



Frankfurt/ Paris, 17.12.2021

### **Clarification of the scope of the Digital Markets Act**

Dear Sir or Madam,

AFNUM and ZVEI are French and German trade associations representing the interests of the electrical and electronics industries and promoting the development as well as the use of new technologies. Our member companies include manufacturers of consumer electronics, such as Connected TVs, which are affected by the amended provisions of the draft proposal of the Digital Markets Act.

We acknowledge the Digital Markets Act as a fundamental element of the EU digital strategy due to its combining aspect of fairness and competitiveness. However, we criticize attempts to expand the scope as too far reaching. In particular the extension to all operating systems, especially to those which are only product-related (e.g. Connected TVs), raises doubts.

Including in an undifferentiated way most of the digital sector in the Digital Markets Act will affect its efficiency and thus its capacity to create a European market adapted to digital economy. Moreover, this extension will constrain manufacturers' capacity to innovate whereas the Digital Markets Act's primary objective is to create a safe economic space for all entrepreneurs.

The scope of the regulation should be limited to core and generic platform services and not include specific categories of terminal equipment like Connected TVs.

The current definition of operating systems in the Digital Markets Act is too generic and broad. Today, consumer electronics, along with household appliances, embed specialized operating systems. Such product-related operating systems are designed with only limited functionality and very specific purpose for a particular type of device. They are not comparable with operating systems on computer hardware systems, like personal computers, including desktops, notebooks and smartphones, which are characterized by their multipurpose nature and their ability to perform the most common computing tasks requested by consumers. Neither

have they got a comparable relevance or key function for the internal market, nor do they play a similar central role in the digital daily use of consumers or businesses.

It is therefore necessary to define operating systems in a way that specialized operating systems are not covered by the Digital Markets Act. Operating systems are already defined in existing EU legislation: notably in the European Accessibility Act (Directive (EU) 2019/882) which includes this definition in Article 3(38). The reference to this definition in the Digital Markets Act would create greater legal certainty and align existing definitions in EU legislation.

Rules on transparency and non-discriminatory access of Connected TVs' user interfaces are already dealt with in the national legislation enacted in the context of the sector-specific Audiovisual Media Services Directive (Directive (EU) 2018/1808). The directive has been already implemented in France and Germany, with specific obligations on Connected TVs' user interfaces, such as ensuring the appropriate prominence of audiovisual media services of general interest. In our view this media-specific legislation leaves no need for further horizontal legislation.

Additionally, since both German and French transpositions of the AVMSD provision on media prominence also target Voice assistants, we believe those devices should be removed from the DMA as well.

Therefore, the amendment from the European Parliament enlarging the scope of the Digital Markets Act to Connected TV should be withdrawn. This amendment wrongfully defines specific terminal equipment as a sub-category of an operating system. Additionally, it is neither clear nor proven which threat connected TV pose to the single internal market

Instead, better defining the scope of the DMA will contribute to a greater legal certainty and more effective regulation.

We are looking forward to entering a discussion with you and remain available for further questions.

Kind regards



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General delegate, AFNUM

### **AFNUM: the French Alliance for Digital Industries**

AFNUM (Alliance française des industries du numérique) is the professional trade association in France which represents the manufacturers from the fields of telecommunication networks, mobile devices, consumer electronics, photography, and connected objects. Our members represent 28 billion Euro of turnover generated in France and around 100 000 jobs.

### **ZVEI: Electro and Digital Industry Association**

The ZVEI promotes the industry's joint economic, technological and environmental policy interests on a national, European and global level. The sector has round about 866,000 employees in Germany. In 2020 the turnover was Euro 182 billion.

The electro and digital industry is the most innovative industry sector in Germany. One-third of the industries sales are based on new products. Every third innovation in Germany's manufacturing sector stems from solutions of this sector. More than 20 percent of all industrial R+D spending comes from this industry. Every year, the industry spends 20 billion euros on R+D, more than 6 billion euros on investments and two billion euros on training and further education.