The Spread of DMA-Like Competition Policies around the World

Current State, Concerning Elements, and Discrimination against U.S. Businesses

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Kati Suominen

A Report of the CSIS Scholl Chair in International Business
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Acknowledgements

The author wishes to thank William Alan Reinsch for his excellent comments, Evan Brown for skillful project management, the CSIS publications team for editing support, and Erica Vambell and Bonaly Phrasavath of Nextrade Group for research support.

This report is made possible through generous support from the Computer & Communications Industry Association.
The rise of large online platforms has encouraged new thinking around the world on competition policy in the digital era. Some policymakers have argued that competition policy is too slow and reactive to deal with the presumably unique properties of the digital economy, such as the potential for platforms to scale rapidly, compete in several markets simultaneously, and create exclusive ecosystems for their users. A new landmark law, the European Union’s Digital Markets Act (DMA), epitomizes this thinking. The DMA requires “gatekeepers”—large digital service providers—to adhere to ex ante competition rules that preempt various potential behaviors before supposed anticompetitive practices occur. The European Commission originally designated Alphabet, Amazon, Apple, Meta, Microsoft, and ByteDance as gatekeepers and targeted 22 “core platform services” of these companies, such as Alphabet’s Google Maps, ByteDance’s TikTok, and Meta’s Instagram. One European company, the travel platform Booking.com, was designated as a gatekeeper in May 2024.

The DMA presumes digital markets are particularly susceptible to anti-competitive dynamics that are hard to control through ex post reviews and long investigations. Thus, the thinking goes, competition policy authorities should be empowered to act swiftly before these dynamics occur. The DMA also echoes the European Union’s traditionally broader view of using antitrust regulations to address supposed problems in market structures—as opposed to the focus on consumer welfare that has been the North Star of U.S. antitrust policy.

The DMA’s ex ante competition rules and other features have attracted the interest of many other countries and U.S. trading partners, such as Brazil, India, Japan, Saudi Arabia, South Korea, Thailand, and Turkey, each of which has prepared a DMA-like bill or draft regulatory guidelines.
The United Kingdom passed a DMA-like law in May 2024. Additional countries such as Australia and South Africa have been studying competition policy in the digital era with an eye on moving toward new regulations, and a number of countries, for example, in Southeast Asia, are planning to study the issues at stake this year. In the United States, members of Congress have also drafted several bills that would change antitrust policy specifically to cover digital platforms if enacted, although passage appears so far quite unlikely.

CSIS and others have highlighted three particular concerns with the DMA-type approach:

- The DMA may have counterproductive economic effects, such as raising the costs of digital services for small businesses and end consumers. A 2022 CSIS report—later cited by a congressional letter to the Biden administration—estimated these potential losses would total around €71 billion ($75.9 billion) in Europe and $97 billion in the United States in the event that the DMA results in a 5 percent increase in technology expenditures by the business customers of large digital service providers. It could also lower U.S. digital services exports to Europe by billions of dollars. A recent CSIS review of the DMA’s early impacts suggests that European consumers are so not experiencing benefits from the DMA in terms of user experience, privacy, or cybersecurity.

- By setting a high quantitative threshold for designating platforms as “gatekeepers” to be targeted, the DMA primarily governs the largest U.S. digital service providers. Only one Chinese company, ByteDance, and one European company, Booking.com, are targeted. The DMA thus is mostly targeting U.S. companies, limiting their operations and imposing compliance costs and potentially steep fines on them while exempting most Chinese and European digital service providers. By stacking the deck against the world’s largest providers, the DMA can shift market share to Chinese technology giants, a move which has economic and possibly national security implications.

- Antitrust experts have expressed concern about the overall “gatekeeper” approach to platform regulation and competition policy. For example, Herbert Hovenkamp concluded, “the ‘gatekeeper’ approach to competition policy should be abandoned. It is too narrow because it ignores the conduct of firms that are not designated as gatekeepers, including offline sellers who are not included no matter what their size. It is too broad because it overreaches, often egregiously to condemn competitively harmless conduct by firms defined as gatekeepers. In sum, it puts its enforcement energy in the wrong places.”

This report and the accompanying data portal aim to address the spread and potential implications of the DMA-type approaches around the world. In particular, this research: (1) examines the spread and characteristics of proposed digital competition legislation and studies emerging around the world in 30 jurisdictions; and (2) analyzes the implications of these measures for digital service providers, including potential impacts on U.S. companies.

There are several main conclusions:

- **DMA-type laws are proliferating among leading U.S. trading partners.** Of the markets studied, 4 (including the European Union as one jurisdiction of 27 countries) have a law;
11 have guidelines, draft regulations, or a proposed law; 2 are studying digital competition issues; and a further 3 countries have indicated they would start studying in 2024. Another 12 countries have indicated interest in studying and collaborating on these issues.

- **Most actual and proposed laws would target U.S. companies.** Many laws and proposals—such as in India, Turkey, and possibly Saudi Arabia and the United Kingdom—would exclusively or largely target the world’s largest digital service providers, mainly U.S. companies, instead of Chinese or local firms. They would thus discriminate against U.S companies. In addition, by inadvertently helping Chinese technology companies increase their market share, access consumer data, and enter U.S. companies’ app ecosystems, these laws and proposals could also have national security and cybersecurity implications for the United States and its allies. There are only a couple of exceptions: South Korea’s bill, withdrawn as of January 2024, would target U.S. and selected South Korean companies (but exempt Chinese and European companies), while Brazil’s bill would essentially target any platforms, local or global, with more than $14 million in revenue.

- **The laws, proposals, and studies share many prohibitions.** Most of the proposed regulations are quite similar to and include several of the same themes as the DMA. For example, they prohibit a platform from self-preferencing their own products or services, incentivizing users of one service to also use another service from the same platform, and preventing users from uninstalling apps provided by a platform. The proposals typically also require the targeted companies to open their ecosystems to third-party apps and permit third-party hardware and software to interoperate with the platforms.

- **The laws and proposals use vague and broad terms, leaving competition authorities a great deal of discretion to decide how platforms will be designated and how the various provisions can be interpreted.** For example, they use very general and broad terms and adjectives such as “unfair,” “discriminatory,” and “significant and entrenched” that are subject to interpretation and risk overenforcement. Many proposals also include qualitative exceptions that leave the door open for regulators to target platforms and companies that do not necessarily fall under certain predetermined quantitative thresholds.

- **Most laws and proposals entail high compliance costs and risk steep fines.** The laws and their proliferation around the world will raise compliance costs for larger digital service providers, but they are especially onerous for firms that operate across markets and need to deal with many of the new laws and proposals, each of which is sufficiently different to limit potential scale economies in compliance. The DMA, for example, would impose a fine of up to 10 percent of the targeted company’s global revenue; the UK Digital Markets, Competition and Consumers Act would impose a fine of up to 10 percent of a company’s annual global turnover, with an additional daily penalty of 5 percent of daily turnover during noncompliance. The draft amendments to the Turkish Competition Act, which are even broader than the DMA, would impose a fine of 20 percent of the targeted company’s revenue for repeated infractions. For a targeted global company, a fine in any one market would be detrimental, but simultaneous fines in multiple markets at once could be outright crippling.
The interest in DMA-like competition policy is a challenge for some of the most successful U.S. companies, but other countries with formidable and growing digital service sectors, such as Brazil, India, and South Korea, should also be wary. In the long run, the emerging rules can ultimately hamper their own businesses’ competitiveness in local and foreign markets.

The following section provides an overview of various countries’ processes to address digital competition policy issues. This report then examines the likely targeted businesses under the various proposals and the potential discrimination this entails, discussing in detail common elements as well as some less frequent characteristics. Finally, this report reviews the most concerning features of the various laws, bills, and studies, such as broad and vague terms and very steep fines.
Elements in Emerging Competition Policy Bills and Studies

The state of various countries’ digital competition laws, bills, studies, and planned studies was determined through desk research between February and May 2024. The contents of these various documents were analyzed and mapped onto Excel and thereafter coded to capture whether a document covered or partly covered any of 12 major mapped elements. This data will be updated monthly between June 2024 and March 2025.

Overview of the Results of the Mapping

The results from the first mapping in February-May 2024 indicate that there are four markets—Canada, China, the European Union, and the United Kingdom—that have digital competition laws (though Canada’s, while motivated by consideration of the digital economy, is quite different from the DMA). Another 11 countries have guidelines, draft regulations, or a proposed law; 2 are studying digital competition issues; and 2 further countries have indicated that they would start in 2024 (see Figure 1). In addition, another 12 countries, many in Africa, have indicated interest in the topic.
Given that the laws and proposals vary in their approaches, scope, and terminology, “apples-to-apples” comparisons across countries require some simplifications and generalizations. Nonetheless, several common elements can be identified (see Figure 2). This includes, for example, prohibitions for targeted companies against

- Self-preferencing (i.e., promoting the targeted company’s own services or products via its platform)
- Tying and bundling (i.e., incentivizing or requiring users of one product or service to use another product or service by the same company)
- Combining data across services without user consent (e.g., Meta linking data gathered from Instagram and Facebook)

Many countries also require targeted companies to allow users to install and use third-party software, apps, and app stores, such as enabling an iPhone user to download apps not available from Apple.
Of the mapped countries, the European Union, India, South Korea, Turkey, and the United Kingdom have particularly broad laws and bills. Australia is in the midst of carrying out a comprehensive set of studies on digital competition policy issues and has also addressed many of the mapped topics (see Figure 3).

Some of the mapped countries have also lowered the bar for merger reviews, presumably to prevent “killer acquisitions,” whereby a company seeks to acquire a potential rival before it poses a competitive threat. For example, Canada’s Act to Amend the Excise Tax Act and the Competition Act, passed in December 2023, removed the “efficiency defense” that had limited the country’s Competition Tribunal from acting against companies able to demonstrate that the efficiency gains of a merger would outweigh its anti-competitive effects.¹⁰
**Figure 3: Number of Elements Covered in Select Digital Competition Laws, Bills, or Studies, by Country**

<table>
<thead>
<tr>
<th>Laws</th>
<th>Bills, draft regulations, guidelines</th>
<th>Studies done or in progress</th>
</tr>
</thead>
<tbody>
<tr>
<td>European Union</td>
<td>China</td>
<td>Canada</td>
</tr>
<tr>
<td>Targets specific types of digital-service providers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Imposes fines on turnover basis</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prohibits presumed self-referencing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prohibits killer acquisitions</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prohibits tying and bundling</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Promotes use of third-party apps and software</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Requires user consent to use data (e.g. for personalized data)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prohibits combining pieces of information without user consent</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Requires interoperability with third-party providers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Requires providing business users (e.g. advertisers and publishers) access to data on their ads</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Requires allowing business users to communicate with end users</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prohibits preventing business users from working with competitors</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: Analysis of relevant country laws, bills, regulations, guidelines, and studies.

**Targeted Companies and Platforms**

There are two main ways the various pieces of legislation and guidelines determine which types of companies or platforms to target.

The first is to define “gatekeepers” upfront (also called “undertakings with significant market power” by Turkey or as described as entities having “strategic market status” by the United Kingdom) using numerical thresholds.

For example, under the DMA, the European Commission designates certain online platforms as “gatekeepers” based on their size. These are companies that (1) have an annual EU turnover of at least €7.5 billion ($8.0 billion) in each of the past three financial years or average market
capitalization of at least €75 billion ($80.2 billion) in the previous year; (2) provide “the same core platform service in at least three Member States”; and (3) have over 45 million monthly end users or 10,000 yearly business users in the European Union.  

India’s Draft Digital Competition Bill of March 2024 also designates platforms as “systemically significant digital enterprises” if they provide a “core digital service” in India and meet various financial thresholds in each of the past three financial years, such as having global turnover of at least $30 billion.

Brazil’s competition bill focuses on platforms with annual Brazilian revenue of at least 70 million reais (about $14 million) in any of eight digital-platform categories: online intermediation services, online search engines, social networks, video-sharing platforms, communication platforms, operating systems, cloud services, and advertising services. This low threshold means a wide range of platforms are susceptible to the law, which could risk disincentivizing innovation and hampering the rise of startups.

South Korea’s competition bill (the submission of which has been delayed) is expected to target companies with an average market capitalization of at least 30 trillion won ($23 billion), average annual revenue from platform services of at least 3 trillion won ($2.3 billion), and at least 10 million average monthly users or 50,000 average monthly business users. This would not only include Alphabet, Meta, and likely Apple but also South Korean company Naver and Coupang (the so-called “Amazon of South Korea,” which is actually a U.S. company). Meanwhile, Chinese tech giants such as Alibaba, ByteDance, and Tencent would likely get a pass; for instance, there were only about 7.6 million TikTok users in South Korea in 2022.

Countries can also use a process to determine whether to target a company. For instance, under the United Kingdom’s Digital Markets, Competition and Consumers Act passed in May 2024, the Competition and Markets Authority (CMA) determines whether a company has so-called strategic market status by (1) considering if the digital activity of the company is linked to the United Kingdom, (2) considering if the digital activity meets the strategic market status conditions, and (3) considering if the company has substantial and entrenched market power and either global turnover exceeding £25 billion ($31.7 billion) or total value of UK turnover exceeding £1 billion ($1.27 billion).

In Saudi Arabia’s draft competition regulations, the Communications and Information Technology Commission (CITC) defines a “covered platform” by assessing whether it has “significant and entrenched market power.” Any platform with more than 5 million active monthly users during the past financial year needs to notify the CITC and provide other data so the commission can make its assessment.

Draft amendments to the Turkish Competition Act would apply to “undertakings with significant market power,” defined through quantitative thresholds that will be determined by secondary legislation. These eventual thresholds will “take into account: (1) annual gross revenues; (2) the
number of end users; or (3) the number of commercial users.” This is a broader definition than that of the European Union, which stipulates that all criteria must be met cumulatively.18

The Philippine Competition Commission has defined a “gatekeeper” as a company that “provides a digital service whose access is essential to participate in the market” and can “act as a bottleneck in the digital economy limiting the development of competitors.” As the commission argues,

. . . “gatekeepers” may have a significant effect on markets even if they remain below notification thresholds. Gatekeepers could limit switching by bundling services, foreclosing competitors’ access to the platform, or limiting multihoming. Additionally, gatekeepers could enter adjacent markets by leveraging their dominant position in the platform market, increasing their reach and limiting the development of competitors.19

Table 1: Companies and Platforms Targeted by Recent Laws and Bills

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Status</th>
<th>Companies / Platforms Targeted</th>
<th>Illustrative Companies and Platforms that Will Likely Be Targeted</th>
</tr>
</thead>
<tbody>
<tr>
<td>European Union</td>
<td>Digital Markets Act Regulation 2022 (EU)</td>
<td>Gatekeepers: (1) have annual EU turnover of at least €7.5 billion ($8.02 billion) in each of the last three financial years or an average market capitalization of at least €75 billion ($80.2 billion) in the last financial year; and (2) provide the same core platform service in at least three member states, with “at least 45 million monthly active end users established or located in the [European] Union and at least 10 000 yearly active business users” in the last financial year.</td>
<td>European Commission has designated 7 companies (Alphabet, Amazon, Apple, Booking.com, ByteDance, Meta, and Microsoft) and 24 core platform services, such as Google Maps, Instagram, and TikTok</td>
</tr>
<tr>
<td>Brazil</td>
<td>Draft Law 2768/2022; introduced in the Chamber of Deputies in November 2022</td>
<td>Large digital platforms earning at least 70 million Brazilian reais (about $14 million) from services to Brazilians per year would be considered “holders of essential access control power.” Article 6 targets include eight categories of digital services: intermediation services, search engines, social networks, video-sharing platforms, communication platforms, operating systems, cloud services, and advertising.</td>
<td>A vast range of companies—from small enterprises and startups to large tech companies such as Airbnb, Alphabet, Amazon, Apple, ByteDance, Magazine Luiza, Mercado Livre, Meta, Microsoft, Nuvemshop, SAP, and Tencent</td>
</tr>
<tr>
<td>Country</td>
<td>Legislation/Amendment</td>
<td>Criteria/Definitions</td>
<td>Likely Regulated Companies</td>
</tr>
<tr>
<td>---------</td>
<td>--------------------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>-----------------------------------------------</td>
</tr>
<tr>
<td>India</td>
<td>Digital Competition Act; drafted in March 2024</td>
<td>A “systemically significant digital enterprise” is one that has at least either 10 million users or 10,000 business users and that meets any of the following criteria for each of the past three financial years: (1) Indian turnover of at least 40 billion rupees ($480 million); (2) global turnover of at least $30 billion; (3) gross merchandise value in India of at least 160 billion rupees ($1.9 billion); or (4) global market capitalization of at least $75 billion or “its equivalent fair value.”</td>
<td></td>
</tr>
<tr>
<td>Saudi Arabia</td>
<td>Competition Regulations for Digital Content Platforms; drafted July 2022</td>
<td>A “covered platform” is one that has “significant and entrenched market power” based on size, user numbers, entry barriers, fixed costs, and economies of scale, among other “qualitative market characteristics.” Any platform with more than 5 million monthly average active users in Saudi Arabia in the last financial year is to notify the government and provide “any other information CITC deems necessary” for assessing its market power.</td>
<td>Alphabet, ByteDance, Meta (WhatsApp, Instagram, Facebook), Snapchat, and X</td>
</tr>
<tr>
<td>South Korea</td>
<td>Draft bill (not yet formally proposed)</td>
<td>Platforms with average market capitalization of at least 30 trillion won ($23 billion), average annual revenue from platform services of at least 3 trillion won ($2.3 billion), and at least 10 million average monthly users or 50,000 business users.</td>
<td>Alphabet, Meta, and likely Apple, as well as South Korean company Naver and Coupang (a U.S.-based marketplace operating in South Korea)</td>
</tr>
<tr>
<td>Turkey</td>
<td>Draft amendments to the Turkish Competition Act; introduced in parliament in October 2022</td>
<td>Among providers of core platform services, “undertakings with significant market power” will be defined as those with an “entrenched and durable position” based on their scale and impact on access to end users or on the activities of business users. Quantitative thresholds will be defined via secondary legislation.</td>
<td>If Turkey ultimately follows the DMA’s designation criteria (as it has done in many of these amendments), targeted companies could include Alphabet, Amazon, Apple, ByteDance, Meta, and Microsoft</td>
</tr>
</tbody>
</table>
Platforms will be determined as having “strategic market status” if they have “substantial and entrenched” market power, a “position of strategic significance,” and more than £25 billion ($31.7 billion) in global turnover or UK turnover over £1 billion ($1.27 billion).

Regardless of the methods, most proposals would primarily target the world’s largest digital service firms: U.S. companies Alphabet, Amazon, Apple, Meta, and Microsoft (see Table 2).

Table 2: Large Tech Companies’ Market Capitalization, Revenue, and Number of Users in 2023

<table>
<thead>
<tr>
<th>Company</th>
<th>Market Capitalization</th>
<th>Global Revenue</th>
<th>Europe Revenue</th>
<th>U.S. Revenue</th>
<th>Asia-Pacific Revenue</th>
<th>Number of European Users of Most Popular Service</th>
</tr>
</thead>
<tbody>
<tr>
<td>Microsoft</td>
<td>$3,144,000,000,000</td>
<td>$211,915,000,000</td>
<td>n/a</td>
<td>$114,380,000,000</td>
<td>n/a</td>
<td>160,000,000</td>
</tr>
<tr>
<td>Apple</td>
<td>$2,647,000,000,000</td>
<td>$383,290,000,000</td>
<td>$94,200,000,000</td>
<td>$162,500,000,000</td>
<td>$126,300,000,000</td>
<td>101,000,000</td>
</tr>
<tr>
<td>Amazon</td>
<td>$1,865,000,000,000</td>
<td>$574,785,000,000</td>
<td>n/a</td>
<td>$352,800,000,000</td>
<td>n/a</td>
<td>181,000,000</td>
</tr>
<tr>
<td>Alphabet</td>
<td>$1,730,000,000,000</td>
<td>$307,394,000,000</td>
<td>$90,578,000,000</td>
<td>$146,286,000,000</td>
<td>$53,273,000,000</td>
<td>450,000,000</td>
</tr>
<tr>
<td>Meta</td>
<td>$1,251,000,000,000</td>
<td>$134,902,000,000</td>
<td>$30,886,000,000</td>
<td>$81,245,000,000</td>
<td>$28,915,000,000</td>
<td>308,000,000</td>
</tr>
<tr>
<td>Tencent</td>
<td>$358,920,000,000</td>
<td>$85,000,000,000</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Salesforce</td>
<td>$254,710,000,000</td>
<td>$31,400,000,000</td>
<td>$7,183,000,000</td>
<td>n/a</td>
<td>$2,939,000,000</td>
<td>~30,000</td>
</tr>
</tbody>
</table>
Source: Statista and company financial reports.

**Common Themes**

Looking at the 15 jurisdictions that have a law, bill, or study available for analysis, there are various common elements:

1. **Prohibiting self-preferencing:** The DMA bars gatekeepers from prioritizing their own products and services “in ranking and related indexing and crawling.” In their laws, bills, and studies, at least 12 countries have similar elements to this effect.

   For example, the United Kingdom’s new competition act prohibits a targeted platform from “using its position in relation to the relevant digital activity, including its access to data relating to that activity, to treat its own products more favorably than those of other undertakings.”

   Saudi Arabia’s draft regulations would prohibit a covered platform from “inappropriately and anti-competitively” favoring its service over the products or services offered by other providers.

   In India’s draft law, a “systemically significant digital enterprise” cannot “favour its own products, services, or lines of business” or the products or services of third parties for which it manufactures and sells products or provides services.

   And the draft amendments to the Turkish Competition Act ban self-preferencing in ranking, crawling, indexing, or “other conditions” that have not been defined; according to the Computer and Communications Industry Association, the definition is so broad that it would require a platform to stop selling its own products altogether if it wants to avoid legal scrutiny.

   In addition, South Africa’s Online Intermediation Platforms Market Inquiry discusses various global and local platforms’ behaviors, calling out, for example, local marketplace Takealot for self-preferencing: “Whilst Takealot opens its online marketplace to third party sellers, it also trades extensively itself through the Takealot Retail division. This creates a conflict of interest in the same manner as Google, namely it sets the rules for the marketplace and at the same time competes with the marketplace sellers.”

2. **Prohibiting tying and bundling:** The DMA bars gatekeepers from requiring “business users or end users to subscribe to, or register with, any further core platform services,” including payment services. An additional 10 countries do or would similarly prohibit targeted businesses from requiring or incentivizing users to use another of the platform’s services.
For example, the United Kingdom’s competition law would ban targeted businesses from “requiring or incentivizing users . . . to use one or more of the undertaking’s other products.” India’s competition bill has similar terminology. Saudi Arabia’s draft regulations would preclude “making the sale of one product or service conditional upon the purchase of an unrelated product or service.” In its guidelines, Singapore focuses on large, multiservice platforms, stating that “the greater the number of such products in the bundle, the stronger the likelihood that a competitor is unable to compete effectively against such a bundle.”

3. **Requiring users to be able to upload third-party applications**: The DMA requires gatekeepers to enable users to install and use third-party software apps and app stores “using, or interoperating with, its operating system.” Another nine countries do or would require a targeted platform to allow users to download or sideload third-party applications—for example, to the app store of a previously closed ecosystem. The United Kingdom would prevent a targeted platform from restricting “interoperability between the relevant service or digital content and products offered by other undertakings” or “how users or potential users can use the relevant digital activity.” In Japan, the April 2024 Smartphone Software Competition Promotion Act requires technology companies to allow competitors to offer alternative app stores or app makers to use outside payment systems.

4. **Requiring users to be able to uninstall features**: The DMA requires gatekeepers to allow end users to “easily un-install any software applications on the operating system of the gatekeeper.” The draft amendments to the Turkish Competition Act similarly call for “undertakings with significant market power” to enable users to remove preinstalled applications and easily switch to different software or app stores—as well as to change default settings that direct or steer users to the platform’s own products or services. In several of its reports, the Australian Competition and Consumer Commission has also favored giving users the option “to delete or uninstall certain pre-installed apps, and to change default settings to a third-party service”—citing concerns that exclusive pre-installation arrangements would have “lock-in effects associated with the cost and inconvenience” of transferring files or data to a new service.

5. **Limiting the ability of targeted platforms to combine data across services**: The DMA does not permit gatekeepers, absent user consent, to “combine personal data from the relevant core platform service with personal data from any further core platform services or from any other services provided by the gatekeeper or with personal data from third-party services.” Another five countries prohibit platforms from combining data across services—such as to enable synchronization between Google Calendar and Google Maps. The draft amendments to the Turkish Competition Act are especially broad, preventing targeted platforms from combining users’ personal data obtained from one core platform service with data obtained from other services (e.g., using this for advertising); unlike the DMA, Turkish draft amendments do not allow combining data even with user consent.
Another way in which the DMA shapes the use of data is by demanding that gatekeepers ensure that end users have “portability of the data provided by the end user or generated . . . in the context of the use of the relevant core platform service.”

6. **Requiring targeted platforms to allow interoperability with third-party hardware and software:** The DMA requires gatekeepers to permit other providers to have their services and hardware interoperate for free with “the same hardware and software features accessed or controlled via the operating system or virtual assistant . . . as are available to services or hardware provided by the gatekeeper.” The act also requires gatekeepers to permit any interpersonal communications that are not tied to a phone number—such as sending instant messages, images, videos, or voice messages—to users of other platforms’ services. Another three countries have similar provisions. For example, the United Kingdom would ban targeted businesses from “restricting interoperability between the relevant service or digital content and products offered by other undertakings.” The American Innovation and Choice Online Act would ban covered platforms from restricting the ability of business users “to access or interoperate with the same platform, operating system, hardware or software features that are available” to the platform itself. And the broad draft amendments to the Turkish Competition Act would require targeted businesses to “enable the interoperability of core platforms services” with related products or services—not only in regard to operating systems and virtual assistants but all core platform services, with “none of the safeguards and requirements of the DMA.”

7. **Requiring targeted platforms to provide business users with data about their own ads:** The DMA requires gatekeepers to provide advertisers or brands free, daily information “concerning each advertisement placed by the advertiser” (e.g., what fees the advertiser has paid and an explanation of how those are calculated). The proposed Turkish amendments would require advertisers and publishers to have “access to real-time information” regarding their ad portfolio, “including pricing terms of bids submitted, the auction process and pricing principles.” In addition, the Australian Competition and Consumer Commission has discussed the need to ensure that business users “have sufficient transparency over the prices, terms of service, and key functions.”

8. **Limiting the ability of platforms to intermediate business users’ relationships:** The DMA bars gatekeepers from preventing business users from using other online intermediation services, such as their own sales channels, to connect with end users directly. It forces gatekeepers to allow business users to “promote offers, including under different conditions, to end users acquired via its core platform service or through other channels, and to conclude contracts with those end users.” Similarly, the act bars gatekeepers from using “data that is not publicly available that is generated or provided” by business users to offer services that compete with that of these business users; this includes “click, search, view and voice data.” India’s draft bill has similar prohibitions on platforms restricting their business users from “communicating with or promoting offers to their end users, or directing their end users to their own or third party services.”
9. Preventing killer acquisitions: Five countries would seek to prevent tech companies from undertaking potential “killer acquisitions” (i.e., acquiring a potential rival while it is still nascent and before it poses a competitive threat). One way this has been done is by altering the thresholds for merger reviews. For example, Japan’s Merger Review Guidelines, amended in 2020, introduced a threshold based on transaction value to address “mergers that do not meet the target's turnover threshold but may have a negative impact on competition in Japan.”58 The UK Digital Markets, Competition and Consumers Act revised filing thresholds for mergers so that the CMA now has jurisdiction if: (1) either party has 33 percent or more of “the supply or acquisition of goods or services” in the United Kingdom; (2) “that party has a UK turnover of more than £350 million ([$443.36 million]); and (3) the other party is based in or at least partly operates out of the United Kingdom.59 Some countries have opted for a consultative process. For example, the Philippine Competition Commission has issued guidelines for when gatekeepers need to consult its Mergers and Acquisitions Office to determine in advance whether a potential merger may be deemed “harmful to competition.”60

10. Less frequent themes:

- **Exclusive arrangements:** Turkey’s draft regulations would bar platforms from “restricting business users from working with competing undertakings,” a prohibition that the DMA does not have.61

- **Presumed lack of inclusion:** South Africa’s Online Intermediation Platforms Market Inquiry discusses “concerns around inclusion” across its many case reviews. It therefore recommends, for example, that Google introduce a new feature to its search results page to enhance the visibility of smaller South African platforms.62

- **Discriminating between business users:** Some countries focus on targeted companies’ behaviors with their business users. Saudi Arabia would prevent targeted platforms from discriminating “without justification” among business users.63 The U.S. American Innovation and Choice Online Act would likewise bar targeted businesses from discriminating “among similarly situated business users,” including businesses owned by women and minorities.64

- **International cooperation:** Various countries, especially several African countries, have called for international cooperation among competition authorities on digital issues.65
Problems

Vague Terms, Steep Fines, and Discrimination against U.S. Companies

There are several particularly notable challenges with the laws and proposals:

1. **Unclear criteria for designation**: While jurisdictions such as Brazil, the European Union, and India have monetary thresholds for platforms that are likely to become targeted, many other countries leave the definition of a potential gatekeeper more open-ended, creating a sense that the law can “hit at any moment.”

2. **Subjective determinations of unallowed activity**: A major problem across the various laws, bills, and proposals is their abstract terminology, which opens the door for subjective determinations about which activities may be banned.

   For example, Saudi Arabia’s draft competition regulations would prohibit a covered platform from “inappropriately and anti-competitively favoring” its own products or services over those offered by other providers. Covered platforms are also expected to refrain from “imposing unfavorable contract terms on Business Users, that constitute onerous demands or that cause a significant imbalance in [the] rights and obligations of Business Users”—yet the terms “unfavorable,” “onerous,” and “significant imbalance” could be made to apply to countless instances.66

   Likewise, Brazil’s draft competition law calls for the targeted businesses to use “non-discriminatory” treatment in offering their services and ensure “appropriate” use of data collected—without defining either term.67 India’s Draft Digital Competition Bill states that the Competition Commission may issue regulations to exempt certain platforms from the tying and bundling or anti-steering rules if their products or services are “integral”—its
meaning left unclear—to the “provision of a Core Digital Service.” And the United Kingdom’s Digital Markets, Competition and Consumers Act prevents a targeted platform from pursuing operations other than the activity for which it has been designated to have strategic market status “in a way that is likely to materially increase the undertaking’s market power, or materially strengthen its position of strategic significance” in that field. What “materially” means is not defined, yet it is mentioned eight times in the law.

3. **Steep fines and reporting requirements**: Ten jurisdictions impose fines based on the revenue of a targeted business or the activity in question (see Table 3).

At the extreme end, the draft amendments to the Turkish Competition Act include fines of 20 percent of annual gross revenue—whether total revenue or just that generated in Turkey remains unclear—in cases of repeated infringements. Failure to comply with the draft regulation twice or more during five years can also result in a ban on mergers and acquisitions for up to five years.

Saudi Arabia’s draft regulations refer to the Telecommunications and Information Technology Law regarding penalties. This law imposes “one or more” of the following penalties for “abuse of dominant position” by a service provider: a fine of up to 25 million riyals ($6.7 million); “full or partial suspension of the service subject of the violation”; “banning the violator, for a specific period, from obtaining a license” to provide services; or “complete or partial blocking” of the platform.

In some cases, companies face additional fines for not supplying requested information. For instance, in addition to standard fines of up to 10 percent of global turnover for noncompliance, India’s Draft Digital Competition Bill would also fine platforms for providing false information (up to 1 percent of global turnover) and failure to notify the Competition Commission of noncompliance (up to 1 percent of global turnover). Similarly, the UK Digital Markets, Competition and Consumers Act imposes fines of up to 1 percent of a platform’s annual turnover for noncompliance with information requests, plus 5 percent of daily worldwide turnover for as long as noncompliance continues. However, the United Kingdom’s act has some built-in flexibilities: even if a firm with strategic market status breaches a conduct requirement, it will forgo being sanctioned if the conduct creates benefits to consumers that outweigh the harm to competition.

At the lower end, Japan’s amendments to its Antimonopoly Act are expected to entail fines of 6 percent of revenue earned from “the problematic activities.” Fines in Brazil’s draft law—which targets a broad range of companies earning more than $14 million in revenue from their operations in the country—are even more moderate at up to 2 percent of Brazilian revenue.

In addition to fines for noncompliance, the various laws and proposals create reporting requirements—and some even impose fees. The UK Digital Markets, Competition and Consumers Act states that a targeted platform needs to send the CMA a report for each reporting period that states, for example, how the platform “has complied with the digital markets requirement” and how it intends to continue complying.
a Digital Platforms Inspection Fund that would be funded by a 2 percent tax on the gross revenues of large digital platforms in Brazil.79

Table 3: Fines for Presumed Noncompliance with Competition Policies

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Status</th>
<th>Fines up to</th>
</tr>
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<tbody>
<tr>
<td>European Union</td>
<td>Digital Markets Act Regulation 2022 (EU) 2022/1925; entered into force in November 2022 and applicable as of May 2023</td>
<td>10 percent of global turnover</td>
</tr>
<tr>
<td>Brazil</td>
<td>Draft Law 2788/2022; introduced in November 2022</td>
<td>2 percent of Brazilian revenue</td>
</tr>
<tr>
<td>India</td>
<td>Digital Competition Act; drafted in March 2024</td>
<td>10 percent of global turnover</td>
</tr>
<tr>
<td>Japan</td>
<td>Amendments to the Antimonopoly Act; expected in 2024</td>
<td>6 percent of revenue earned from the targeted activities</td>
</tr>
<tr>
<td>Saudi Arabia</td>
<td>Competition Regulations for Digital Content Platforms; drafted in July 2022</td>
<td>“One or more” of the following penalties: a fine of up to 25 million riyals ($6.7 million); “full or partial suspension of the service subject of the violation”; “banning the violator, for a specific period, from obtaining a license” to provide services; or “complete or partial blocking” of the platform</td>
</tr>
<tr>
<td>South Korea</td>
<td>Draft bill; withdrawn as of January 2024</td>
<td>10 percent of South Korean revenue</td>
</tr>
<tr>
<td>Turkey</td>
<td>Draft amendments to the Turkish Competition Act; introduced in October 2022</td>
<td>20 percent of annual gross revenue in cases of repeated infringements</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>Digital Markets, Competition and Consumers Bill; passed in May 2024</td>
<td>5 percent of a company’s annual global turnover, with an additional daily penalty of 5 percent of daily turnover during noncompliance</td>
</tr>
<tr>
<td>United States</td>
<td>American Innovation and Choice Online Act; introduced in House in June 2021</td>
<td>15 percent of U.S. revenue</td>
</tr>
</tbody>
</table>
Conclusion

This report has catalogued the ongoing global shift away from how antitrust enforcers have traditionally addressed anticompetitive effects (i.e., after they occur). Today, the world’s largest economies and leading U.S. trading partners are drafting laws to adopt ex ante digital competition laws such as the European Union’s DMA. Some of the most popular themes include prohibiting targeted companies from promoting their own services or products via their platforms (“self-preferencing”), incentivizing users of one product or service to use another of a platform’s products or services, or combining data across the targeted companies’ services. Many laws and proposals also would require targeted companies to permit users to install and use third-party software, apps, and app stores, such as enabling an iPhone user to download apps not available from Apple.

Most of these various laws and proposals would primarily target and shackle some of the most successful U.S. companies and job creators—thus implicitly favoring large Chinese tech companies. So far, the Biden administration has done little to counter these discriminatory effects or the attendant national security implications, and Congress’s failure to enact digital legislation of its own has allowed the DMA to become the global default law. Further CSIS blogs and papers will examine the economic impacts of the DMA and the potential effects of the various law proposals worldwide that have been modeled after it.
About the Author

Kati Suominen is an adjunct fellow with the Scholl Chair in International Business at the Center for Strategic and International Studies and focuses especially on digitization, disruptive technologies, and trade. She is also the founder and CEO of the Los Angeles-based Nextrade Group, which helps governments, multilateral development banks, and leading technology companies enable trade through technology. Nextrade’s more than 50 clients include the World Bank, International Finance Corporation, Inter-American Development Bank, Asian Development Bank, U.S. Agency for International Development (USAID), UK Foreign, Commonwealth and Development Office, Mastercard, Visa, Google, and eBay, among many others. Dr. Suominen has built dozens of data and analytical products and pilot initiatives, as well as eight global initiatives and public-private partnerships to enable digital trade, including the Alliance for eTrade Development between 14 leading companies and USAID to enable small and medium-sized enterprise (SME) e-commerce in developing nations, and the Prosper Africa Tech for Trade Alliance that works with usaid, Prosper Africa initiative, and 24 leading technology companies to promote Africa’s trade through technology. She also serves as adjunct professor at the UCLA Anderson School of Management. Earlier in her career, she was a trade economist at the Inter-American Development Bank. Suominen is the author and editor of over 120 papers and 10 peer-reviewed books with leading academic presses, most recently Revolutionizing World Trade: How Disruptive Technologies Open Opportunities for All (Stanford University Press, 2019). She holds a BA from the University of Arkansas, an MA from Boston University, an MBA from the University of Pennsylvania’s Wharton School, and a PhD from the University of California San Diego. She is a life member of the Council on Foreign Relations.
Endnotes


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CITC, *Competition Regulation for Digital Content Platforms*.


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