A New Age for Digital Markets in Turkey? The Draft Amendment to the Law No. 4054 on the Protection of Competition

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Introduction

This blogpost will give an overview on the draft amendment (the "**Draft Amendment**") to the Law No. 4054 on the Protection of Competition (the "**Law No. 4054**"). The key points of the Draft Amendment concern:

- Introducing definitions of core platform services into the Law No. 4054 and allowing the possibility to introduce regulations on the conducts of certain undertakings offering these same services;
- Determining the new obligations to be imposed on the undertakings holding significant market power in core platform services;
- Monitoring and auditing compliance with these obligations; and
- Providing certainty regarding the sanctions to be imposed in case the relevant undertakings fail to comply with the obligations.

This blogpost will provide overview on (i) the main definitions, (ii) the obligations to be imposed on the undertakings, (iii) the processes envisaged for compliance with these obligations, and finally (iv) amendments regarding the article about on-site inspections that are included in the Draft Amendment.

What are the Key Definitions Brought by the Draft Amendment?

The Draft Amendment primarily amends Articles 1 and 2 of the Law No. 4054, which regulate the purpose and scope of the Law, and extends the scope of the Law No. 4054 to cover the prohibited conducts and obligations to be imposed on the undertakings holding significant market power in core platform services to prevent them from abusing their market power.

Accordingly, the Draft Amendment provides additional definitions in Article 3 of the Law No. 4054. These definitions include detailed descriptions of the undertakings operating in digital

markets and the services they offer.

Therefore, the relevant article of the Draft Amendment includes the definitions of the following terms, most of which are self-explanatory: (i) data that is not publicly available, (ii) undertaking holding significant market power, (iii) end-user, (iv) core platform services, (v) online intermediation services, (vi) online search engine services, (vii) online social networking services, (viii) video sharing platform services, (ix) number-independent interpersonal communications services, (x) operating systems, (xi) web browsers, (xii) virtual assistants, (xiii) cloud computing services, (xiv) online advertising services, (xv) business users and (xvi) ancillary services. The definitions of the main concepts of "*undertaking holding significant market power*" and "*core platform service*", which are at the centre of the amendments, are provided as follows:

- **Core platform services:** The online intermediation services, online search engines, online social networking services, video/sound sharing and broadcasting services, operating systems, number-independent interpersonal communication services, cloud computing services, web browsers, and virtual assistants, and online advertising services provided by the provider of any of the aforementioned services.
- **Undertaking holding significant market power:** Undertaking that has a certain scale in terms of one or more core platform services and operates in a way that has a significant impact on access to end users or on the activities of business users and which has the power or is foreseen to be able to have the power to maintain this impact in an established and permanent manner.

Core platform services are regulated in a way to cover a range of services in digital markets. As seen above, the Draft Amendment adopts the same approach for the core platform services with the recently published Digital Markets Act ("**DMA**") of the European Union and exhaustively lists the activities that will be subject to the obligations, in other words, core platform services. The Draft Amendment, however, foresees the issuing of an additional communiqué by the Competition Board (the "**Board**") to determine the thresholds that will be relevant to make an assessment for the concept of undertakings holding significant market power.

How to Determine the Undertakings Holding Significant Market Power?

According to Article 3 of the Draft Amendment, for a core platform service provider to be considered as an undertaking holding significant market power, it is understood from the definition that the following conditions are required to be satisfied cumulatively:

- Having a certain scale in terms of one or more core platform services;
- Operating in a way that has a significant impact on access to end users or on the activities of business users; and
- Having the power or being foreseen to be able to reach the power to maintain this impact in an established and permanent manner.

These concepts are in line with the criteria for the designation of "*gatekeepers*" in the DMA. However, unlike the DMA, the Draft Amendment does not set out the limits of the criteria to be taken into account for an undertaking to be designated as an undertaking holding significant market power. These requirements will be introduced in detail by the communiqué (the "**Communiqué on the Implementation of Article 8/A of the Law No. 4054**") to be issued by the Board within six months following the entry into force of the new amendments.

The Draft Amendment stipulates that the Board shall take into account two types of criteria while designating the undertakings holding significant market power. On one side, quantitative thresholds such as annual gross revenue, the number of end-users or the number of business users will be considered. On the other side, qualitative criteria such as network effects, data ownership, vertically integration and conglomerate structure, economies of scale and scope, lock-in and tipping effect, switching costs, multi-homing, user trends, mergers and acquisitions carried out by the undertaking will also be analysed.

Therefore, an undertaking may be designated as an undertaking holding significant market power by the Board either *ex officio* or upon complaint to be made by the third parties, based on qualitative requirements, even if the limits to be specified by the quantitative thresholds in the communiqué are not exceeded.

The process of designation of holding significant market power

First, the undertakings providing core platform services shall apply to the Competition Authority (the "**Authority**") within 30 days in case they exceed the thresholds that will be determined by the Communiqué on the Implementation of Article 8/A of the Law No. 4054. Along with the application, undertakings may also submit their objections to the Authority, if any, about why they think they do not hold significant market power.

As a result of the evaluation to be carried out within 60 days following the completion of the application, the Board shall determine whether the undertaking holds significant market power and which of the obligations listed under Article 6/A of the Law No. 4054 the undertaking will be subject for each platform service it offers. As stated in the previous section, the Board may also make the same determination *ex officio* or upon complaint. In addition, the Board may, even if quantitative thresholds are not exceeded, reach a conclusion based on the assessment of qualitative requirements.

If the undertaking is designated to be holding significant market power, the Board shall determine a reasonable period of time, not exceeding 6 months, for the undertaking to comply with the provisions of Article 6/A.

The undertaking that is designated to hold significant market power may submit its objective justification defence regarding its inability to fulfil its obligations stipulated to the Authority, together with sufficiently substantiated and concrete information and documents, if any, within 6

months starting from the service of the decision. The Board shall evaluate and decide on whether it considers this defence within 60 days; if the Board does not accept objective justification, it shall decide that the relevant obligation shall be fulfilled.

In addition, the Board may, upon request or *ex officio*, change, review or withdraw its decision, in any of the following cases where:

- there is a significant change in any of the facts on which the decision designating the undertaking as holding significant market power was based on;
- the decision is based on incomplete, incorrect or misleading information provided by the undertakings;
- the obligations imposed are insufficient.

If the Board determines, *ex officio* or upon complaint, that the obligations stipulated are not complied with, the preliminary investigation or fully-fledged investigation will be launched as per Articles 40 and 59 of the Law No. 4054.

If the undertaking is designated to hold significant market power, this decision will be valid for 3 years. In case the undertaking does not apply to the Authority within 90 days before the end of the 3-year period, the relevant undertaking is deemed to hold significant market power for the next 3 years, as well.

What are the Obligations that the Undertakings Holding Significant Market Power Should Comply with?

The Draft Amendment provides a list of conducts to be added as Article 6/A to the Law No. 4054, which should be complied with by the undertakings holding significant market power. These are *ex-ante* obligations that undertakings should comply with in order to prevent anti-competitive conduct in the core platform markets for goods and services by undertakings holding significant market power, and to ensure the maintenance of a fair and competitive market structure in the core platform services provided by such undertakings. The communiqué (the "**Communiqué on the Implementation of Article 6/A of the Law No. 4054**"), which is envisaged to be issued by the Board within six months following the entry into force of the new amendments, will provide further information on the implementation of these obligations.

In parallel with the DMA, the obligations set out below will be applied, to the extent appropriate to all core platform services for undertakings that have been designated to hold significant market power.

Under the Draft Amendment, undertakings holding significant market power should;

- Refrain from discriminating their own goods and services in ranking, scanning, indexing or in other conditions, compared to the goods or services of business users and ensure that the relevant conditions are fair and transparent.

- Refrain from using the data that are not publicly available while competing with other business users.
- Refrain from making the goods or services offered to business users and end users dependent on other goods or services offered by themselves.
- Refrain from requiring business users or end users to subscribe or register with any core platform services of this undertaking holding significant market power as a condition for accessing, logging in or registering any core platform services.
- Allow end users to easily uninstall software, applications or app stores that have been preinstalled into the operating system of the devices, to switch to different software, applications or app stores, to install and effectively use third-party software, applications or app stores, to allow default settings to be easily changed, to allow third-party software, applications or app stores to be offered to user preference and chose by default and fulfil technical requirements in that regard.
- Refrain from restricting or obstructing business users, from working with competitor undertakings, from making offers to or making agreements with end users over platforms or other channels, from advertising their goods and services via these channels, and refrain from preventing them to offer different prices or conditions for a certain good or service while working with competitor undertakings over their own channels or over different channels.
- In a way as to prevent competitor undertakings from entering the market and to prevent those already in the market from competing effectively;
    - Not combine personal data they obtain from the core platform services with personal data obtained from any other services they offer or with personal data obtained from third parties.
    - Not process these data by combining or use it for / in the context of other services, especially in targeted advertising, unless it is necessary for the performance of a contract to which the end user is a party.
    - Not process the competitively sensitive data obtained from business users for purposes other than the provision of the relevant service, unless it provides clear, precise, and sufficient options to the business user.
- Provide relevant business users free, efficient, continuous, and real-time access to the aggregated and non-aggregated data which is provided by business users while using core platform services or ancillary services, or by end users of these business users or is produced within the scope of the activities of these parties on the relevant platform, upon request of the relevant business users and third parties authorized by them.
- Enable end-users using core platform services or ancillary services, business users, or end-users of such business users to, free of charge and effectively, transfer their data provided by them or generated within the scope of activities of these parties on the relevant platform, upon their request and provide free of charge tools to facilitate data portability.
- Enable the interoperability of core platforms services and/or ancillary services with other related products or services, efficiently and free of charge and fulfil the technical requirements for this.
- In order to maintain provision of core platform services or ancillary services by other

undertakings, provide free of charge access to the necessary operating system, hardware or software features, limited to the relevant core platform service, and fulfil the technical requirements for this.
- Upon their request, provide business users with adequate information on the scope, quality and performance of core platform services and ancillary services, as well as pricing principles and conditions of access to these services.
- Provide to the advertisers, publishers, advertising intermediaries which it provides online advertising service or to third parties that are authorized by those, free, continuous, and real-time complete information about the commercial terms regarding offers and access to advertising verification and performance measurement tools and the data required for the use of these tools.
- Refrain from discriminating between business users by imposing unfair or unreasonable terms on business users.

What are the Fines in Case of Non-Compliance with the Obligations?

The Draft Amendment also includes provisions on administrative fines and remedies to be applied in case of a failure to comply with the above-mentioned obligations.

Accordingly, similar to a case of violation of core competition law articles of the Law No. 4054, the Board may decide to apply structural remedies in the form of requiring undertakings to transfer certain businesses, partnership shares or assets in the event of a failure to comply with the obligations stipulated under Article 6/A of the Law No. 4054. Unlike a violation of Articles 4, 6 and 7, a violation of Article 6/A can directly motivate a decision ordering a structural remedy, without the need to issue a prior behavioural remedy in a previous decision.

In such a case, it will be sufficient to demonstrate that the behavioural remedy will not yield any result.

One of the most relevant amendments envisaged by the Draft Amendment is the administrative fine to be imposed on the undertakings holding significant market power in case of a failure to comply with the obligations to which they are subject.

In case of a violation of Articles 4, 6 and 7 of Law No. 4054, the relevant undertaking may be imposed an administrative fine up to ten percent of its annual gross revenues. With the Draft Amendment, this rate has been increased twice, i.e., up to twenty percent of their annual gross revenues, in case that undertaking holding significant market power violates the obligations stipulated under Article 6/A. If the relevant provision enters into force, it can be expected to be very effective in practice and to result in very high administrative fines.

Moreover, in case the Board determines that undertakings holding significant market power violated Article 6/A at least two times within five years, it may prohibit the mergers or acquisitions by these undertakings for up to five years, in order to eliminate the damages arising from repeated violations

or to prevent serious or irreparable damages that may arise.

The envisaged provisions under the Draft Amendment of the Law No. 4054 provide that the undertakings holding significant market power may be obliged to comply fully and actively with the obligations to which they are subject. Accordingly, they shall take all the necessary measures and report the relevant processes upon request of the Authority. The undertakings holding significant market power are deemed unconditionally responsible for complying with the obligations.

Proposed Amendment Regarding the Board's On-Site Inspection Authority

Article 7 of the Draft Amendment is envisaged to add the expression "*and, in cases where resolving requires special expertise or technical knowledge for the implementation of Article 6A, experts with special knowledge, skills or experience to be appointed by the Board if deemed necessary*" to follow the expression of "*experts employed at the disposal of the Board*" in Article 15 of the Law No. 4054 titled on-site inspection.

In addition, it is regulated that undertakings offering at least one core platform service in Turkey, regardless of them being residing in Turkey or not, will be obliged to fulfil technical and administrative requirements that would enable to perform the powers set forth in this article.

One of the most important tools used by the Board in revealing competition violations is on-site inspection. However, the online nature of digital services allows platforms to offer services outside the country in which they are established. Therefore, if the platforms do not have an office in Turkey where the employees to be addressed during on-site inspection are employed and remote access to the servers abroad is provided, it will not be possible to conduct an on-site inspection.

With the Draft Amendment, undertakings offering at least one core platform service in Turkey are held responsible for fulfilling the technical and administrative requirements that will enable the use of this authority in order not to render the Board's on-site inspection authority ineffective for undertakings that do not have headquarters in Turkey or do not have centralized technical and administrative equipment.

Another issue envisaged by the Draft Amendment is that similar to the DMA, if deemed necessary when implementing Article 6/A independent third parties with technical knowledge could be assigned by the Board to participate in the examination, in addition to the experts already working under the Board's authority.

Conclusion

Currently, there is no draft regulation on the quantitative criteria to be taken into account for the determination of undertakings holding significant market power. The Draft Amendment sets out in detail the conducts that undertakings holding significant market power should refrain from while operating in the market and sets the fines to be imposed in case of non-compliance with these

obligations considerably high. This confirms that the relevant undertakings operating in digital markets, which have been under the scrutiny of competition authorities for a long time, will be given a substantial responsibility.

Considering that many secondary legislations will be required, and the application processes of undertakings will start once the legislations entered into force, digital markets and the undertakings operating in these markets may be expected to be under the scrutiny of the Authority for a long period. In this context, the relevant undertakings should initiate their compliance processes with the new regulations as soon as possible by taking into consideration the framework outlined by the DMA.

Comparison with DMA

DMA	Draft Amendment	
Article 3(1): An undertaking shall be designated as a **gatekeeper** if: (a) it has a significant impact on the internal market; (b) it provides a core platform service which is an important gateway for business users to reach end users; and (c) it enjoys an entrenched and durable position, in its operations, or it is foreseeable that it will enjoy such a position in the near future.	**Undertaking that holds significant Market Power:** Undertakings that have a certain scale in terms of one or more core platform services and operate in a way that has a significant impact on access to end users or on the activities of business users and which have the power or foreseen to be able to reach the power to maintain this impact in an established and permanent manner**.**	Although t the Draf pa
Article 3(2): An undertaking shall be presumed to satisfy the respective requirements in paragraph 1: (a) as regards paragraph 1, point (a), where it achieves an annual Union turnover equal to or above EUR 7,5 billion in each of the last three financial years, or where	**N/A** **Will be determined by the Communique on the Implementation of Article 8/A of the Law No. 4054**	The Draft Article 3 include the of the D commun

	its average market capitalisation or its equivalent fair market value amounted to at least EUR 75 billion in the last financial year, and it provides the same core platform service in at least three Member States;		
(b)	as regards paragraph 1, point (b), where it provides a core platform service that in the last financial year has at least 45 million monthly active end users established or located in the Union and at least 10 000 yearly active business users established in the Union, identified and calculated in accordance with the methodology and indicators set out in the Annex;		
(c)	as regards paragraph 1, point (c), where the thresholds in point (b) of this paragraph were met in each of the last three financial years.		
Article 5(2): The gatekeeper shall not do any of the following:		**6/A (g):** In a way that prevents competitor undertakings from entering the market and prevents those already in the market from competing effectively;	• The way cor m • T h
(a)	process, for the purpose of providing online advertising services, personal data of end users using services of third parties that make use of	1) not combine the personal data they obtain from the core platform services with the personal data obtained from any other services they offer or with personal data obtained from third parties, shall	

	core platform services of the gatekeeper;	not process these data by combining and shall not use them for / in the context of other services, especially in targeted advertising; unless it is necessary for the performance of a contract to which the end user is a party,	
(b)	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;	2) not process the competitively sensitive data obtained from business users for purposes other than the fulfilment of the relevant service, unless it provides clear, precise, and sufficient options to the business user.	
(c)	cross-use personal data from the relevant core platform service in other services provided separately by the gatekeeper, including other core platform services, and vice versa; and		
(d)	sign in end users to other services of the gatekeeper in order to combine personal data,		
unless the end user has been presented with the specific choice and has given consent within the meaning of Article 4, point (11), and Article 7 of Regulation (EU) 2016/679. Where the consent given for the purposes of the first subparagraph has been refused or withdrawn by the end user, the gatekeeper shall not repeat its request for consent for the same purpose more than once within a period of one year. This paragraph is without prejudice to the possibility for the gatekeeper to rely on Article 6(1), points (c), (d) and (e) of Regulation (EU) 2016/679, where applicable.			

Article 5(3): The gatekeeper shall not prevent business users from offering the same products or services to end users through third-party online intermediation services or through their own direct online sales channel at prices or conditions that are different from those offered through the online intermediation services of the gatekeeper. **Article 5(4):** The gatekeeper shall allow business users, free of charge, to communicate and 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, regardless of whether, for that purpose, they use the core platform services of the gatekeeper.	**6/A (f):** Refrain from restricting or obstructing business users, to work with competitor undertakings to make offers to or make agreements with end users over platforms or other channels, to advertise their goods and services via these channels, and refrain from preventing them to offer different prices or conditions for a certain good or service while working with competitor undertakings or over their own channels or different channels.	• U s bu
Article 5(5): The gatekeeper shall allow end users to access and use, through its core platform services, content, subscriptions, features or other items, by using the software application of a business user, including where those end users acquired such items from the relevant business user without using the core platform services of the gatekeeper.	No parallel provision.	
Article 5(6): The gatekeeper shall not directly or indirectly prevent or restrict business users or end users from raising any issue of non-compliance with the relevant Union or national law by the gatekeeper with any relevant public authority, including national courts, related to any practice of the gatekeeper. This is without prejudice to the right of business users and gatekeepers to lay down in their agreements the terms of use of lawful complaints-handling mechanisms.	No parallel provision.	
Article 5(7): The gatekeeper shall not require end users to use, or business users to use, to offer, or to interoperate with, an identification service, a web browser engine or a payment service, or technical services that support the provision of payment services, such as payment systems for in-app purchases, of that gatekeeper in the context of services provided by the business users using that gatekeeper's core platform services.	**6/A (c):** Refrain from making the goods or services offered to business users and end users tied on other goods or services offered by themselves,	• The th off
Article 5(8): The gatekeeper shall not require business users or end users to subscribe to, or register with, any further core platform services	**6/A (d):** Refrain from requiring business users or end users to subscribe or register with other core platform services of this undertaking holding	

listed in the designation decision pursuant to Article 3(9) or which meet the thresholds in Article 3(2), point (b), as a condition for being able to use, access, sign up for or registering with any of that gatekeeper's core platform services listed pursuant to that Article.	significant market power as a condition for accessing, logging in or registering any core platform service.	
Article 5(9): The gatekeeper shall provide each advertiser to which it supplies online advertising services, or third parties authorised by advertisers, upon the advertiser's request, with information on a daily basis free of charge, concerning each advertisement placed by the advertiser, regarding: (a) the price and fees paid by that advertiser, including any deductions and surcharges, for each of the relevant online advertising services provided by the gatekeeper, (b) the remuneration received by the publisher, including any deductions and surcharges, subject to the publisher's consent; and (c) the metrics on which each of the prices, fees and remunerations are calculated. In the event that a publisher does not consent to the sharing of information regarding the remuneration received, as referred to in point (b) of the first subparagraph, the gatekeeper shall provide each advertiser free of charge with information concerning the daily average remuneration received by that publisher, including any deductions and surcharges, for the relevant advertisements. **Article 5(10):** The gatekeeper shall provide each publisher to which it supplies online advertising	**6/A (m):** Provide free, continuous, and real-time complete information about the visibility and the usability of the advertisement portfolio including the pricing conditions regarding the offers, bidding process and essentials of price determination, and the price paid to the publisher for the relevant advertising services, and access to advertising verification and performance measurement tools and the data required for the use of these tools to the advertisers, publishers, advertising intermediaries which it provides online advertising service or to third parties that are authorized by those.	• The **5(** i p p pub sh • The al

services, or third parties authorised by publishers, upon the publisher's request, with free of charge information on a daily basis, concerning each advertisement displayed on the publisher's inventory, regarding:

(a) the remuneration received and the fees paid by that publisher, including any deductions and surcharges, for each of the relevant online advertising services provided by the gatekeeper;

(b) the price paid by the advertiser, including any deductions and surcharges, subject to the advertiser's consent; and

(c) the metrics on which each of the prices and remunerations are calculated.

In the event an advertiser does not consent to the sharing of information, the gatekeeper shall provide each publisher free of charge with information concerning the daily average price paid by that advertiser, including any deductions and surcharges, for the relevant advertisements.

Article 6(8): The gatekeeper shall provide advertisers and publishers, as well as third parties authorised by advertisers and publishers, upon their request and free of charge, with access to the performance measuring tools of the gatekeeper and the data necessary for advertisers and publishers to carry out their own independent verification of the advertisements inventory, including aggregated and non-aggregated data. Such data shall be provided in a manner that enables advertisers and publishers to run their own verification and measurement tools to

assess the performance of the core platform services provided for by the gatekeepers.		
Article 6(2): The gatekeeper shall not use, in competition with business users, any data that is not publicly available that is generated or provided by those business users in the context of their use of the relevant core platform services or of the services provided together with, or in support of, the relevant core platform services, including data generated or provided by the customers of those business users. For the purposes of the first subparagraph, the data that is not publicly available shall include any aggregated and non-aggregated data generated by business users that can be inferred from, or collected through, the commercial activities of business users or their customers, including click, search, view and voice data, on the relevant core platform services or on services provided together with, or in support of, the relevant core platform services of the gatekeeper.	**6/A (b):** Refrain from using the data that are not publicly available while competing with other business users.	• The the s ge whe so that • The se col A
Article 6(3): The gatekeeper shall allow and technically enable end users to easily un-install any software applications on the operating system of the gatekeeper, without prejudice to the possibility for that gatekeeper to restrict such un-installation in relation to software applications that are essential for the functioning of the operating system or of the device and which cannot technically be offered on a standalone basis by third parties. The gatekeeper shall allow and technically enable end users to easily change default settings on the operating system, virtual assistant and web browser of the gatekeeper that direct or steer end users to products or services provided by the gatekeeper. That includes prompting end users, at the moment of the end users' first use of an online search engine, virtual assistant or web browser of the gatekeeper listed in the designation decision pursuant to Article 3(9), to choose, from a list of the main available service providers, the online search engine, virtual assistant or web browser to	**6/A (e):** Allow end users to easily uninstall software, applications or app stores that have been preinstalled into the operating system of the devices, to switch to different software, applications or app stores, to install and effectively use third-party software, applications or app stores, to allow default settings to be easily changed, to allow third-party software, applications or app stores to be offered to user choice and these to be made default, and fulfil technical requirements in these regards.	• Th p A • T ur esse • The p p int b • Wit op en

which the operating system of the gatekeeper directs or steers users by default, and the online search engine to which the virtual assistant and the web browser of the gatekeeper directs or steers users by default. **Article 6(4):** The gatekeeper shall allow and technically enable the installation and effective use of third-party software applications or software application stores using, or interoperating with, its operating system and allow those software applications or software application stores to be accessed by means other than the relevant core platform services of that gatekeeper. The gatekeeper shall, where applicable, not prevent the downloaded third-party software applications or software application stores from prompting end users to decide whether they want to set that downloaded software application or software application store as their default. The gatekeeper shall technically enable end users who decide to set that downloaded software application or software application store as their default to carry out that change easily. The gatekeeper shall not be prevented from taking, to the extent that they are strictly necessary and proportionate, measures to ensure that third-party software applications or software application stores do not endanger the integrity of the hardware or operating system provided by the gatekeeper, provided that such measures are duly justified by the gatekeeper. Furthermore, the gatekeeper shall not be prevented from applying, to the extent that they are strictly necessary and proportionate, measures and settings other than default settings, enabling end users to effectively protect security in relation to third-party software applications or software application stores, provided that such measures and settings other than default settings are duly justified by the gatekeeper.		
Article 6(5): The gatekeeper shall not treat more favourably, in ranking and related indexing and crawling, services and products offered by the gatekeeper itself than similar services or products	**6/A (a):** Refrain from discriminating their own goods and services in ranking, scanning, indexing or in other conditions, compared to the goods or services of business users and ensure that the	

of a third party. The gatekeeper shall apply transparent, fair and non-discriminatory conditions to such ranking.	relevant conditions are fair and transparent.	
Article 6(6): The gatekeeper shall not restrict technically or otherwise the ability of end users to switch between, and subscribe to, different software applications and services that are accessed using the core platform services of the gatekeeper, including as regards the choice of Internet access services for end users.	No parallel provision.	
Article 6(7): The gatekeeper shall allow providers of services and providers of hardware, free of charge, effective interoperability with, and access for the purposes of interoperability to, the same hardware and software features accessed or controlled via the operating system or virtual assistant listed in the designation decision pursuant to Article 3(9) as are available to services or hardware provided by the gatekeeper. Furthermore, the gatekeeper shall allow business users and alternative providers of services provided together with, or in support of, core platform services, free of charge, effective interoperability with, and access for the purposes of interoperability to, the same operating system, hardware or software features, regardless of whether those features are part of the operating system, as are available to, or used by, that gatekeeper when providing such services. The gatekeeper shall not be prevented from taking strictly necessary and proportionate measures to ensure that interoperability does not compromise the integrity of the operating system, virtual assistant, hardware or software features provided by the gatekeeper, provided that such measures are duly justified by the gatekeeper.	**6/A (j):** Enable the interoperability of core platforms services and/or ancillary services with other related products or services efficiently and free of charge and fulfil the technical requirements for this. **6/A (k):** In order to maintain provision of core platform services or ancillary services by other undertakings, provide free of charge access to the necessary operating system, hardware or software features, limited to the relevant core platform service, and shall fulfil the technical requirements for this,	• The ga pro int by
Article 6(9): The gatekeeper shall provide end users and third parties authorised by an end user, at their request and free of charge, with effective portability of data provided by the end user or generated through the activity of the end user in the context of the use of the relevant core platform service, including by providing, free of charge, tools to facilitate the effective exercise of such data portability, and including by the provision of	**6/A (i):** Enable end-users using core platform services or ancillary services, business users, or end-users of such business users to free of charge and effectively transfer their data provided by them or generated within the scope of activities of these parties on the relevant platform upon their request and provides free of charge tools to facilitate data portability. In this context, the transfer of data, including personal data of end users, by business	• pr

continuous and real-time access to such data.	users shall be carried out in accordance with Law No. 6698.	
Article 6(10): The gatekeeper shall provide business users and third parties authorised by a business user, at their request, free of charge, with effective, high-quality, continuous and real-time access to, and use of, aggregated and non-aggregated data, including personal data, that is provided for or generated in the context of the use of the relevant core platform services or services provided together with, or in support of, the relevant core platform services by those business users and the end users engaging with the products or services provided by those business users. With regard to personal data, the gatekeeper shall provide for such access to, and use of, personal data only where the data are directly connected with the use effectuated by the end users in respect of the products or services offered by the relevant business user through the relevant core platform service, and when the end users opt in to such sharing by giving their consent.	**6/A (h):** Provide relevant business users free of charge, efficient, continuous, and real-time access to the aggregated and non-aggregated data which is provided by business users while using core platform services or ancillary services, or by end users of these business users or is produced within the scope of the activities of these parties on the relevant platform, upon request of the relevant business users and third parties authorized by them. In this context, access to the personal data of end users shall be carried out in accordance with the Law on the Protection of Personal Data No. 6698 dated 24.3.2016.	The DMA c that will be the Draft explicitly
Article 6(11): The gatekeeper shall provide to any third-party undertaking providing online search engines, at its request, with access on fair, reasonable and non-discriminatory terms to ranking, query, click and view data in relation to free and paid search generated by end users on its online search engines. Any such query, click and view data that constitutes personal data shall be anonymised.	**6/A (l):** Upon their request, provide business users with adequate information on the scope, quality and performance of core platform services and ancillary services, as well as pricing principles and conditions of access to these services.	The follow targeted by The details be regulat most 6 m
Article 6(12): The gatekeeper shall apply fair, reasonable, and non-discriminatory general conditions of access for business users to its software application stores, online search engines and online social networking services listed in the designation decision pursuant to Article 3(9). For that purpose, the gatekeeper shall publish general conditions of access, including an alternative dispute settlement mechanism. The Commission shall assess whether the published general conditions of access comply with this paragraph.		
Article 6(13): The gatekeeper shall not have		

general conditions for terminating the provision of a core platform service that are disproportionate. The gatekeeper shall ensure that the conditions of termination can be exercised without undue difficulty.		
	6/A (n): Refrain from discriminating between business users by imposing unfair or unreasonable terms on business users.	The scop Draft Ame