual model—**preventive and corrective**—creates a hybrid regulatory ecosystem:

1. **Preventive layer:** The DMA sets baseline obligations for identified gatekeepers, reducing the likelihood of anti-competitive behavior.
2. **Corrective layer:** Competition authorities can still pursue infringements of Articles 101–102 TFEU if gatekeepers engage in collusion or abuse beyond DMA obligations.

3. **Cooperative governance:** Coordination among regulators—including data protection authorities and consumer protection agencies—ensures policy coherence across sectors.

The hybrid model enhances both market predictability and enforcement flexibility, offering a more holistic response to the structural challenges of Tech-Over.

## **5. Practical Implications: DMA’s Impact on Market Structure and Innovation**

### **5.1 Enhancing Market Contestability**

The DMA’s transparency, interoperability, and data-sharing requirements are expected to reduce entry barriers and facilitate competition. Smaller firms and start-ups can now access platform interfaces and user bases previously dominated by a few incumbents. This **level-playing field** supports innovation diversity and consumer choice.

### **5.2 Balancing Innovation and Regulation**

Critics warn that imposing rigid obligations on large platforms might discourage innovation or slow integration of new technologies. However, proponents argue that unchecked concentration hampers long-term innovation by discouraging new entrants. Thus, the DMA seeks to strike a balance—**protecting innovation through competition rather than monopoly**.

### **5.3 Empowering Users and Consumers**

Data portability and fair access empower users to control their digital identities and move freely between services. By prohibiting self-preferencing and manipulative default settings, the DMA restores **user sovereignty**, a principle central to digital rights in the EU.

### **5.4 Implementation Challenges**

Practical enforcement of the DMA faces several challenges:

- Rapid technological evolution: Regulatory lag may arise as new services (e.g., generative AI) fall outside initial definitions.

- Complexity of monitoring: Compliance auditing, algorithmic transparency, and data-flow tracing demand high technical capacity.
- Global scope: Many gatekeepers operate transnationally, requiring cross-border regulatory cooperation.

Despite these challenges, the DMA marks a paradigmatic shift in global digital governance.

## **6. Assessing Tech-Over Risk: A Regulatory Methodology**

To effectively apply DMA-like principles, regulators must adopt robust metrics to evaluate digital concentration risks:

1. **Market Power Indicators:** Active users, traffic volume, session duration, and engagement ratios.
2. **Data Control Metrics:** Volume, diversity, and real-time nature of data collected; extent of cross-use between CPS.
3. **Interoperability Assessment:** Openness of APIs, standardization of data formats, and switching costs.
4. **Ecosystem Mapping:** Interconnections between services, integration pathways, and default settings influencing user choice.
5. **Monetization Analysis:** Transparency in advertising auctions, targeting parameters, and algorithmic bias.

Such quantitative and qualitative indicators provide an evidence-based foundation for preemptive regulatory action.

## **7. Adapting the DMA Experience to Uzbekistan**

Uzbekistan is currently advancing its digital transformation agenda, with rapid growth in e-commerce, fintech, cloud services, and public e-governance. Yet, the regulatory framework for digital competition remains underdeveloped. Integrating lessons from the EU's DMA could help the country establish a proactive and innovation-friendly regulatory model.

### **7.1 Introducing the Concept of “Platform Supervision”**

Uzbek law could incorporate the notion of **platform supervision**, identifying systemically important digital intermediaries and subjecting them to tailored obligations—similar to gatekeepers in the DMA. Criteria could include user base, market share, cross-sector influence, and data volume.

## **7.2 Data Portability and Interoperability Standards**

Implementing minimum interoperability standards and data portability rights would enhance competition and consumer empowerment. This could be aligned with ongoing e-government and digital infrastructure initiatives.

## **7.3 Limiting Self-Preferencing**

National regulations could prohibit unfair self-preferencing in search rankings, app store listings, or default service configurations, ensuring fair visibility for competitors.

## **7.4 Merger and Acquisition Oversight**

Strengthening **merger notification and conditional approval** requirements for digital acquisitions would help prevent the early elimination of potential rivals. Special attention should be paid to transactions involving start-ups or innovative small firms.

## **7.5 RegTech and LegalTech Infrastructure**

Developing **RegTech (Regulatory Technology)** tools—such as automated dashboards, real-time data analytics, and algorithmic audits—would enhance monitoring capacity and reduce compliance costs for both regulators and market actors.

## **7.6 Inter-Agency Coordination**

Effective implementation requires collaboration between the competition authority, data protection agency, IT regulators, and consumer protection bodies. Cross-agency task forces could ensure coherent enforcement across overlapping sectors.

## **7.7 Sanctions and Structural Remedies**

In cases of persistent non-compliance, authorities should be empowered to impose not only financial penalties but also **structural measures**—such as functional separation, mandatory data-sharing, or open-API requirements.

## **8. The Emerging Frontier: AI Gatekeepers and New “Digital Gateways”**

The rise of **artificial intelligence (AI)** and **generative models** introduces new forms of Tech-Over. AI systems that control information retrieval, content generation, or algorithmic recommendations may themselves become “gateways” between users and digital services. These models determine visibility, ranking, and accessibility—essentially shaping the informational market.

DMA-style principles could therefore extend to AI ecosystems by ensuring:

- **Interoperability between AI models and services;**
- **Data portability of user-generated prompts and outputs;**
- **Transparency in default recommendation algorithms;**
- **Fair access for third-party plug-ins and developers.**

Anticipatory regulation in this field will be essential to prevent the next wave of digital concentration.

## **9. Economic and Policy Balance**

The DMA’s socio-economic logic is to protect **long-term innovation through competition** rather than through monopolistic control. In the short term, large platforms may face higher compliance costs, but in the long run, the overall digital ecosystem benefits from:

- Greater consumer choice and trust,
- Lower entry barriers for innovators,
- Enhanced transparency and accountability,
- More resilient market structures.

The challenge for policymakers lies in maintaining a delicate balance: promoting innovation while preventing excessive market concentration.

Regulation should therefore remain **technology-neutral, proportionate, and adaptive** to emerging trends.

## 10. Conclusion

The **Digital Markets Act** represents a landmark in the evolution of digital governance. By shifting from reactive antitrust enforcement to preventive ex-ante regulation, the EU has pioneered a framework capable of addressing the systemic risks posed by Tech-Over consolidation.

Through its **gatekeeper designation, core platform service obligations, self-preferencing bans, data-sharing and portability mandates, and early-warning mechanisms for acquisitions**, the DMA establishes a proactive legal architecture that safeguards market openness and user sovereignty. It exemplifies how regulatory innovation can preserve competition without stifling technological progress.

For **Uzbekistan and other developing digital economies**, the DMA experience offers a valuable blueprint: adopting a context-specific platform supervision model, introducing interoperability standards, prohibiting unfair preferential practices, strengthening digital merger control, and leveraging RegTech-based monitoring systems. Furthermore, preparing for AI-driven “gateways” will ensure future-proof regulation.

Ultimately, the central lesson of the EU’s DMA is that **digital concentration must be managed not by limiting innovation, but by guaranteeing openness**. Fair competition and technological progress are not mutually exclusive—they are mutually reinforcing pillars of a sustainable digital economy.

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