



6 September 2024
JFTC SSCP Consultation
[Request for Information](#)
Chamber of Progress Submission

[Notes.

1 For questions that do not specify the time of response, enter information as of the date of response, unless otherwise noted.

2 You are not required to answer all of the questions except for Q1 through Q3. The information provided by respondents will not be used for any purpose other than the business of the Fair Trade Commission, nor will it be disclosed to any third party without the consent of the respondent. However, this does not apply to cases in which a court of law or other legal authority orders us to disclose the information.

Please note that the specific cases and opinions and requests to the Fair Trade Commission that you provide in your free answers will be anonymized so that the names and contents of the businesses will not be identified, and after the confidentiality of the businesses is removed, they may be used as materials for the appropriate implementation of the Act on the Promotion of Competition in Smartphone Software.

3 The contact information you provide will be used to contact you if there is anything unclear about the information you have provided or if we request a hearing, etc., and will not be used for any purpose other than this contact.

4 Information may be provided anonymously, but since the Committee may contact you to confirm the contents or request a hearing, please include your name (in the case of a corporation or organization, its name and the name of the person in charge) and contact information (telephone number or e-mail address) whenever possible.

Please understand that we will not be able to respond to each piece of information you provide.]

[Question].

1 We would like to ask you a few questions about your business.

Q1 Your Please enter the name of the business and the name of the representative of the vendor.

Example Business Name of the person: Fair Trade Commission, Inc.

Representative name: Taro Koutori

Chamber of Progress
Kayvan Hazemi-Jebelli, Senior Director for Europe

Q2 Please enter the address and zip code of the head office of your business

Chamber of Progress
1390 Chain Bridge Rd,
McLean, VA 22101
USA

Q3 Please enter the contact information of the person in charge of responding to the questionnaire. The contact information to be provided is the name of the person in charge, the department/position of the person in charge, a contact telephone number, and an e-mail address. The Fair Trade Commission may contact the person in charge, so please provide the information of a person who can respond to inquiries regarding the content of the response. You may provide information anonymously, but we ask that you provide your contact information whenever possible.

Kayvan Hazemi-Jebelli, Senior Director for Europe
+32 456 14 99 01
kay@progresschamber.org

Q4 Please enter the amount of capital of your business. If you have no capital, such as a sole proprietorship, enter "0".

Capital stock: Yen

0

Q5 Please select the number of employees your business employs on a regular basis from the following

- a. 5 or less**
- b. 6 to 100 persons**
- c. 101 or more**

b.

Q6 Please describe the main business activities of your business (free description).

Chamber of Progress is a tech industry association supporting public policies to build a more inclusive society in which all people benefit from technological advance. We engage in a wide range of advocacy activities in support of our mission.

More information is available at our website: <https://progresschamber.org/>

Q7 Does your business provide software (e.g., applications) that can be used on smartphones as a business? Please select from the following options those that apply.

- a. The company is still providing this service as a business.**
- b. In the past, the program was offered as a project, but is not currently being offered.**
- c. We have not implemented provisioning as a project to date, but we may implement provisioning as a project in the future.**
- d. It has never been provided as a business, and there is no possibility of providing it as a business in the future.**

(⇒ If you selected c or d, you do not need to answer Q8 to Q10, please go to 2.)

d.

Q8 Please describe in detail the type, content, and mechanism of software (applications, etc.) that can be used on smartphones provided by your company (free description).

(e.g.: type/category of app (games, music, communication tools, photos, healthcare, news articles, weather, etc.), specific content of app, target language of app, in-app billing (free or paid version, if paid version, details of billing system mechanism, whether out-links are available, etc.), number of app (number of downloads, number of active users, etc.)

Q9 What means do you use to distribute software (e.g., applications) that can be used on smartphones provided by your business? Please select all that apply from the following options (multiple answers allowed).

- a. Distributed via the App Store (Apple's app store).**
- (a) Distributed via Google Play (Google's app store).**
- c. It is distributed through an app store other than a and b.**
- d. It is distributed without going through an app store, such as its own website.**

Q10 For software (apps, etc.) provided by your company that can be used on smartphones, please provide the percentage of revenue for each app store, the number of apps distributed, and the total number of downloads via each app store for each app, even if these are rough numbers (free description). (free description).

2 The Act on the Promotion of Competition in Relation to Specified Software Used in Smartphones ("Smartphone Software Competition Promotion Act") We would like to ask you about the acts that are prohibited for designated operators under the "Act on

the Promotion of Competition in Specified Software Used in Smartphones" (hereinafter referred to as the "Act").

The Mobile Software Competition Promotion Act designates as regulated entities those businesses that provide specified software (mobile OS, app stores, browsers, and search engines) that exceed a certain size specified by government ordinance for each type of specified software, and prohibits these designated entities from engaging in certain acts. The following questions will address these prohibited acts. The following questions ask about these prohibited acts.

When filling out your response,

When filling out your response, please indicate: - When was the act performed, and by whom?

What was done, in what manner, and (if it is a rule or regulation, the specific text)?

What was the impact on the transactions and use of your business, etc.?

· In light of the implementation of the Smartphone Software Competition Promotion Act, do you have any expectations or concerns about new services you would like to introduce or any changes from the current situation?

Please be as specific as possible so that the following information is as clear as possible.

Among the acts of the designated operator, measures necessary to ensure security, etc., may be legally permissible.

Q11 The Mobile Software Competition Promotion Act (Article 7.1) prohibits businesses that provide mobile operating systems above a certain size from preventing other businesses from providing app stores, including forcing them to use their own app stores.

App stores (including app distribution within apps, and other similar) Please provide specific examples of cases in which you have abandoned the provision of an app store (including app distribution within apps, etc.), your vision for future provision, and any expectations and concerns you have for app stores other than the App Store (Apple Inc.) or Google Play Store (Google Inc.) (free description).

Chamber of Progress respectfully submits its observations on the impact that the EU's Digital Market Act is having on consumers with respect to similar provisions as those identified in this question.

Recent regulatory changes introduced by the DMA illustrate how regulations intended to promote competition can inadvertently compromise privacy and security. Requiring existing mobile platforms to support app sideloading and alternative app stores could expose users to malware, privacy breaches, and unregulated content by removing strong protections like content moderation and parental controls. New requirements for interoperability between messaging platforms will undermine key security measures like end-to-end encryption (E2EE), potentially exposing user data to greater risks of privacy breaches and misuse.

Increased Malware and Crash Risks

The DMA's interoperability provisions impose vulnerabilities on the Apple and Android ecosystems. Apple's compliance report¹ reveals that it must now support app sideloading without App Store review.² App sideloading threatens iPhone security and privacy by allowing more pathways for malware and privacy breaches, as sideloaded apps bypass Apple's stringent security checks. Since Epic launched its rival app store on the Apple ecosystem, there are already reports of children inadvertently breaking their iPhones due to sideloaded apps.³ Consequently, risks that were once dismissed by EU officials,⁴ are now starting to materialise.

Proliferation of Problematic Apps

Moreover, according to Apple's compliance report,⁵ the introduction of alternative app stores and marketplaces has led to varying standards for content and business models, which may include offerings that Apple's App Store would have banned. These new marketplaces might lack the App Store's robust user protections, including content moderation, age ratings, and Privacy Nutrition Labels. As a result, consumers may face increased exposure to adult content, fraudulent and unlicensed gambling or cryptocurrency apps, and apps lacking content moderation. Additionally, these marketplaces may offer fewer and weaker privacy protections and less strict enforcement of user safety measures, potentially leaving users more susceptible to privacy breaches and unsafe content, and less aware of how their data is being used. We have already seen that the top 3rd-party app stores on Apple are sources of piracy, performance issues, security vulnerabilities, and fraud.⁶

Previously, Apple and Google have removed various apps from their app stores and engaged in content moderation to ensure user safety. For instance, following the January 6th insurrection attack on the United States Capitol, Apple removed the far-right app Parler for its role in the attack,⁷ and in 2018, it also removed Infowars after founder Alex Jones called the Sandy Hook school massacre a "hoax."⁸ However, by circumventing the official app stores, the new DMA rules strip Apple and Google of this power, creating a free-for-all situation where users might encounter hate speech, fraud, and inappropriate content through alternative app stores that lack parental controls like Apple's Ask to

¹ <https://developer.apple.com/security/complying-with-the-dma.pdf>

² <https://www.theverge.com/2024/1/25/24050200/apple-third-party-app-stores-allowed-iphone-ios-europe-digital-markets-act>

³ https://www.reddit.com/r/iphone/comments/1ev62jw/my_sons_iphone_died_after_trying_to_play_fortnite/

⁴ <https://brusselssignal.eu/2024/04/claims-that-new-eu-tech-rules-undermine-security-complete-nonsense-says-vestager/>

⁵ <https://developer.apple.com/security/complying-with-the-dma.pdf>

⁶ <https://www.theverge.com/24100979/altstore-europe-app-marketplace-price-games>

⁷ <https://www.theverge.com/2021/1/9/22221730/apple-removes-suspends-bans-parler-app-store>

⁸ <https://www.nytimes.com/2018/09/07/business/infowars-app-alex-jones-apple-ban.html>

Buy,⁹ which helps parents manage app downloads for their children. This shift under the DMA could significantly undermine user protection and safety, making it crucial to reconsider how these regulations balance competition with security.

Q12 The Mobile Software Competition Promotion Act (Article 7, Item 2) prohibits businesses that provide mobile operating systems above a certain size from preventing the use of functions controlled by the operating system with the same performance as their own. For example, cases in which the use of voice functions such as speakers, microphones, and voice assistants, functions for positioning GPS (location information), and wireless communication functions in iOS (Apple Inc.) and Android (Google Inc.) was not allowed at the same level of performance as those of Apple, Google, etc. Please provide specific examples and reasons for not being allowed to use the same functions as Apple, Google, etc., as well as your vision and concerns for providing services using such functions (free description).

Chamber of Progress respectfully submits its observations on the impact that EU competition law and ex-ante regulation like the Digital Market Act is having on consumers with respect to similar provisions as those identified in this question.

In July 2024, a global IT outage caused by a faulty update from cybersecurity firm CrowdStrike disrupted millions of individuals and businesses worldwide, including major corporations and financial institutions.¹⁰ Part of the reason why this happened can be attributed to European intervention, such as a 2009 European agreement requiring Microsoft to grant third-party security services the same access to Windows as its own products.¹¹ Compliance in the EU meant creating a systemic vulnerability which was triggered by CrowdStrike's faulty update. This situation underscores how government antitrust intervention providing access to the same functions controlled by the operating system with the same performance as their own, can introduce security vulnerabilities and unintended consequences.

Q13 The Mobile Software Competition Promotion Act (Article 8, Item 1) prohibits businesses that provide app stores above a certain size from forcing the use of their own billing systems or otherwise preventing the use of billing systems of other companies. For example, cases and reasons for abandoning the use of billing systems other than IAP (In App Purchase) in the App Store (Apple Inc.) and GPB (Google Pay Billing) in the Google Play Store (Google Inc.), or concepts and concerns for future use. Please provide specific details (free description).

⁹ <https://support.apple.com/en-us/105055>

¹⁰ <https://www.ft.com/content/60dde560-194a-40d1-8c98-1d96d6d019a0>

¹¹ <https://news.microsoft.com/2009/12/16/microsoft-statement-on-european-commission-decision/>

Chamber of Progress respectfully submits its observations on the impact that EU competition law and ex-ante regulation like the Digital Market Act is having on consumers with respect to similar provisions as those identified in this question.

In the EU, Apple and Google's compliance with rules requiring provision of alternative billing systems has led to the introduction of new fees which mean that smaller app developers would pay more, particularly the vast majority who currently pay nothing (88% of active users on Apple AppStore currently pay nothing,¹² 97% on Google Play currently pay nothing¹³). This was in fact the consequence of the position explicitly advocated for by the DMA's large industry proponents.¹⁴

Q14 The Mobile Software Competition Promotion Act (Article 8, Item 2) prohibits businesses that provide app stores above a certain size from displaying information such as outlinks (links that lead to websites, etc.) and prices for non-app purchases in their apps, and from selling products and services outside their apps, including on websites. For example, the App Store (Apple Inc.) and the App Store (Apple Inc.) prohibit the sale of products and services outside the app. For example, in the App Store (Apple) and Google Play Store (Google), it is prohibited to display information to induce purchases other than in-app purchases, to display out-links to one's own website, etc., or to sell items, etc. on websites other than the app. Please provide specific examples and reasons for abandoning the following services, or your plans and concerns for the future provision of these services (free description).

Chamber of Progress has no comments on this provision.

Q15 The Smartphone Software Competition Promotion Law (Article 8, Item 3) prohibits businesses that provide app stores above a certain size from preventing the use of other browser engines. For example, please provide specific examples and reasons for abandoning the use of browser engines other than those of operators of app stores such as the App Store (Apple Inc.) and the Google Play Store (Google Inc.), or any concepts and concerns for future use (free description).

Chamber of Progress has no comments on this provision.

Q16 The Mobile Software Competition Promotion Law (Article 6) prohibits businesses that provide a mobile OS or app store above a certain size from unfair treatment, such as unreasonably discriminatory treatment, with respect to the terms and conditions of use or transactions of the mobile OS or app store. For example, specific cases and reasons for unfair treatment, such as differences without

¹²

<https://appleinsider.com/articles/24/01/25/apple-will-charge-eu-developers-to-sideload-but-its-not-quite-as-bad-as-ru-mored>

¹³ <https://support.google.com/googleplay/android-developer/answer/112622?hl=en>

¹⁴ <https://x.com/KayJebelli/status/1807133862608433391>

reasonable grounds among app providers in iOS and App Store (Apple Inc.) and Android and Google Play Store (Google Inc.), or imposing unreasonable technical restrictions. Please describe any (free description).

Chamber of Progress has no comments on this provision.

Q17 The Mobile Software Competition Promotion Law (Article 5) prohibits businesses that provide mobile operating systems, app stores or browsers above a certain size from using data on app usage and sales to provide services that compete with those of other businesses. For example, please provide any specific examples and reasons why you suspect Apple or Google may have used the collected data to develop or provide services that compete with your business (free description).

Chamber of Progress has no comments on this provision.

Q18 The Mobile Software Competition Promotion Act (Article 9) prohibits businesses that provide search services above a certain size (search operators) from giving priority to their services over those of other companies in a competitive relationship in the display of search results without a valid reason. For example, please describe any specific cases in which a search provider's products or services were given priority over your company's products or services in the display of Google search results, and the reason (free description).

Chamber of Progress respectfully submits its observations on the impact that EU competition law and ex-ante regulation like the Digital Market Act is having on consumers with respect to similar provisions as those identified in this question. In particular, without any safeguards, this provision can be misinterpreted to result in the degradation of services and increased friction for users.

One of the main factors diminishing user experience is the increased friction caused by the DMA's prohibition of gatekeepers' integration of products, particularly for companies like Google. Such integration enhances consumer experience by streamlining access to services and offering integrated solutions. For example, Google Maps, Flights, and Hotels search results typically appear in an attractive and convenient format providing the user easily navigable options to find precisely what they're looking for. This convenience reduces the time it takes to compare results, creating a more cohesive and efficient experience.

To comply with Article 6(5) of the DMA, which prohibits "non-discriminatory conditions," Google's compliance report¹⁵ reveals that the company has removed the smooth integration of products and services, such as searching for a local business or a

¹⁵ https://storage.googleapis.com/transparencyreport/report-downloads/pdf-report-bb_2023-9-6_2024-3-6_en_v1.pdf

restaurant and no longer being able to immediately book a reservation within Google Maps, or even click on a Google Maps link in the search results.¹⁶ For consumers, this means a less seamless experience and more time spent navigating various results and additional web pages instead of getting the answers they need.

Removing direct integration benefits only a few travel intermediaries, while harming airlines, hotel operators, and smaller companies that can no longer reach customers directly.¹⁷ For the hotel industry, this has led to a decline in direct bookings and increased reliance on intermediaries, ultimately damaging profitability. In fact, three months after the DMA's implementation, affected EU markets have seen a 30% drop in traffic volume compared to regions without the DMA.¹⁸ Google Hotel Ads click volume has also fallen by 30%, leading to a 36% reduction in direct bookings.¹⁹ In other words, large business users and competing aggregators are benefiting, while users are facing increased friction and hoteliers are losing revenues.

The prohibition of integration also affects other platforms – like LinkedIn, a subsidiary of Microsoft – preventing them from showing jobs in their feed, particularly the “jobs you might be interested in” (JYMBII) module. As detailed in Microsoft’s compliance report, due to Article 6(5) of the DMA,²⁰ LinkedIn must rank ads, job recommendations, and course suggestions without favouring its own services. It appears that instead of integrating its LinkedIn Newsfeed with third-party job recommendation providers, Microsoft has decided to remove the JYMBII module from European newsfeeds altogether. This negatively impacts consumers by reducing the relevance and personalization of the content they see, leading to a more fragmented user experience and making it harder to find the best opportunities. This could lead to users missing out on job postings that are highly suited to their skills and interests, ultimately reducing the efficiency and effectiveness of their job search and of the LinkedIn service itself.

Q19 In addition to the cases you have filled in from Q11 to Q18, please provide specific examples of businesses that provide mobile OS such as iOS and Android, app stores such as App Store and Google Play, browsers such as Safari and Chrome, or search services such as Google Search that use their position to gain a competitive advantage in the products or services they provide, specific examples of businesses that are disadvantageous to the business activities of app developers, etc., and specific examples of businesses that obtain economic benefits from app developers, etc. Please provide any specific examples of businesses that have used their position to gain a competitive advantage in the products or services they provide, or have disadvantaged

¹⁶ <https://www.politico.eu/article/european-union-digital-markets-act-google-search-malicious-compliance/>

¹⁷ <http://www.clrc.ca.gov/pub/2024/MM24-24s6.pdf>

¹⁸ <https://www.mirai.com/blog/dma-implementation-sinks-30-of-clicks-and-bookings-on-google-hotel-ads/>

¹⁹ <https://www.mirai.com/blog/dma-implementation-sinks-30-of-clicks-and-bookings-on-google-hotel-ads/>

²⁰ [https://cdn-dynmedia-1.microsoft.com/is/content/microsoftcorp/microsoft/mscle/documents/presentations/DMA_100160%20-%20Microsoft%20Compliance%20Report%20-%20Annex%2011%20-%20LinkedIn%20\(Non-Confidential%20Version\)_v1.pdf](https://cdn-dynmedia-1.microsoft.com/is/content/microsoftcorp/microsoft/mscle/documents/presentations/DMA_100160%20-%20Microsoft%20Compliance%20Report%20-%20Annex%2011%20-%20LinkedIn%20(Non-Confidential%20Version)_v1.pdf)

the business activities of app developers, etc., or have gained economic benefits from app developers, etc., and the reasons for this disadvantage (please write freely).

Chamber of Progress notes that the nature of all business transactions involves advantages and disadvantages, and that the measure of business activities impact on competition should be understood from a wider perspective, particularly in two-sided markets where disadvantages for some developers could result in advantages for end-users, which further attract users to the platform, resulting ultimately in greater advantages to a wider range of developers on the platform.

3 We would like to ask you about the opinion of your business regarding the operation of the Smartphone Software Competition Promotion Act.

Q20 The Act on the Promotion of Competition in Smartphone Software will be fully enforced on the date specified by a Cabinet Order within one year and six months (December 19, 2025) from the date of promulgation of the Act (June 19, 2008). Please write any opinions or requests you have regarding the operation of the Act or the policies and initiatives of the Fair Trade Commission (free description).

That's all for the questions. Thank you for your answers.

Chamber of Progress notes that in Europe compliance with the Digital Markets Act required significant investment in engineering hours and resources, and that the timeframe for compliance in Japan reflect the significantly larger amount of time required than the legislation originally anticipated, particularly to the extent that the SSCP envisages changes that go beyond the DMA.