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Public Consultation BoR (21)34 Draft BEREC Report on the gatekeepers

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General information

On 15 December 2020, the European Commission (EC) published a Digital Markets Act (DMA) proposal, introducing a series of rules for platforms acting as gatekeepers in the digital sector. In September 2020, BEREC proposed a regulatory model for an ex ante intervention in its response to the Digital Service Act Package (DSA) and the New Competition Tool public consultations.

During its 46th (virtual) plenary meeting (11 March 2021), the BEREC Board of Regulators has approved the draft BEREC Report on the ex ante regulation of digital gatekeepers (BoR (21) 34), which elaborates current BEREC's proposals in further detail and which is now open for public consultation. BEREC encourages all types of stakeholders, including civil society, consumers and citizens, to provide their views on the BEREC's proposals.

Your details

*Language of your contribution

English

*First Name

ACT | The App Association

*Surname

ACT | The App Association

*Email

Organisation name (in case you are replying on behalf of your organisation)

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ACT | The App Association
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*Country of origin

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Belgium
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* ☑ I agree with the personal data protection provisions.

Practical details of the public consultation

Stakeholders are invited to comment and provide their views on the different chapters of the draft report following its structure:
Chapter 1 - Executive summary
Chapter 2 - Introduction
Chapter 3 - Previous work done by BEREC on digital environments
Chapter 4 - Objectives of the regulatory intervention
Chapter 5 - The scope of the regulatory intervention
Chapter 6 - Designation of gatekeepers
Chapter 7 - Regulatory measures for gatekeepers
Chapter 8 - Enforcement
Chapter 9 - Enhancing assistance from National Independent Authorities for an effective enforcement
Chapter 10 - Conclusions
Chapter 11 - Future work
Annex I: Two-Pager on effective definition of measures
Annex II: Two-Pager on dispute resolution
Annex III: Two-Pager on national support
Annex IV: Brief on ex-ante regulation

Stakeholders may also upload a document as a part of their contribution, see below.

In order to facilitate processing of the responses, the comments provided should clearly refer to the certain sections / subsections / paragraphs of the draft report.

Contributions should preferably be sent in English.

Stakeholder may submit their contributions **by 4 May 2021 close of business.**

In accordance with the BEREC policy on public consultations, BEREC will publish all contributions and a summary of the contributions, respecting confidentiality requests. Any such requests should clearly indicate which information is considered confidential.

Public consultation

Please indicate comments on Chapter 1- Executive summary and Chapter 2- Introduction

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ACT | The App Association (hereafter 'App Association') supports the European Commission's aim to ensure contestability and fairness in the Digital Single Market. We represent thousands of small software application developers and connected device companies globally that create apps for mobile devices and enterprise systems. Today, the ecosystem the App Association represents – which we call the app economy – is valued at approximately 830 € billion and is responsible for millions of European jobs. Alongside the world's rapid embrace of mobile technology, our members create innovative hardware and software solutions that power the growth of the internet of things across all sectors of the economy.

Regarding the executive summaries, we would like to share some general observations. Overall, we disagree with the notion that gatekeeping per se is harmful and the Body of European Regulators for Electronic Communications (BEREC's) subsequent conclusion that an ex-ante asymmetric regulatory invention towards gatekeepers like the Digital Markets Act (DMA) is necessary. The statement that some digital platforms increasingly act as gatekeepers should not be presented as a negative on its own, as reasonable gatekeeping provides several benefits, particularly for smaller actors. Some gatekeeping is good and enhances safety and security in the online economy. Our members rely on a range of benefits the app stores provide for a small fee, including the app economy's low entry barriers to reach consumers, a stable marketplace, and consumer trust in the app store review processes. While we support new reporting and transparency requirements for gatekeepers, we believe the DMA proposal ignores the positive features of the app economy. In its current form, the DMA risks reducing or eliminating the services on which our members rely. We have concerns that the DMA may raise entry barriers for smaller stakeholders or hinder inter-platform competition.

That said, we agree with BEREC that the scope of the DMA should not apply to the electronic communication services industry, as regulatory overlap should be avoided. However, we note that BEREC's analysis lacks mention of 'future' gatekeepers or tipping markets. We believe those entities should also be excluded from the scope of the DMA. When a platform has neither crossed the quantitative thresholds proposed nor proven its ability to maintain those thresholds, the power to designate it as a gatekeeper would only disincentivise the growth of transitioning providers that may be capable of challenging existing gatekeepers.

In terms of enforcement, we agree with BEREC on several points. The DMA must distinguish better between obligations that apply to all core platform services (CPSs) and those that only apply to specific CPSs. Further, such obligations should be flexible, tailored, and only applied on a case-by-case basis if they are highly complex and technical. In our opinion, the DMA should include only a list of obligations to address practices that are undeniably harmful for competition, consumer welfare, and innovation. The DMA

could further assess other practices that require trade-offs between various costs and benefits that affect the wider ecosystem at a later stage and on a case-by-case basis after the Commission conducts further research. One possible option to achieve this is a principle-based greylist of practices that regulators could develop further as it is applied to different gatekeepers.

We also fully support BEREC's recommendation of an open and comprehensive regulatory dialogue that encompasses all stakeholders, including third parties, to ensure the effective design and enforcement of the DMA. This regulatory dialogue should be a part of the Commission's analysis before it decides how and on whom to apply current obligations as well as before it introduces new obligations under Article 6 of the DMA. Similarly, cooperation between the Member States is crucial to avoid a regulatory patchwork. Like BEREC, we, too, believe that relying on national independent authorities (NIAs) and national regulatory authorities (NRAs) alongside an advisory board could be the best way to achieve such cooperation.

Regarding the dispute resolution mechanism, we agree this can be a useful tool for smaller business actors and consumers. However, we caution against regulatory overlap, as the Regulation (EU) 2019/1150 (the Platform-to-Business or "P2B" Regulation) regulation has already introduced a form of mediation, and platforms' own dispute resolution mechanisms may be more efficient than an EU-level authority.

Lastly, while the App Association is a proponent of an open digital environment, we believe that there are certain risks attached to a completely open and/or interoperable market. Interoperability with ancillary services or other core service providers may compromise the integrity or security of an operating system. Interoperability is desirable but should not compromise safety and thus should only be enforced where appropriate. Especially in the context of app stores, this proposal raises several issues. Mandating interoperability between app stores may create large data pools and force the use of a universal programming language, for example, which could violate the General Data Protection Regulation's (GDPR) principle of data minimisation and weaken security, data privacy, and opportunities for innovation. The costs of entering a system of interoperable app stores will likely also be higher than current app store entry fees, raising the currently low entry barriers for smaller actors. Moreover, smaller or emerging app stores may be locked out of this marketplace entirely if they are required to follow the same security protocols for data pools as the larger app stores. Additionally, there is no guarantee that interoperable app stores will continue to be able to provide the same services to app developers as they do currently, especially if they are unable to generate as much revenue to support app store operations. This may lead to a situation in which app developers are not only paying higher entry fees, but higher fees for fewer /lower quality services.

We appreciate BEREC's acknowledgement that platforms are a tool that supports the EU's economy and that has brought benefits for innovation and consumer choice. We have no further comments on the introductory chapter.

Please indicate comments on Chapter 3 - Work done by BEREC on digital environments

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The App Association appreciates the thorough work BEREC has done on digital environments in the past. We note that in its 2018 report “on the impact of premium content on ECS [Electronic communication services] markets and the effect of devices on the open use of the Internet”, BEREC criticised app stores for topics like content censorship, arbitrary ranking, and unfair terms and conditions. We would like to point this out as an inaccurate perception of the app ecosystem and that the implementation of the P2B regulation resolved existing issues.

Please indicate comments on Chapter 4 - Objectives of the regulatory intervention

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The App Association agrees with BEREC that contestability, competition, fairness, and protection of end users are important objectives of regulatory intervention of digital markets. We believe BEREC should consider adding innovation and consumer welfare to the list of objectives. In its current form, the goals of the DMA seem to be restricted only to fairness and contestability. Consumer welfare and innovation are just as vitally important to the functioning of the online platform economy.

We agree with BEREC that the side effects of measures aimed at one objective, or one type of player (namely gatekeepers), must be assessed carefully. We have concerns that the DMA proposal underestimates the interdependencies of the online platform economy, and smaller actors will become collateral of this oversight. Mandating changes to the business models of gatekeepers will send ripple effects throughout the platform economy felt most strongly by the smallest actors.

While the App Association also promotes a contestable and competitive environment, we believe BEREC’s analysis insinuates that there is no competition between platforms. App stores, for example, compete fiercely to attract the most developers, which in turn attract the most customers. The app stores can attract more customers by creating the best user experience and having the most innovative products on their platforms – and the stores depend on developers to create those products. Making an app available on more than one app store costs time and money, so often developers will choose the stores that fit their needs best. Vibrant competition is a key factor to the app economy’s success. The thriving app economy is the result of the contributions and innovations of both app developers and platform companies.

Just as BEREC does, we endorse a regulatory dialogue that all industry stakeholders can participate in, particularly concerning the obligations included in Article 6. A proper regulatory dialogue would ensure that

regulatory authority gains a clear understanding of the impact an obligation may have on the entire ecosystem. The DMA should enshrine further opportunities for regulatory dialogue in its articles, not just in its recitals. A provision for regulatory dialogue could introduce more space for clarification and ensure continuity with the P2B regulation.

We agree the standard of protection under the Open Internet Regulation (OIR) should not be lowered. However, we believe that the DMA could actually disrupt the continued functioning of the internet environment and the internet value chain. We would like to reiterate the existing benefits of the platform economy. These include the possibility for new market entrants to access instant consumer trust by being present on a secure platform and for consumers to freely choose whether to give their business to more or less secure digital ecosystems. Fraudulent or deceptive business users that distribute malicious software or artificially enhance rankings can do irreparable harm to consumer trust. Without this trust, our members cannot take advantage of the online world. Gatekeepers ensure that online spaces are secure, and the DMA must maintain the ability to access and operate secure online spaces. We, therefore, believe that the statement BEREC expresses support for in Recital 51 “Gatekeepers can hamper the ability of end-users to access online content and services including software applications” is misleading. Platforms and their business users are an essential part of the internet value chain and mandating changes to their business models could risk destroying the well-functioning aspects of the platform economy.

Please indicate comments on Chapter 5 - The scope of the regulatory intervention

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The App Association agrees with BEREC that the scope of the DMA should not apply to the electronic communication services industry, as regulatory overlap should be avoided. Moreover, the DMA should not presume to predict the development of highly dynamic digital markets and risk disincentivizing the growth of new, innovative entrants. We would like to note that the Commission can designate a provider of core platform services as a gatekeeper when it "does not yet enjoy an entrenched and durable position in its operations, but it is foreseeable that it will enjoy such a position in the near future". This means a platform can be designated as a gatekeeper when it has neither crossed the quantitative thresholds proposed nor proven its ability to maintain those thresholds. The App Association is unsure how the Commission plans to predict the evolution of new technologies, behaviours, and actors precisely enough to identify an irreversibly "tipping" market. An incorrect identification and the subsequent introduction of new obligations could threaten medium and larger platforms' ability to grow and challenge existing gatekeepers. We, therefore, believe those entities should also be excluded from the scope of the DMA to ensure the legal certainty of both larger and smaller platforms. This provision risks stagnating the market instead of enriching it, and we urge BEREC to include this argument in its analysis.

We agree that a periodic review of CPSs and a revision of the list of relevant CPSs are necessary to provide flexibility. However, we have concerns that too frequent reviews create legal uncertainty. To ensure legal certainty, as well as innovation and continued investment, these reviews must be conducted transparently and at regular and pre-determined intervals. Further, potential new providers of core services must have sufficient time to comply with any obligations they may face due to their new CPS provider status.

Please indicate comments on Chapter 6 - Designation of gatekeepers

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We strongly disagree with BEREC that requiring a minimum of three Member States to jointly request an investigation into a platform is unreasonable. On the contrary, it would be unreasonable to allow a single Member State to request an investigation into a gatekeeper. The possibility for a platform that is active in only one Member State to be designated as a gatekeeper strongly disincentivises growth. National champions may grow to challenge international competitors if they can thrive in their home markets. Artificially restricting the natural growth that comes from honest competition and superior offerings will not only reduce incentives to grow but reduce incentives to compete nationally to produce better products and services. This scenario thus risks further entrenching the position of the

current gatekeepers while endangering growth, investment, and honest mergers with smaller players. The ability to be active in more than one European country is also precisely what makes the Digital Single Market attractive. Reducing the three-Member-States requirement to a one-Member-State requirement would have negative impacts on the market attractiveness of the EU. Instead, we recommend narrowing the scope of the proposal further to account for a gatekeeper's control over more than one CPS within the same or related ecosystem (conglomerate presence). This would capture the problem of gatekeepers "leveraging" their advantages from one vertical into another, and has been endorsed by several Member States, including the Netherlands, Germany, and France. At a minimum, the three-Member-State requirement should be preserved both as a quantitative threshold and for investigation requests.

BEREC generally supports the existence of quantitative and qualitative identification procedures. While we agree that clearly defined quantitative and qualitative indicators can be beneficial for business certainty, we note that the current provisions allow for moving thresholds for gatekeepers as well as the identification of tipping markets. These provisions create legal uncertainty for all players in the platform economy and risk further entrenchment of current gatekeepers while endangering growth.

As for the designation of a gatekeeper, we disagree with BEREC that there should be no delays after a formal decision is made. We believe the DMA should provide for a period during which affected businesses can object and justify their business practices to the Commission before obligations apply, and the proposed timelines should not be shortened. Different thresholds depending on the scope of the provision of the CPS, however, seems like a useful suggestion, and we encourage BEREC to investigate this possibility further.

BEREC also suggests that the thresholds do not relate to the provision of each CPS but rather to the undertaking to which the gatekeeper belongs. An undertaking may be a gatekeeper in one market vertical but not in another. Following discussions in the European Council, we believe it would be useful for the Commission to clarify that the thresholds should apply only to CPSs to avoid creating more gatekeepers than actually exist and harming the online platform economy.

We agree with BEREC that quantitative thresholds and qualitative assessments must both be considered. However, we do not believe that being part of an ecosystem reinforces gatekeeping power. Some gatekeeping is necessary to create a thriving ecosystem, and it should not be considered as a negative factor or relevant structural point if a platform is part of an ecosystem. We support BEREC in calling for precisely defined guidelines regarding gatekeeper definition, especially related to emerging gatekeepers.

Please indicate comments on Chapter 7 - Regulatory measures for gatekeepers

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The App Association overall agrees with BEREC that the distinction between directly applicable obligations that apply to all core platform services (CPSs) and those that would only apply to specific CPS needs improvement and clarification. We also support complementing directly applicable obligations with remedies designed on a case-by-case basis that would only apply to a single or limited number of gatekeepers. Due to the interconnected nature of the online platform economy, such an approach is crucial for effective implementation. Especially more intrusive and highly complex measures should be narrowly tailored to ensure they accomplish the desired objective without causing negative unintended consequences.

As stated previously, the App Association supports the Commission's objective to ensure contestable digital markets, but we have concerns that requiring broad interoperability and uncontrolled access could hinder platforms' ability to keep malicious actors out. We should ensure that the DMA does not undermine the value of platforms for smaller developers, and a potential influx of questionable companies reduces the trust that is crucial to the survival of small developers. Further, forced interoperability with ancillary services or other core service providers may compromise the integrity or security of an operating system. Interoperability is desirable but should not compromise safety and thus should only be enforced where appropriate. Additionally, we disagree with BEREC's opinion that concerns related to barriers to entry by indirect network effects are not fully addressed in the DMA. In fact, we have concerns that the DMA may raise entry barriers in environments with indirect network effects, such as the app economy. For example, entering a system of interoperable app stores will likely be much more expensive than current app store entry fees. Similarly, smaller or emerging app stores may be locked out of this marketplace entirely if they are required to follow the same security protocols for data pools as the larger app stores.

While gatekeepers may have the ability and/or incentive to reduce the ability of business users to launch bundle offers, this is not an issue in the app economy. We believe the DMA appropriately addresses tying and bundling concerns and Articles 5(e), 5(f) and 6(b) should not be extended to other CPSs.

Concerning end users, we agree with BEREC that they should be considered in the DMA. We believe consumer welfare should be an objective of the DMA and that any potential adverse impacts of these regulatory interventions on business users, especially small and medium-sized enterprises, as well as on consumers are mitigated. We do not believe that default settings are harmful to consumers, as consumers have come to expect certain functionalities from their devices upon purchase.

The App Association agrees with BEREC that directly applicable obligations are not ideal for complex cases. Such circumstances require a case-by-case analysis and tailored remedies. We also support the suggestion to maintain flexibility in the obligations, but not in the definitions as this would

likely cause legal uncertainty for the companies who have to comply with them. Regarding the obligations proposed in the DMA, the App Association notes that they already cover a very broad range of concerns. Therefore, we do not agree with BEREC that this list should be extended. Trying to achieve more objectives with an even more extensive list risks creating imprecise legislation and may generate harmful side-effects that could impact all stakeholders in the ecosystem. Considering BEREC's suggestion that the DMA should anticipate the evolution of gatekeeper activities and adapt accordingly, we are interested to learn how this could be achieved. Given our concerns with the DMA's proposal to regulate 'tipping' markets, we also worry that this suggestion to regulate new activities could risk innovation and investment.

Unlike BEREC, we do not believe that delegated acts are an adequate way to update obligations. Instead, we recommend that the DMA ensures that the Commission conducts market investigations into new services and practices transparently. We also advise that the DMA specify that newly added obligations cannot substantially modify the objective, scope, and purpose of the DMA. In particular, the European Commission should be required to include the viewpoints of all interested parties and consult them on its findings before presenting them. Additionally, the DMA should guarantee that the Commission assesses the impact adding these new services and practices to the list of obligations may have on SMEs. We recommend further that any delegated acts adopted by the Commission are limited to the modification of procedural elements only rather than updates to the obligations of Articles 5 and 6.

Please indicate comments on Chapter 8 - Enforcement

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The App Association fully supports BEREC's call for starting a robust regulatory dialogue at an early stage and involving all actors in it as soon as the regulation is put in place. Regular and structured interactions with all relevant actors will improve the DMA and fine-tune its provisions to ensure effective enforcement. It is particularly important to involve all industry stakeholders to guarantee that a broad range of views, experiences, and expertise is considered. The dynamic challenges of the digital age must be met with new co-regulatory models, therefore proper regulatory dialogue and a period in which an affected company can justify its business practices ensures that lawmakers gain a clear understanding of the impact the DMA and its obligations may have on the entire platform ecosystem. Thoughtful, targeted, and proportionate legislation must be capable of preserving fair competition while enhancing consumer welfare and innovation in the platform ecosystem. A specific provision in the DMA for regulatory dialogue could be immensely helpful to achieve this goal as it would introduce more space for clarification and ensure continuity with the P2B regulation. We also advise conducting a regulatory dialogue during the analysis of the impact of introducing a new obligation under Article 6.

In addition to a regulatory dialogue, we agree with BEREC that dedicated fora and committees to facilitate interactions, as well as public consultations could be useful to take into account the views of all stakeholders concerning potential remedies. As far as information and complaints desks in each Member State are concerned, we, too, believe that it would facilitate access to authorities, especially for small and medium-sized businesses.

Dispute resolution mechanisms can be very useful regulatory tools. However, we are unsure if the competent EU authority is the best venue for such a mechanism. Especially for smaller business actors and consumers, interacting with authorities can present a barrier. We also caution against regulatory overlap, as the P2B regulation has already introduced a form of mediation. Platforms' own dispute resolution mechanisms may be more efficient than an EU-level authority in cases of disputes with end-users or business users. So, while we agree with BEREC that a dispute resolution mechanism can help parties to interpret provisions of the regulation and better understand how to apply them, it is crucial to ensure that such a mechanism is easily accessible for all players. If platforms have access to the EU authority via the regulatory dialogue, and platforms provide their own dispute resolution mechanisms to consumers and business users, we are unsure if a separate mechanism is necessary.

Please indicate comments on Chapter 9 - Enhancing assistance from National Independent Authorities for an effective enforcement

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The App Association welcomes BEREC's suggestions for developing closer cooperation between the EU and the Member States as well as between Member States. Close cooperation will be key to avoiding patchwork implementation and enforcement of the DMA. An advisory body composed of national independent authorities (NIAs) could be a useful complement to the competent EU authority. We agree with BEREC that harmonisation of information gathering, monitoring of markets and innovation, design of regulatory measures, and potential dispute resolution across the EU is essential. NIAs could competently assist the EU authority with those tasks, as they know the national environment and competitive landscapes well.

The App Association supports the suggestion of establishing an advisory board to harmonise the support of NIAs. The common competencies that NIAs already possess would be valuable for DMA implementation and could prevent an over-exertion of the EU regulatory tasks. BEREC seems well-positioned to lead the set-up of such a body as it has already carried out similar tasks in the past.

Please indicate comments on Chapter 10 - Conclusions

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The App Association agrees with BEREC that the DMA proposal is a starting point for further discussion between stakeholders. Further, we support BEREC's conclusion that electronic communications networks should not be considered as CPSs. We do not take issue with the application of quantitative and qualitative identification procedures of gatekeepers, but we caution against an overly quick decision on gatekeeper status as such a decision could have far-reaching consequences.

We strongly advise against BEREC's suggestion that the DMA does not restrict the possibility to regulate platforms as gatekeepers that are only active in one state. Reducing the three-Member-States requirement to a one-Member-State requirement would disincentivise growth and have negative impacts on the market attractiveness of the EU. In this context, we advise BEREC to consider the concept of 'conglomerate' presence, the ability to implement 'conglomerate strategies' or control over an ecosystem composed of two or more (interconnected) CPSs. Narrowing the scope of the proposal better accounts for undertakings that offer more than one CPS in the EU. At a minimum, the three-Member-State requirement should be preserved both as a quantitative threshold and for investigation requests.

BEREC recommends considering the ecosystem when designating gatekeepers and the corresponding regulatory measures. We believe that the designation

process should always include a market investigation that accounts for the possible impact that the designation of each new gatekeeper may have on the entire ecosystem. Full market investigations are needed to understand, balance, and prepare for the indirect effects that new obligations imposed on gatekeepers will have on the rest of the ecosystem. Such market investigations should be fully transparent and oblige the European Commission to consult all interested parties, especially SMEs.

Additionally, we welcome BEREC's proposal to clarify the scope of the DMA's obligation between obligations that directly apply to all gatekeepers and those that only apply to gatekeepers providing a particular core service. We also agree that flexibility is necessary to account for the dynamism of the app economy. For highly complex and/or more intrusive measures, the regulatory framework should include space for tailored remedies that apply on a case-by-case basis.

We, too, believe that any regulatory measures on digital platforms should ensure that digital environments remain open, innovative, and accessible. However, there are certain risks attached to a completely open and/or interoperable market. Interoperability with ancillary services or other core service providers may compromise the integrity or security of an operating system. Interoperability is desirable but should not compromise safety and thus only be enforced where appropriate.

As stated previously in this submission, we fully agree with the need for an effective and comprehensive regulatory dialogue with all relevant stakeholders. We also support the organisation of expert committees and public consultations as well as the creation of information and complaint desks in the Member States. Concerning Member State involvement, we appreciate BEREC's thoughtful reasoning on why they can provide support to the EU and believe such assistance would be valuable. Setting up an advisory board of NIAs could offer complementary, specialised, and independent expertise to the EU authority.

Please indicate comments on Chapter 11 - Future work

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We look forward to BEREC's future work on the digital environment, and especially on the DMA such as workshops, dialogues, and other exchange of works. We also welcome BEREC's commitment to engage further with consumers and civil society.

Please indicate your comments on Annex I: Two-Pager on effective definition of measures

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The App Association agrees that effective regulatory interventions must be detailed and specified, as stated by BEREC. We would also add 'flexible' and 'scalable' to those characteristics. Especially for complex and technical obligations, tailoring measures and a case-by-case assessment is absolutely necessary. Further, we endorse BEREC's suggestion of regular interactions with all stakeholders and an early-stage regulatory dialogue.

While we acknowledge that drawing on BEREC's experience in electronic communication services, we caution against drawing direct comparisons. The platform economy is highly interconnected and dynamic and may not require the same measures or respond to the same principles and frameworks.

Concerning the involvement of national regulatory authorities, we agree that interaction between them and stakeholders could be useful to ensure effectiveness and quick intervention where necessary. We also welcome the idea of regular interaction between stakeholders for the exchanges of best practices, the definition of standards, and technical specifications.

Please indicate your comments on Annex II: Two-Pager on dispute resolution

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As stated previously, we agree that dispute resolution mechanisms can be very useful regulatory tools. Especially given that some of the measures included in the DMA are highly complex and can be interpreted differently by operators, a dispute resolution mechanism could be a good option to resolve disputes quickly and effectively. We previously expressed uncertainty whether the competent EU authority is the best venue for such a mechanism, but we welcome BEREC's suggestion for dispute resolution on the national level. Especially for smaller business actors and consumers, interacting with EU-level authorities can present a barrier. For a dispute resolution mechanism to help parties to interpret provisions of the regulation and better understand how to apply them, it must be easily accessible for all players.

We also have concerns related to regulatory overlap, as the P2B regulation has already introduced a form of mediation. Platforms' own dispute resolution mechanisms may be more efficient than an EU-level authority in cases of disputes with end-users or business users. If platforms have access to the EU authority via the regulatory dialogue, and platforms provide their own dispute resolution mechanisms to consumers and business users, we are unsure if a separate mechanism is necessary. We would welcome further clarification from BEREC on this recommendation.

Please indicate your comments on Annex III: Two-Pager on national support

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The App Association supports BEREC’s proposal to complement the advisory role
of the Member States with specialised and independent assistance from
national independent authorities. We agree with the reasons listed in Annex
III as to why such a structural involvement could be valuable for the DMA.
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Please indicate your comments on Annex IV: Brief on ex-ante regulation

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We have no comments on this section.
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Please specify which part of your response should be treated as confidential, if any.

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No part of our response is confidential. We thank BEREC for considering our
input.
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THANK YOU FOR YOUR CONTRIBUTION

Contact

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