



European
Commission

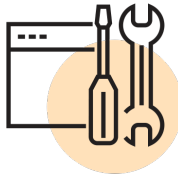
Digital Markets Act

Thomas Kramler, DG Competition,
European Commission

Why do we need new rules?



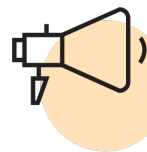
“Platformisation” of digital markets



Gatekeepers, “winner takes it all markets”



Growing concentration and increasing power imbalances



Limits of ex post competition law enforcement

Central ideas of the DMA

Fair and contestable digital markets

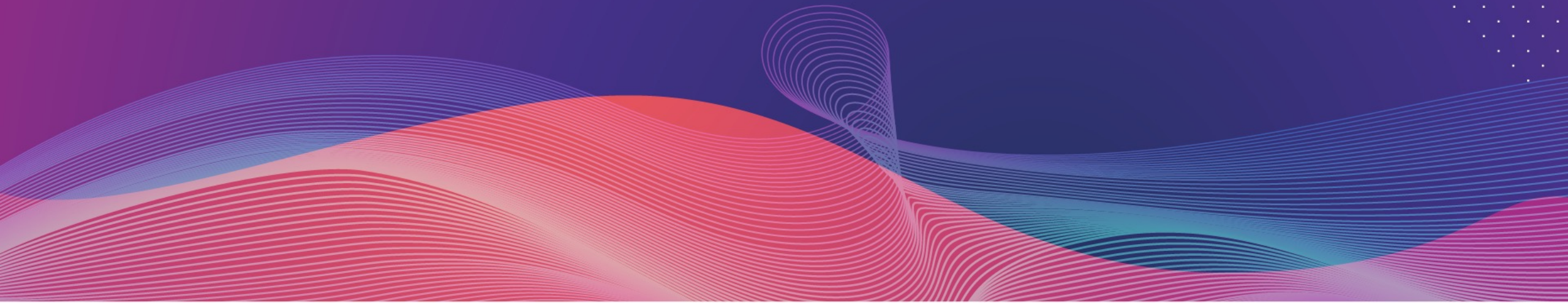
Gatekeepers, the most powerful actors in the digital ecosystems –
Designation based on quantitative and qualitative criteria

Directly applicable **ex ante obligations**
– clear list of **do's and don'ts**

Comprehensive **remedies**, incl structural measures –
Exclusive **EU-level enforcement** by the Commission

Complementarity with competition law and sectoral regulations

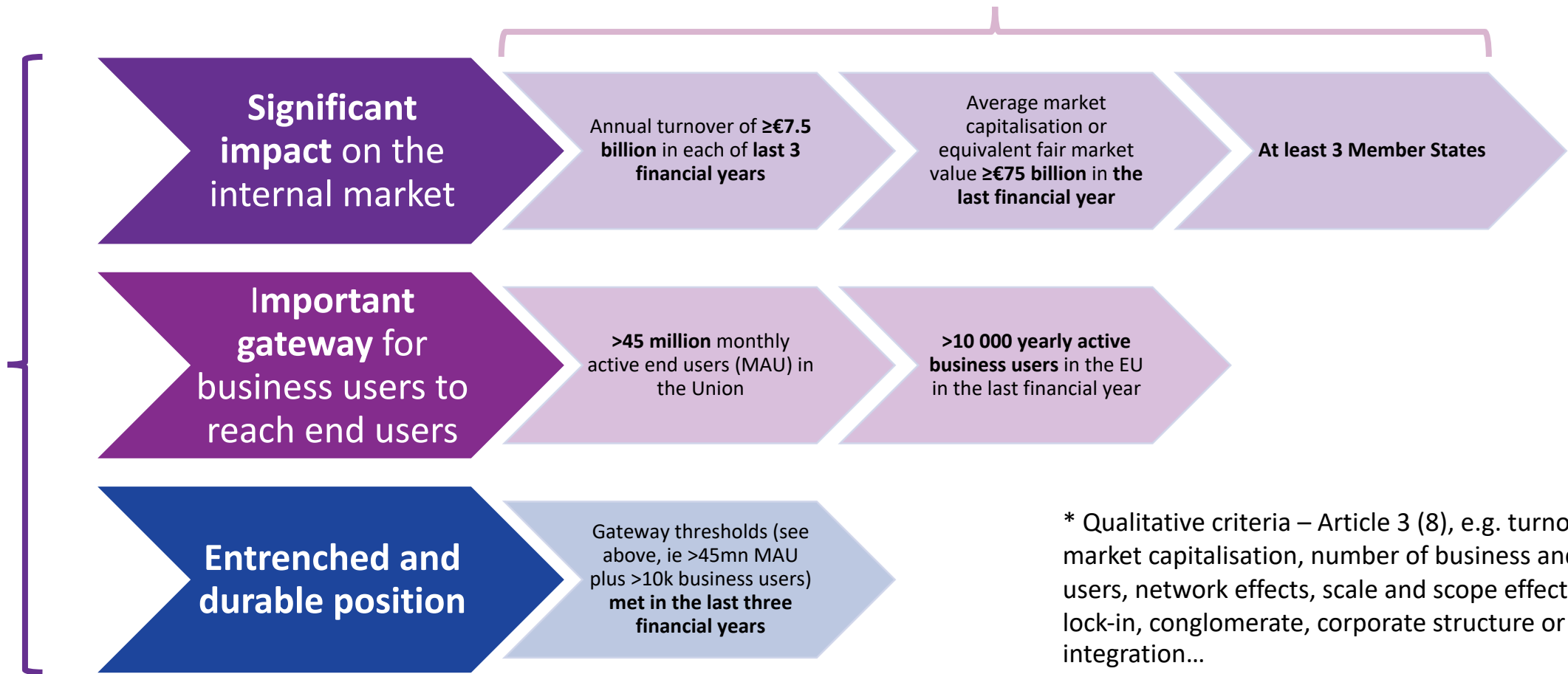
DESIGNATION



Criteria for the designation of gatekeepers – Article 3

Quantitative criteria (rebuttable presumption) – Article 3 (2)

Qualitative criteria* – Article 3 (1) and (8)



* Qualitative criteria – Article 3 (8), e.g. turnover and market capitalisation, number of business and end users, network effects, scale and scope effects, user lock-in, conglomerate, corporate structure or vertical integration...




















Core Platform Services



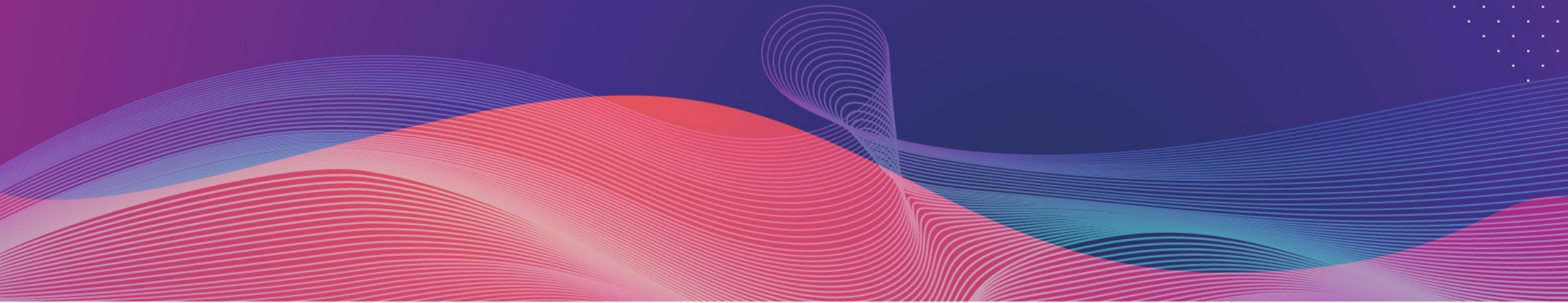
Delineation	List
<ul style="list-style-type: none">Exact delineation of the relevant CPS for each gatekeeper depends on the “purpose” of the service (DMA Annex)	<ol style="list-style-type: none">1. Online intermediation services (e.g. App Stores, e-commerce)2. Online search engines3. Online social networking services4. Video-sharing platform services5. Number-independent interpersonal communication services (N-IICS, e.g. messaging apps)6. Operating systems7. Web browsers8. Virtual assistants9. Cloud computing services10. Advertising services

6 gatekeepers for 22 services, 4+1 market investigations

Gatekeeper	Inter-mediation	Search	Social network	Video sharing	N-IICS	Operating system	Browser	Virtual assistant	Cloud	Ads
Alphabet					Accepted rebuttal					
Apple					Market investigation on rebuttal	iOS + investigation on iPadOS				
Meta										
Microsoft		Market investigation on rebuttal			Accepted rebuttal		Market investigation on rebuttal			Market investigation on rebuttal
Amazon										
ByteDance										
Samsung										Non-designation letter

COMPLIANCE

6 MONTHS AFTER DESIGNATION



Map of obligations and prohibitions

Data-related

- Ban on data combination (5(2))
- Data silos (6(2))
- Data portability (6(9))
- Access to data generated by users (6(10))
- Access search data for online search engines (6(11))

Fair access

- Fair ranking and ban of self-preferencing (6(5))
- FRAND access conditions (6(12))

Commercial relations

- Ban MFN clauses (5(3))
- Anti-steering (5(4))
- Reader rule (5(5))
- Ban gag clauses (5(6))
- Termination (6(13))

Transparency

- Transparency on ads pricing (5(9) and 5(10))
- Transparency on ads performance (6(8))

Mobile ecosystems

- Un-installation/choice screens (6(3))
- Side-loading apps (6(4))
- Switching (6(6))

Interoperability

- Vertical interoperability for hardware/software (6(7))
- Interoperability for NI-ICS (7)

Reporting

- Report about implementation (11)
- Inform about mergers (14)
- Audit re techniques for profiling consumers (15)

Tying

- Tying with ancillary services (5(7))
- Bundling between CPSS (5(8))

Powers of the Commission under the DMA



Governance

- Commission sole enforcer
- Close cooperation and coordination with national competition authorities (Art 38)
- Advisory committee (Art 50) and high-level group (Art 40)

Investigatory powers

- Requests for information (RFI)
- Market investigations
- On-site inspections
- Interviews
- Interim measures

Enforcement powers

- Non-compliance decisions: fines up to 10% of annual turnover
- Repeated infringements: up to 20% of annual turnover
- Systematic non-compliance can lead to structural measures (company breakup) and a merger moratorium

The DMA and Competition Law

- Ex post and ex ante tools based on Art 101 & 102 TFEU and Merger Reg 139/2004
- Captures any undertaking in any market
- Aims at protecting the competitive process to promote consumer welfare
- No closed list of anticompetitive behaviours and practices
- Necessary to define relevant markets
- Efficiency defence possible

EU Competition
Law &
merger control

Digital Markets
Act

- Ex ante regulation based on Art. 114 TFEU
- Applies to gatekeepers and core platform services
- Aims at addressing unfairness and lack of market contestability
- Closed list of prohibitions and obligations
- Art. 14 imposes obligation to inform about mergers but no control ex ante
- No need to define markets
- No efficiency defense

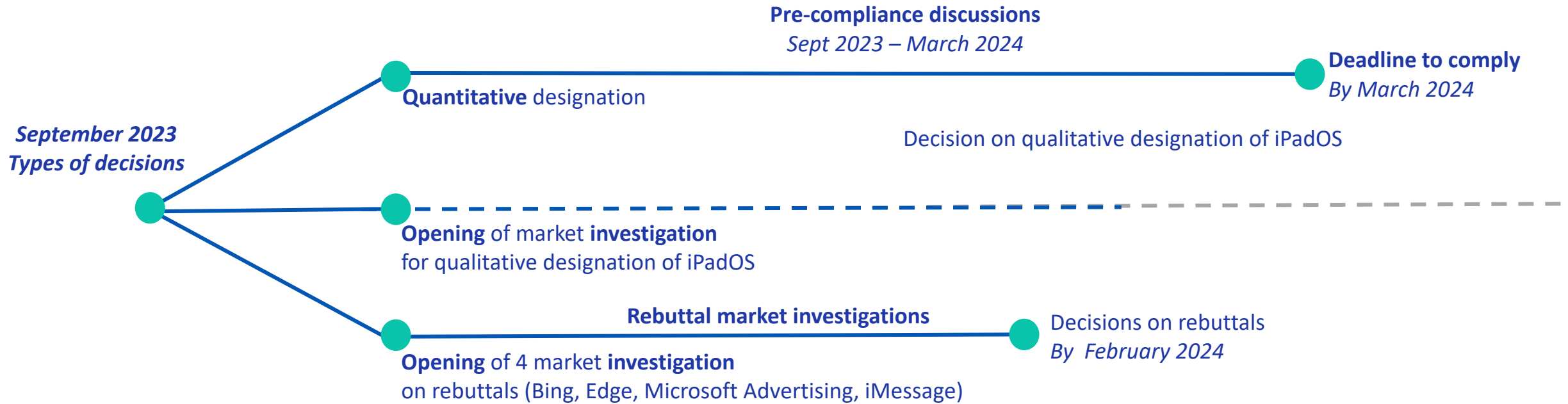
The DMA complements EU and national competition law that continues to apply in parallel (Art 1(6) DMA).

Investigations under Art 101 & 102 TFEU remain relevant for outside DMA.

Member States can use info obtained under Art 14 DMA to trigger review under EU merger control.



Next steps



Thank You