

Anu Talus

Chair of the European Data Protection Board

Mr. Viola
European Commission
Rue de la Loi 51,
1040 Brussels
Belgium

Mr. Guersent
European Commission
Place Madou 1
1210 Brussel
Belgium

Brussels, 18 July 2024

Subject: Guidelines on the interplay between DMA and GDPR

Dear Mr. Viola, dear Mr. Guersent,

Thank you for your letter concerning the EDPB's ongoing work on Guidelines on the interplay between the Digital Markets Act (DMA) and the General Data Protection Regulation (GDPR). I would also like to take this opportunity to thank you for the constructive exchanges in the context of the DMA High Level Group (DMA HLG) and in the context of the EDPB Task Force on Competition & Consumer Law. I consider these fruitful exchanges instrumental to promoting cross-regulatory consistency.

The EDPB's commitment to foster cross-regulatory consistency is an integral part of the EDPB Strategy 2024–2027. Developing guidance on the interplay between the application of the GDPR and other EU legal acts, such as the DMA, is one of the key actions listed in the EDPB strategy. Securing cooperation with other regulatory authorities on matters with an impact on data protection, including authorities competent under other legal acts, such as the DMA, is another key action.

The EDPB initiated work on Guidelines on the interplay between the DMA and GDPR to offer guidance on how to interpret and apply the GDPR when gatekeepers process personal data in the contexts covered by the DMA¹. The DMA confirms that it applies without prejudice to the rules contained in the GDPR, and that the processing of personal data by gatekeepers therefore remains subject to the supervision of independent data protection authorities. In this regard, the EDPB has full competence to issue guidelines on any matter concerning the application of the GDPR and our work on the guidelines does not seek to impinge on the sole competence of the Commission to interpret and apply the DMA as such.

This notwithstanding, I appreciate your suggestion and willingness to discuss and explore the appropriate shape and form of a project aimed at providing coherent guidance on the intersection of the DMA and the GDPR, reflecting jointly the respective views of the competent regulators.

¹ Given the transversal nature of the GDPR, the EDPB has already on several occasions issued guidance on the interplay between the GDPR and other instruments of EU law (such as the PSD2 and the ePrivacy Directive).



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A joint deliverable between the EDPB and the European Commission could indeed be an important opportunity to foster legal certainty, as well as cross-regulatory consistency, including in enforcement, and so could provide significant value above-and-beyond that of independently-produced documents.

The EDPB is therefore open to further discuss the parameters and steps towards the preparation of a joint deliverable in an ad-hoc format that would preserve the respective competences, roles and independence of the EDPB and the Commission. I understand that the discussion will take place at a technical level to clarify these matters. Nevertheless, please be reassured that I remain available to discuss the matter further if needed.

Yours sincerely,

Anu Talus

Cc : Ms. Anna Gallego, Director General, DG JUST.