**WILL THE SUCCESS OF EUROPE’S DMA BE DERAILED BY BIG TECH’S AI DISTRACTION?**

**By Rich Stables, CEO of Kelkoo Group**

The year ahead heralds a key escalation in the European Union’s plan to clampdown on abuse in fast-moving digital markets.

But there’s a plan, and then there’s enforcement. We are counting on the European Commission to hold its nerve and remain steadfast in the quest for fair and contestable digital markets. After more than 10 years of Google dodging the law, the Commission seems ready to tackle the digital giant head on, and it knows it must get enforcement right. The European Parliament has given it the tools. The Commission has the future of my business - and other small businesses - in its hands. It must be effective.

Meantime, Big Tech attempts to distract everyone with debate around generative AI – an attempt to counter competition rules. ‘*Don’t talk about Search’* they say*. ‘Don’t talk about Apple or Amazon. Look over here, there’s this shiny new thing which will make all the old problems irrelevant.’* Putting it bluntly, this is just another ruse. AI is another technological step forward, just like the development of search, mobile operating systems, and others - which should form part of the enforcement conversation. My view was recently echoed by Cristina Caffarra of Keystone Strategy when she said about Big Tech “*This great big decoy tactic…this is the great big shiny object…move on…oh look at AI over here.”*

AI shouldn’t be treated any differently to search or other markets. We already know about many actual and potential harms of AI, both to businesses and consumers, as well as potential benefits. The big platforms are already shifting their commercial interests from one platform service to another - in this case to AI. To what extent AI tools and services will entrench existing market power or rely on existing market power to themselves become entrenched, is yet to be seen. But what is clear is that Google is already integrating AI into its services. This effectively creates another algorithmic advantage; less transparency to consumers, potential for yet more self-preferencing at a deeper level, and an opportunity to double down on abusive behaviour. AI is just one of many areas where enforcement action is needed, and that action must be consistent across the board.

Big Tech claims that Europe will be at a disadvantage if regulators don’t allow AI technology to develop freely. However, the EC must learn from the mistakes of the 10-year slog to regulate social networks where harms have become so ingrained, it’s almost impossible to catch up. I believe that rules should still apply in the so called “new” world and those rules must be fit for purpose.

As well as distraction, we see sustained lobbying in both Europe and the UK, as the UK Government works to pass legislation with similar aims to the DMA.

According to [Statista,](https://www.statista.com/statistics/1321186/lobbying-expenses-of-alphabet-inc-eu/) in 2021 alone, Google spent over six million euros on its lobbying activities in the EU. Gatekeepers are likely to launch a pincer movement on DMA enforcement. They will continue to lobby in Brussels and the national capitals through their own channels, such as the various associations they finance. They will also use litigation, challenging the very implementation of the DMA. We’re expecting Google to do its utmost to appear to be cooperating on a strategic high level whilst, behind the scenes, bringing legal challenges that delay and delay and delay. It’s what we’ve seen elsewhere. It’s what we’ve experienced in Google Shopping.

The difference now is that EVP Vestager recently called Google out when asked why she had already included remedies in the recently announced Statement of Objections on the Google AdTech case. She said: “*Google doesn’t learn.”* In a [statement to the press](https://ec.europa.eu/commission/presscorner/detail/en/SPEECH_23_3288), she said: “*A remedy requiring Google just to change its behaviour would allow Google to continue doing what it has been doing so far, just under a different disguise.”*

These comments are the strongest signal yet that the Commission means business and gives us hope for effective enforcement under the DMA. And with the EU the first to dip its feet in new competition legislation waters, the UK and US will be taking note. The EU “test case” could yet inform regulators in London and Washington DC, potentially showing up any areas for improvement in time for legislative tweaks in these jurisdictions.

In parallel with the DMA, we’re confident that UK legislators will do the same and that the UK’s Competition and Markets Authority will soon have the powers needed to restore competition in the digital space. In the US, another markup of the America Innovation and Choice Online Act is expected. Perhaps the stars will begin to align once again.

But back to Europe. What happens next will be key - particularly how bullish the Commission remains in using the full extent of its new powers to restore fair contestable digital markets. It will need to act decisively, with all its powers - old and new - at its disposal. I am optimistic. I must be.

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