



WIK Conference – Is Europe fit for the Digital Age?

DAY 1 - EXPLORING THE NEW EU ACQUIS FOR DATA AND DIGITAL PLATFORMS

In the opening session of the conference, *Rita Wezenbeek* (Director for Platforms, DG CNECT, European Commission) highlighted developments in relation to the Digital Markets Act (DMA) and the Digital Services Act (DSA). Wezenbeek noted that after the designation of gatekeepers, core platform services and very large on-line platforms and search engines, the focus will shift to the implementation and enforcement of both legal frameworks. At this stage, the companies concerned need to ensure and demonstrate that they are complying with the obligations. Some changes are on the horizon, with some very large online platforms already adapting their services. Effective enforcement of these two intertwined sets of rules will continue to require focused cooperation between the two Directorates General - DG COMP and DG CNECT - and national authorities. Third-party consultation and stakeholder dialogue will also be a mechanism to determine whether the obligations and their enforcement are actually effective and have the intended positive impact on the market and consumers. Looking at the big picture, the DMA and the DSA set the overarching framework and are intended to set a standard that will be taken into account in the development of other regulations. The following keynote by *Alexandre de Streel* (Professor, University of Namur; Academic Director, CERRE) specifically discussed whether the new **EU rules for digital platforms** represent **a European hubris or an Internet renaissance**. One of de Streel's conclusions was that the DMA remains ambiguous in parts - some

clarifications are still needed. The learning curve in implementing the DMA and enforcing its rules will be steep in the beginning. It is necessary to learn from mistakes and adapt accordingly, and not to follow a „regulate and forget“ paradigm. This could pave the way for a profound regulatory environment.

The second session of the day focused on the **„Implementation of the Digital Markets Act“**. *Lucia Bonova* (Head of Unit, Digital Platforms, DG COMP, European Commission) gave an overview of the designated gatekeepers and core platform services. Currently, six gatekeepers have been designated for 22 services. Decisions on five other services, which are currently subject to market investigations, are still pending. If designated as gatekeepers, companies will have to comply with the obligations and prohibitions set out in the DMA by March 2024. Regarding the latter, *Annemarie Sipkes* (Director, ACM & High-Level Group for the DMA) underlined the importance of cooperation between regulators and other authorities at national and European level, as well as the development of a „compliance community“ for efficient enforcement and compliance with the DMA. *Francesco Versace* (Senior Public Policy Manager, Europe, Spotify), representing Spotify, also urged effective enforcement of the DMA and the avoidance of gatekeeper tactics that resist or delay compliance and turn remedies into ineffective solutions in order to facilitate competition and innovation and protect consumers. Versace's presenta-

tion specifically addressed the positive prospects for the DMA to mitigate unfair and anti-competitive behaviour by gatekeepers, particularly in the mobile ecosystem. However, *Lukas Wiewiorra* (Head of Department, WIK) pointed out that not all provisions of the DMA are clearly articulated and need clarification. For example, in the mobile ecosystem space, and particularly with regard to access to app marketplaces, there is a lack of clarity on the application of the FRAND provision. Under the current approach, the gatekeeper is still free to set its own FRAND terms initially, leaving the regulator in a reviewing position. In theory, FRAND-compliant fees could lie somewhere between marginal cost (MC) and monopoly pricing. Currently, many developers' fees are even below MC. *Oliver Bethell* (Head of Competition, EMEA Competition, Google) addressed the DMA from the perspective of a designated gatekeeper/core service provider. Bethell highlighted the opportunities associated with the DMA, in particular with regard to the Compliance Officer, which will be internally valuable and open a new channel of communication with the European Commission. However, some work and challenges remain, particularly in relation to interoperability, choice screens and the prohibition on combining data.

In his keynote speech, *Klaus Müller* (President of the German Federal Network Agency) spoke about the 'Enforcement of the Digital Services Act'. The DSA will comprehensively reform the online space. Müller emphasised that robust enforcement is essential for the effective implementation of the obligation. Member States will play an important role in this respect. Each will appoint a digital services coordinator to oversee the DSA and ensure consistency. In Germany, the BNetzA will take on this role and has already started to set up an internal task force for this purpose.

The third session, „**Protecting consumers in the age of big data and AI**“, focused on data-driven business models, algorithms and artificial intelligence (AI) and their implications. *Tjade Strobant* (Director for European Government Affairs, Microsoft) outlined how generative AI works and addressed the many benefits to society, such as increasing productivity, improving accessibility and driving advances in energy and the environment. However, Strobant stressed that AI should be developed and used ethically and responsibly, adding that safeguards and controls are needed by the companies that develop and use AI and the governments that regulate them. *Lukas Wiewiorra* (Head of Department, WIK) agreed that algorithms, and therefore AI, pose some inherent risks and challenges to society. In particular, they can produce false, biased or discriminatory results, while at the same time remaining beyond the understanding of those affected, raising concerns about explainability, control and accountability. *Joanna Strycharz* (Assistant Professor, University of Amsterdam) presented some recent studies on consumer choice and empowerment in the AI age - particularly in relation to personalisation and cookies. The common perception that information and transparency will lead to consumer empowerment is not sustainable - especially when it comes to technical information. By



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providing practical training, consumers can make much more informed decisions. *Marie-Paule Bénassi's* (Head of Unit, Enforcement of Consumer Law and Redress, DG Justice and Consumers, European Commission) recalled that through the coordinated actions of the CPC network in recent years, platforms provided consumers with more specific and clear information about data collection and use. The Cookie Pledge initiative also aims to further empower consumers by simplifying choice, educating them about the underlying business model and potential privacy concerns associated with tracking, and offering them relevant and adequate alternatives.

The final session, „**Data Access and Interoperability: Implication of the Data Act**“, examined the provisions of the forthcoming Data Act and their implications. *Jonas Rönnkvist* (Head of Data Business and Strategy, Volvo Cars) described that there are some open questions regarding the Data Act and how it fits into the current way car manufacturers operate. The automotive industry already exchanges data, but only on a smaller scale, so the current operation will have to be dramatically scaled up to enable data sharing as envisioned in the Data Act. There are also questions around the availability and usability of technologies to transfer large volumes of data, and how to qualify what data falls within the scope of the Data Act. As *Amal Taleb* (Director of Public Affairs, SAP) then presented, there are also uncertainties around the Data Act in relation to the cloud market, particularly in relation to the obligations dealing with switching, data portability and interoperability, given the nature of the market - its high complexity and variability, and the lengthy process for implementing new projects. *Andrea Sanders-Winter* (Head of Division, Bundesnetzagentur) confirmed the problems with the Data Act. It contains vague legal terms and the obligations may not be sufficient for or compatible with all cases and markets, such as the cloud market. However, it will also have positive effects, such as democratizing data, encouraging data sharing and reducing lock-in effects. The session concluded with a presentation by *Ilsa Godlovitch* (Director Brussels, WIK-Consult) discussing the state of non-personal data markets in Europe. Godlovitch concluded that, in addition to legal uncertainties, factors such as a lack of standards, a shortage of qualified personnel, and concerns

about confidentiality and security are barriers to the development of these markets and need to be addressed.

DAY 2 - WHAT NEXT FOR TELECOMS POLICY?

The second day started with a session on **“The developments and challenges for the telecom sector”**. *Kamila Kloc* (Director, Electronic Communications, European Commission) spoke about the upcoming publications of the European Commission concerning the Gigabit Recommendation and the Gigabit Infrastructure Act. The Gigabit Recommendation was adopted in February 2024 and the European Council and the European Parliament reached a political Agreement on the Gigabit Infrastructure Act in February 2024 so that it will become law in the next months. Kamila also announced the digital decade report which was published end of September 2023 with interesting chapters on connectivity and noted that the single market discussion has gained more weight with alliances shifting towards more industrial policy. *Prof. Kostas Masselos* (BEREC Chair, President of EETT) elaborated that digital transformation is accelerating and a key factor for economic growth. At the same time climate change is the biggest challenge. Currently, inflation and high interest rates change the economic conditions and have a strong impact on fair access to digital opportunities, digital skills and the take-up of digital services. Kostas highlighted the relevance of FWA as an option to reach rural areas but also stresses the lack of demand as stakeholders investing in network roll-out expect rates of return.

The second session of the conference dealt with the issue of **“Funding the digital decade connectivity targets: What will we need, and who should pay”**. *Christof Sommerberg* (Senior Vice President Public The final session was dedicated to an outlook on the **telecoms markets in 2030**. *Federico Boccardi* (Head of Telecom Policy, Europe, Amazon Web Services and Member of the Board of Advisors UK Telecoms Innovation Network) spoke about the virtualisation of infrastructure and the role of cloud providers for digital transformation. *Philipp Riederer* (VP Strategic Market Analysis & Business



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Growth Europe, American Tower Europe) confirmed that ATC will continue to provide towers and explained that in the future services will be a combination of 5G, cloud, IoT with more and more devices connected. Philipp sees privacy and security of data as an important topic as it is a key element for the European Union. *Jacques Bonifay* (CEO Transatel) pointed out that the key factor is to have access to networks and that a single market would facilitate this. Jacques explained that IoT is a global business so that a problem in one European country becomes a problem for the worldwide position of a company. *Hans Hammar* (Head of Business Strategy, Ericsson) is convinced that the next business model comes with 5G standalone and network slicing as 5G standalone is required for reliable connections and low latency. *Reinold Krueger* (Chairman of the Board, GigaEurope) elaborated that in 2030 we will have an idea of what the real bottlenecks are. Reinold took the view that there too many silos in regulation and that this has to be overcome for Europe to become competitive. Further, the future will bring more cooperation amongst different players in the wider ecosystem. It will be important to focus more on critical infrastructure aspects.

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