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Practitioner's Guide on Designation of Core Platform Services:

Insights from the EU DMA for AfCFTA and COMESA Competition Regimes

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EXECUTIVE SUMMARY

After more than a decade of operation, the Common Market for Eastern and Southern Africa (COMESA) Competition Commission (CCC) has rebranded to the COMESA Competition and Consumer Commission (CCCC). On 26 February 2026, in Lusaka, Zambia, the CCCC launched its 2025 Competition and Consumer Protection Regulations (CCPR), replacing the 2004 COMESA Competition Regulations (CCR).

The COMESA CCPR has not only reformed the competition regime in COMESA but also granted CCCC the power to regulate gatekeepers under Regulation 38. Undertakings or groups of undertakings designated as gatekeepers are prohibited from engaging in the conduct listed in Regulation 38, including self-preferencing products offered by the gatekeeper on its core platform, imposing price or service parity clauses on business users, and differentiating fees or treatment against SMEs, among others. An undertaking, a competition law term used in this white paper, refers to entities engaged in economic activity, irrespective of their legal status.

For an undertaking's conduct to be regulated under Regulation 38 of COMESA CCPR, it must meet the criteria for a gatekeeper. Regulation 2 of the COMESA CCPR defines a gatekeeper as a digital service provider 'operating a ***core platform service*** that serves as an important gateway for business users to reach end-users and enjoys an entrenched and durable position in its operations or is likely to enjoy such a position in the near future'.

In addition to the COMESA CCPR, Article 11 of the Africa Continental Free Trade Area (AfCFTA) Competition Protocol (CP) will, for the first time, regulate designated core platform services (CPS) and gatekeepers. Article 11(4) of the AfCFTA CP, similar to Regulation 38 of the COMESA CCPR, lists prohibited conduct that gatekeepers offering designated CPSs are prohibited from engaging in.

Not all digital services offered by an undertaking fall under Regulation 38 of the COMESA CCPR and Article 11 of the AfCFTA CP. Only when an undertaking operates a CPS will these provisions be invoked. More so, when the undertaking is designated as a gatekeeper. That is why Article 11(5) of the AfCFTA CP requires the Council of Ministers to adopt ***Regulations*** that will designate undertakings as gatekeepers or CPSs. Regulation 83 requires the CCCC Board to make rules on any matters required and permitted under the COMESA CCPR. Due to the complexity of gatekeeper designation, we expect CCCC to adopt rules governing the criteria for designating CPSs and gatekeepers.

The designation of CPS is a prerequisite to designating an undertaking as a gatekeeper. In theory, one would assume that identifying and designating an undertaking's service or product as a CPS is simple. In practice, however, the European Union (EU) Commission's CPS designation decisions under the Digital Markets Act (DMA), from which COMESA CCPR and AfCFTA CP draw, paint a different picture. EC's first CPS designation decisions in September 2023 have been marred by controversy. Some of the designated undertakings contested the identification of the services as CPS, the specific CPS categorization, and the delineation of CPSs as single or distinct CPSs.

In practice, the EC's CPS designation decisions demonstrate that the identification, ***categorization, and delineation*** of CPSs are critical, as such CPSs are not only the object of the DMA regulation but also determine the specific obligations under Articles 5, 6, and 7 that the gatekeeper must comply with. Also, under the DMA, some CPSs carry heavier obligations than others. For example, once a CPS is identified, defined, and categorized as a number-independent interpersonal communication service (NIICS), it must comply with the interoperability obligations under Article 7 of the DMA. Hence, some undertakings are incentivized to have their CPS categorized under a CPS category that carries fewer obligations.

Notably, if substantive provisions of digital regulations are poorly interpreted, they will likely lead to regulatory capture, risk fragmented enforcement, and legal uncertainty and unpredictability, increasing compliance costs for businesses while intensifying the harms they were supposed to address. Also, EC's CPS and gatekeeper designation decisions have had ***political ramifications***, with the United States (US) arguing that they target US tech companies to inhibit their global competitiveness.

This white paper, thus, drawing from the EC's CPS designation decisions, offers a ***practical roadmap*** for the AfCFTA Secretariat and CCCC to inform the gatekeepers' CPS designation process. Such analysis ***bridges theory and practice*** and provides undertakings with practical guidance on the potential designation of their CPS.

This white paper also contributes to the broader debate on the extent to which the EU is likely to extend its global regulatory power in technology regulation through the Brussels effect to other regions. It recognizes that indeed the geopolitics of digital regulation, competing technology regulation approaches from China and the United States (US), and the US imposition of trade tariffs on countries seeking to adopt technology regulations similar to the EU's could limit countries' ability to adopt ex-ante legislation like the DMA.

Nonetheless, this white paper points out that even when countries are unlikely to adopt DMA-like ex-ante legislation as a whole, the EU's ***enforcement decisions*** will remain a reference point for countries investigating similar conduct involving domestic and international tech firms under their competition laws. This calls on competition agencies conducting investigations in digital markets to familiarize themselves with the EC's enforcement decisions and draw lessons that will inform their decisions.

After analysis of EC's CPS designation decisions this white paper finds before designating an undertaking as a gatekeeper, the EC undertakes three step analysis that is interrelated: ***identification*** of whether an undertakings products or service constitutes a CPS; the ***specific category*** of which the CPS fall in accordance with Article 2 of the DMA, and where the CPSs are offered in an integrative way by the same undertaking, whether the CPSs can be ***delineated*** as distinct or single.

Drawing from EC's CPS designation decisions, this white paper recommends that the AfCFTA Secretariat and CCCC should:

- ***Identify*** the digital services or products offered in the African market by African and international tech companies to determine which constitute a CPS by assessing whether each service or product provides a gateway for business users to reach end users.

- Appropriately ***define*** and categorize the CPS depending on its actual roles and functionalities.

- Where an undertaking is offering multiple services in an integrated way, accurately ***delineate*** the CPSs as either single or distinct.

- Keep abreast with ***international best practices*** involving the regulation of competition in digital markets to inform their gatekeeper designation decisions.

INTRODUCTION

Technological innovations have brought unprecedented efficiency to various sectors. Digital platforms such as Google, Meta, Booking.com, and Amazon have provided business users with infrastructure to reach more end users and generate more revenue through increased sales in local and international markets, making these platforms unavoidable trading partners. At the same time, the growth of digital monopolies has also had negative social, cultural, economic, and political ramifications in contemporary capitalism. For instance, the concentration of economic power among a few large platforms has undermined market contestability, hindering the entry, growth, and expansion of smaller businesses.

There is consensus that, ***if left unregulated***, the benefits of digital markets will not be shared equally and could even hinder the public good. Consequently, many countries and economic communities worldwide are seeking ways to exploit the benefits of technological development while addressing the risks. However, whether the government should regulate technology, such as artificial intelligence, and to what extent remain controversial.

For example, the United States has challenged EU technology regulations from the outside, claiming they discriminate against U.S. tech companies to undermine their global competitiveness. From within, various political and economic actors have alleged that EU technology regulations hinder innovation and even harm consumers. Yet, in its quest to build its digital sovereignty, reduce dependencies and vulnerabilities, and address the harm caused by tech companies, the EU has pressed ahead with new rules, most prominently the EU Digital Market Act (DMA) and the Digital Services Act (DSA). And the Commission has ramped up enforcement, regularly fining tech companies – with political and economic ramifications far beyond the EU.

Credible evidence from emerging academic work, government reports, and policy analysis indicates that the tech-regulatory dilemma between the EU and the US has not only heightened geopolitical tensions, but the US technology deregulation efforts have led to a chilling effect on the adoption of technology regulations at both the international and domestic levels, despite tech companies' harm to society. For example, it is observed that the US tariff threats led to many countries, such as Canada, India, the United Kingdom, Cambodia, Malaysia, Thailand, Argentina, Ecuador, El Salvador, amongst others, to enter into tariff deals with the US and, in response, refrain from adopting and imposing as US termed them, ***'discriminatory'*** digital services tax (DST) legislation. The EU entered into a trade deal with the US for lower tariffs on EU products, and in return, the EU refrained from adopting the Network Usage Fees.

Indeed, the geopolitics of digital regulation, competing technology regulation approaches from China and the US, and the US imposition of trade tariffs on countries seeking to adopt technology regulations similar to the EU's could limit countries' ability to adopt technology regulations. In turn, growing academic work points out that the EU's global regulatory power, the ***'Brussels Effect,'*** could be limited in the technology sphere. Even if this were the case, this white paper points out that even when countries are unlikely to adopt specific technology regulations similar to the EU's or variations of it, the EU's ***enforcement decisions*** will remain a reference point for countries investigating similar conduct involving domestic and international tech firms.

This calls on regulatory agencies conducting investigations to familiarize themselves with the EC's enforcement decisions arising from technology regulations and draw lessons that will inform their decisions. To do so, this white paper focuses on EC's DMA CPS designation decisions, which could inform other regulatory agencies that regulate competition in digital markets, whether through ex-ante digital market competition regulations or competition laws.

The identification, definition, categorization, and delineation of CPS are prerequisites to the gatekeeper designation process and should be informed by domestic, regional, continental, and international best practices. Yet, CPS designation is not a straightforward task. It raises several interpretive questions. For example, if a single undertaking offers CPSs in an integrated way, but serves different purposes, although offered to the same business users and end users, what criteria should be used, in practice, to determine that indeed the services offered are different to count as a distinct CPC?

These are the interpretative issues that the AfCFTA Secretariat and CCCC must consider when drafting the gatekeeper regulations. The reason is that, depending on how they delineate CPS, it will determine which obligations and compliance apply to them. Hence, how EC has assessed the contestation against the CPS designation is important in providing a clear roadmap on the CPS designation, as it is a prerequisite step in designating gatekeepers.

An analysis of the EC's gatekeeper decisions shows that the EC first determines whether the undertaking's services or products constitute a CPS. Secondly, the specific category the CPS falls in per Article 2(2) of the DMA. Third, where a single undertaking provides multiple CPS in an integrated manner, the EC delineates the CPSs as either single or distinct.

- ***CPS identification:*** Whether a product or service constitutes a CPS is determined by its role in ***facilitating commercial or professional transactions*** between end users and business users. Additionally, EC's identification of CPS is based on the ***actual use*** of business users and end users, rather than the service or product's original design purpose.

- ***CPS categorization:*** EC categorizes each CPS based on its purpose, characteristics, and functionalities.

- ***CPS delineation:*** Where business users and end users appear to use CPS for ***different purposes***, such CPSs are considered as distinct, even when their business and end users are the same, and the CPSs are offered in an *integrated* way by an undertaking.

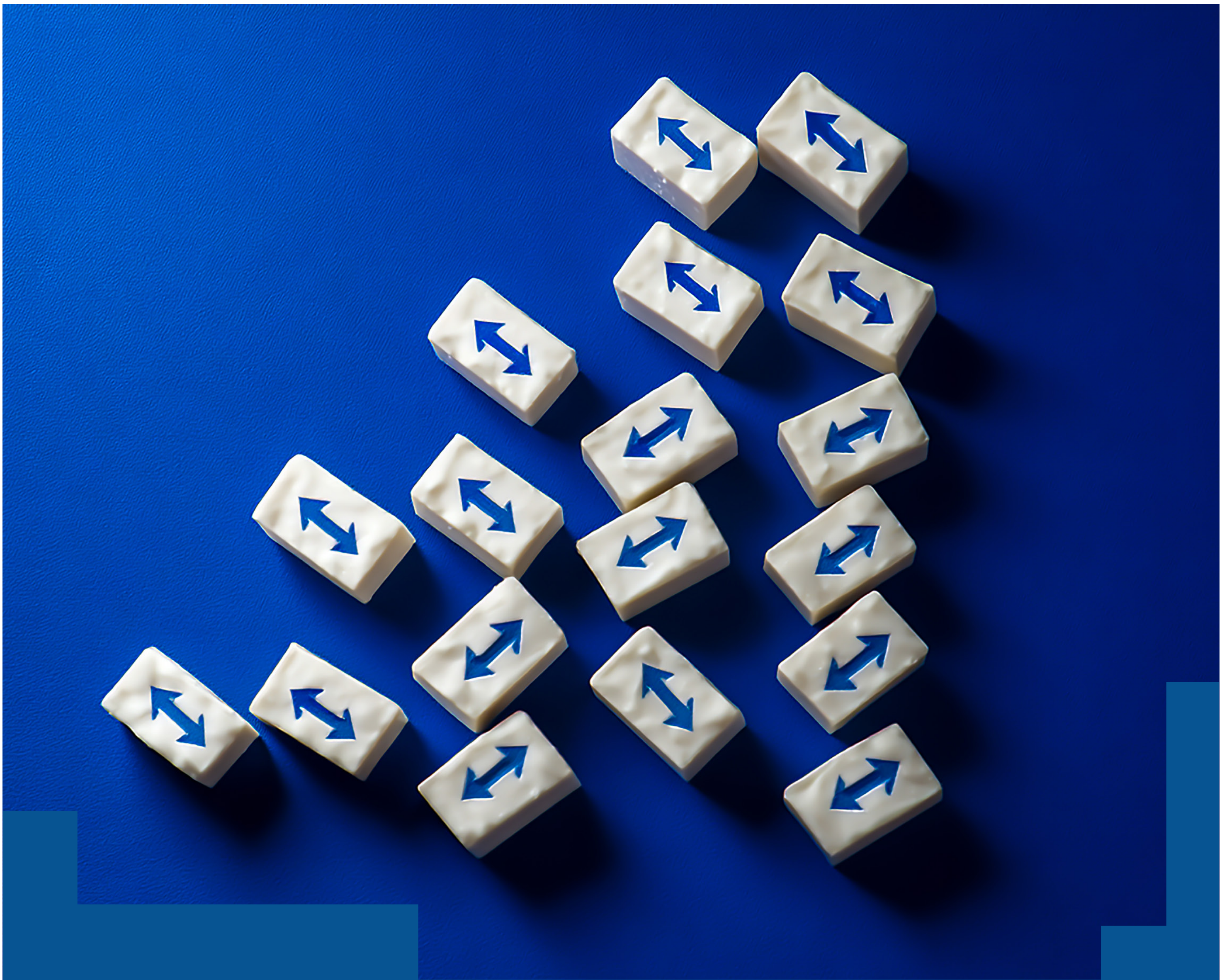
This white paper argues that the AfCFTA Secretariat and CCCC, in adopting the regulations implementing Article 11 of the AfCFTA CP and Regulation 38 of the COMESA CCPR, should provide clarity on:

a. Definition of a CPS.

b. When do digital services constitute a CPS?

c. Categorization of CPS to inform which obligations each CPS must comply with.

d. The delineation of CPSs offered by a single undertaking, either as a single or distinct CPs.



1 Why Core Platform Service Designation Matters

There are various developments in Africa, the EU, the UK, and Japan that reveal why countries adopting digital market competition regulations (DMCRs) that target specific firms must pay attention to the designation of digital services subject to those regulations.

a. CPS designation under the DMA has been highly contentious

The EU is the first economic community to adopt an ex-ante legislation –the Digital Markets Act (DMA)– that regulates designated gatekeepers to enhance contestability and fairness.[1] The status of a gatekeeper is not automatic. Article 3(1) of the DMA sets the qualitative thresholds that an undertaking must meet to be designated as a gatekeeper. The DMA's Article 3(2) stipulates quantitative presumptions that infer a gatekeeper's position for the undertaking.

Figure 1: Criteria for designation of gatekeepers under the DMA. Source: Compiled by the author

Art. 3 (1) DMA	Art. 3 (2) DMA
Has a significant impact on the internal market	Achieves an annual Union turnover equal to or above **EUR 7,5 billion** in each of the last three financial years, or where its average market capitalization 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.
CPS is an important gateway for business users to reach end users	In the last financial year CPS had 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
Enjoys an entrenched and durable position, in its operations, or it is foreseeable that it will enjoy such a position in the near future.	The business user and end user thresholds were met in each of the last three financial years

1 Will Leslie, Eoin O'Reilly, Dzhulia Lypalo and Sergey Khodjamirian, 'Same, Same but Different? Defining Gatekeepers under the Digital Markets Act' (2026) Journal of European Competition Law & Practice 1.

Before EC designates an undertaking as a gatekeeper, it first determines whether its services constitute a CPS, fall under the specific CPS categories under Article 2(2) of the DMA, and, where CPS are provided in an integrated way by a single undertaking, delineates them as single or distinct CPS. Yet, EC's first CPS designation decisions in September 2023 have been marred by controversy.[2] The EC has had to address interpretive questions in its CPS designation procedure, which the AfCFTA Secretariat and CCCC will also grapple with. The details on undertakings' contestation of the definition, identification, categorization, and delineation of their CPSs, and on how EC has interpreted CPS designation issues, are discussed in sections 4, 5, and 6 of this white paper.

b. Correct CPS designation reduces regulatory errors

A correct CPS designation helps regulatory agencies avoid false positives (Type I errors) and false negatives (Type II errors). False positives occur when a regulatory agency wrongly prohibits conduct, leading to overenforcement.[3] In this case, a false positive occurs when a service is mistakenly categorized as a CPS and designated as a gatekeeper, even though it is not an important gateway for business users to reach end users. This increases compliance costs for businesses that must meet obligations under the DMCR, undermining innovation and investment.

A false negative occurs when a regulatory agency wrongly finds that a firm's conduct is not prohibited, leading to underenforcement. In this case, a false negative will occur when a service is not designated as CPS, and therefore not subject to the DMA's, AfCFTA CP, or COMESA CCPR enforcement. If this happens, it harms the business's ability to compete and limits the EC's ability to investigate the conduct of digital platforms.

Additionally, correct CPS designation helps regulatory agencies reduce costs and use scarce resources by avoiding the need to move to the next stage of gatekeeper designation. In turn, this builds regulatory agencies' capacity and capabilities.

c. Designation decisions beyond the DMA

The designation of CPS and gatekeepers subject to the DMA is not limited only to the EU. Thus, the AfCFTA Secretariat and CCCC should also pay attention to DMCRS adopted beyond the EU that regulate designated undertakings. The UK and Japan, like the EU, have adopted ex-ante legislation: the 2024 UK Digital Markets Competition and Consumer Act (DMCCA) and the 2024 Japan Act on Promotion of Competition for Specified Smartphone Software (the Smartphone Act). Similar to the EU DMA, the UK DMCCA, and Japan's Smartphone Act, the AfCFTA and COMESA could apply to specific designated undertakings, whose criteria could inform them.

2 Friso Bostein and Giorgio Monti, 'The Ryme and Reason of Gatekeeper Designation under the Digital Markets Act' (2025) 0 Journal of Antitrust Enforcement 1-27.

3 Ibid.

Unlike the EU DMA, Japan's DMCR is narrower, focusing on the smartphone ecosystem (mobile OS, app stores, browsers, and search engines). The Japan Smartphone Act targets designated software operators.[4] So far, it has designated Apple and Google app stores as designated software operators, offering the AfCFTA Secretariat and CCCC with lessons.

The DMCCA does not go into the technicalities of defining a CPS. Unlike the DMA, which identifies the CPS as regulated under the DMA, the UK DMCCA applies only to targeted digital activities. Digital activities under Section 3 of the DMCCA are defined as the provision of a service by means of the internet, or the provision of one or more pieces of digital content, whether for consideration or not.

The UK DMCCA targets digital services designated as having strategic market status (SMS), which, like the EU DMA, must have substantial and entrenched market power, hold a position of strategic significance, and meet the turnover conditions.[5] Thus, only services that are identified as digital services will be designated as having an SMS. As early as 2026, the UK Digital Markets Unit (DMU) had designated Google's general search and search advertising services as digital activities with SMS. Same to Google and Apple's mobile ecosystems (operating systems, app stores, and browsers). These developments provide a clear indication that the designation of a digital service in the UK DMCCA is a prerequisite for determining whether it should be designated as having SMS. Thus, the AfCFTA Secretariat and CCCC, in informing their gatekeeper regulations, can draw lessons from how the UK DMU has identified the digital services subject to SMS designation.

d. Competition Commission South African Online Intermediation Platform Market Inquiry

The Competition Commission of South Africa (CCSA) released the findings of its Online Intermediation Platform Market Inquiry (OIPMI) in July 2023. The OIPMI focused on online intermediation platforms defined by CCSA in its statement of issues as 'platforms that facilitate transactions between business users and consumers (or so-called "B2C" platforms) for the sale of goods, services and software, regardless of whether the transactions are concluded on the platform itself, on the online site of the business user or offline.'[6]

The OIPMI focused on travel and accommodation, Google Search, e-commerce, app stores, online classifieds, food delivery, insurance comparison sites, and automobile markets, and found a number of tech firms leading as shown below.

4 Masako Wakui, 'The Smartphone Act: Japan's New Legislation that Regulates Google and Apple' (2025) 16(4) Journal of European Law & Practice 254-258.

5 Magali Eben 'The Interpretation of a 'Strategic Market Status': A Response to the Public Consultation by the UK Government on a 'New Pro-Competition Regime for Digital Markets' (CREATe Working Paper 2021/10).

6 CCSA, OIPMI Statement of Issues (19 May 2021, CCSA), at 3.

Figure 2: Leading digital platforms in South Africa by 2023.

Market	Leading Platform
Software App Stores	Apple App Store and Google Play Store
Gerneral Search	Google
e-Commerce	Takealot.
Travel and Accomodation	Booking.com and Airbnb
Food Delivery	Mr. Delivery and UberEats.
Property Classified	Property24 and Private Property
Automobile	Autotrader and Cars.co.za

According to the CCSA OIPMI, OIPs provide business users with access to a large customer base, expanding their reach to end users, creating larger markets, and increasing sales. This definition can inform the identification of CPS in the African context. The OIPMI provides the AfCFTA Secretariat and CCCC with a starting point for determining which services constitute CPS, can be categorized as OIPs, and are likely to be considered for gatekeeper designation in the African context.

e. CCCC investigation against Meta

Correct designation of CPS is also critical in the African context because the regulation of gatekeepers in Africa's digital markets is not merely theoretical. On 17 February 2026, CCCC announced a formal investigation into Meta Platforms for possible violations of Regulation 36 of the 2025 CCCPR, which prohibits undertakings from abusing their dominant position. The CCCC investigation follows AD Legal International's formal complaint about Meta's amendment of its WhatsApp Business Solution Terms on 15 October 2025, which excluded providers of general-purpose artificial intelligence (AI) services from accessing or using the WhatsApp Business Application Programming Interface (WhatsApp Business API), while preserving and preferentially integrating Meta's own AI service (Meta AI).

In its investigation notice, the CCCC explicitly states that Meta's unilateral exclusion of other AI service providers from accessing the WhatsApp Business API is likely to substantially lessen competition in the Common Market, as the API provides a crucial gateway for AI service providers to reach customers. Although the CCCC is investigating Meta under the abuse of dominance provision, the CCCC's choice of the words 'crucial gateway' is not accidental, and neither should it be treated as such. The alleged conduct by Meta also falls within the prohibited conduct under Regulation 38 of the COMESA CCPR, which prohibits undertakings designated as gatekeepers from engaging in a list of prohibited conduct, including self-preferencing of the products offered by the gatekeeper's core platform service (CPS), as is the case with Meta AI.

CCCC's intention to commence an investigation into Meta's conduct under Regulation 36, rather than Regulation 38, could be tactical, as it has yet to adopt Regulations that will define and delineate CPS. The EC has designated WhatsApp as a CPS because it provides an important gateway for business users to reach end users. The EC, in accordance with Article 2(2) of the DMA, categorizes WhatsApp as a number-independent interpersonal communication service (NIICS). As WhatsApp is offered by Meta in an integrated way alongside other Meta CPSs, the EC has delineated WhatsApp as a distinct CPS. This despite Meta's argument that most of its CPSs should be delineated as a single CPS under the category of online social networking services as they are provided through the same digital infrastructure. For detailed analysis, see the EC 2023 Meta designation decision.

AfCFTA Secretariat and CCCC do not need to re-invent the wheel when it comes to the designation of WhatsApp as CPS, because not only has the EC designated it as CPS, but also increasing enforcement decisions against WhatsApp in Africa by regulatory agencies such as the Nigerian Federal Competition and Consumer Protection Commission, has shown that WhatsApp provides a critical gateway for business users to reach end users.

The next section discusses how the EC has undertaken the identification, categorization, and delineation of CPS before the gatekeeper designations, to inform the approaches that the AfCFTA Secretariat and CCCC should consider.

2 Identification of Core Platform Services

Not all services or providers of an undertaking will constitute a CPS regulated under Article 11 of the AfCFTA CP or Regulation 38 of the COMESA CCPR. The AfCFTA Secretariat and CCCC will therefore have to identify the services and products offered by the digital platform and determine whether they constitute CPS.

The EC identifies a service or product as a CPS if it provides a ***gateway*** for business users to reach end users. A business user is defined as any natural or legal person acting in a ***commercial*** or ***professional*** capacity using core platform services for the purpose of or in the course of providing goods or services to end users. An end user is any natural or legal person using a CPS other than a business user.[7]

At the core of CPS identification in the EU DMA is the ability of a service or product to enable business users to reach end users, ***facilitating commercial or professional transactions.*** Identifying when a service or product constitutes a CPS is vital because, in the EC experience, some firms have argued that their services do not constitute a CPS because they were ***primarily*** designed to offer ***individual services for personal use.*** In other cases, there are no business users on the platform, and therefore cannot be designated as gatekeepers.

In EC CPS designation decisions, attention is paid to how business users and end users actually use a product or service in a commercial or professional context, rather than how the CPS was primarily designed. In the case that a product or service is solely used for individual use, it does not constitute a CPS.

Figure 3: The designation of Microsoft Outlook.com as a CPS

Case example: The designation of Microsoft Outlook.com as CPS

Microsoft argued that ***Outlook.com was not a CPS*** because it was designed for ***individual use.***[8] As a personal web-based email service, Outlook.com allows users to send and receive email. In terms of use business, Microsoft stated that it restricts business users from using Outlook.com. In the alternative it offers them Exchange online as an alternative product for business use. Even so, Microsoft argued that there were no active business users of Outlook.com initiating communication with end-users.

The EC disagreeing with Microsoft held that what matters is the ***actual use*** of the services by business users. In this case, certain users actually use Outlook.com in a commercial and professional capacity and therefore qualified to be termed as business users.

7 Alba Ribera Martínez, 'The Requisite Legal Standard of the Digital Markets Act's Designation Process' (2024) 20 Journal of Competition Law & Economics 265-291.

8 EC, Cases DMA.100023 Microsoft-number-independent interpersonal communication services Para 103..

To the EC, it is immaterial whether a service or product was designed for personal use. What matters is the ***actual use*** of the service or product for commercial and professional use. Outlook.com constitutes a CPS because it fosters commercial and professional relations between business users and end users.

In the African context, the AfCFTA and CCCC need to first map the services offered in specific digital sectors, then identify whether business users and end users use the product, and how they interact with each other. If they actually use the digital product or service in a commercial and professional way, and not for individualized use between end users, then that digital service or product can be deemed to constitute a CPS.

In Africa, the leading digital sectors such as fintech, e-commerce, e-health, e-education, e-government services, agritech, ride-hailing, software development, and digital payments provide a starting point. After the mapping, determine whether the digital services foster transactional and professional interactions between end users and business users. The fintech sector provides a good example for purposes of analysis.

Figure 4: Identifying core platform services in the African Fintech sector

Case example: Identifying core platform services in the African Fintech sector

The African fintech sector is expanding rapidly with most companies exhibiting strong market growth and projections. Thus, it becomes an important sector for the AfCFTA Secretariat and CCC to identify whether existing financial services such as mobile money transfers, digital payments, micro lending, integrated payments, and B2B sourcing, among others constitute CPS.

In the case of digital mobile lending, the digital platform providers include Tala, Branch, Carbon, PalmCredit, Mkopa, Opay, and Mshwari, among others.

After identifying the service providers, the next step is to identify whether business users are on the platforms and whether they use the platform to reach end users. The business users found on this mobile lending apps include vendors, partners and financial institutions who use the platforms to reach end users. For example, according to Tala, a money lending platform, through its tool 'Tala in a Box' it supports business users to leverage on Tala AI and its immense data capabilities to launch their own financial products to end users.

In this case, Tala's micro loan service could be deemed to constitute a CPS.

Determining whether a service or product constitutes a CPS is the initial step in designating a CPS. The next step is categorizing the CPSs, as they offer different services. Each CPS category invokes specific obligations. The next section analyses how the EU DMA categorizes CPSs.

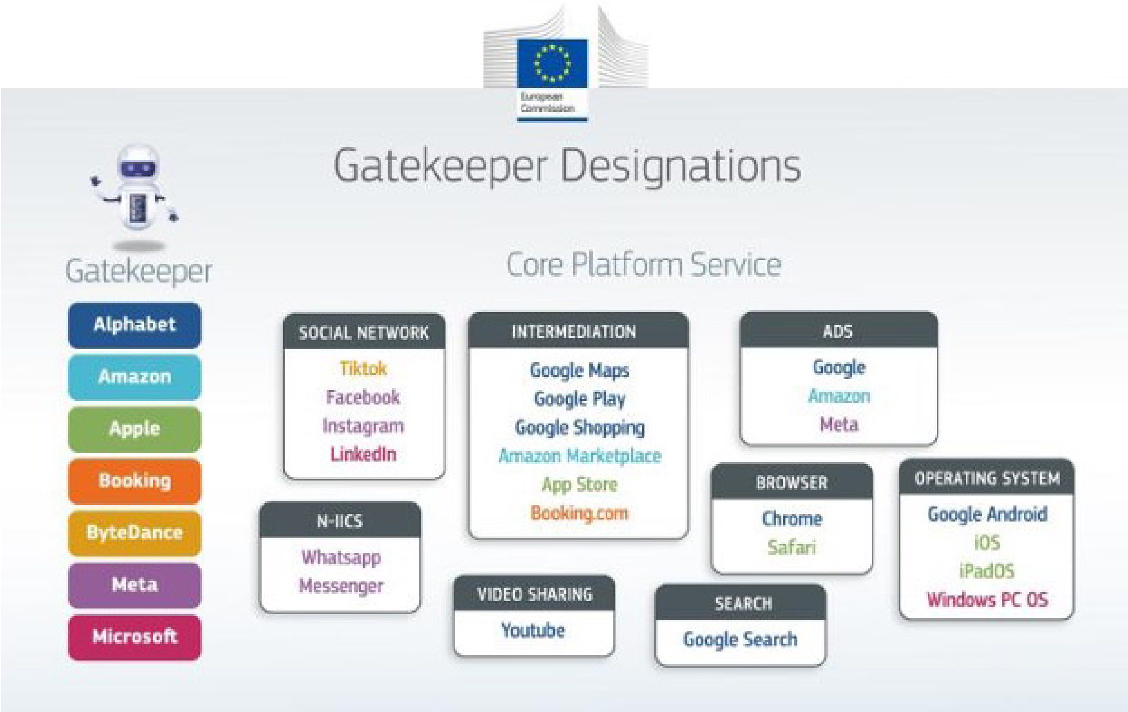
3 Categorization of Core Platform Services

Article 2(2) of the DMA identifies the specific categories of CPS subject to DMA enforcement.

These CPSs include online intermediation services; online search engines; online social networking services; video-sharing platform services; number-independent interpersonal communication services (NIICS); operating systems; web browsers; virtual assistants; cloud computing services; and online advertising services.

If in the future the EC identifies additional categories of CPS for inclusion on the list above, it may conduct a market investigation under Article 19 of the DMA.[9] This recognizes that, in response to technological developments, business dynamics, and consumer needs, services will evolve. By January 2026, EC had designated 22 CPS as gatekeepers and subject to the DMA, as shown in Figure 5, below.

Figure 5: EU's designated core platform services by January 2026Source: EU Commission, 2026.



Source: EU Commission, 2026.

9 Simonetta Vezzoso, 'Super-Apps and the Digital Markets Act'(2024) 12(2) Journal of Antitrust Enforcement 331-337.

In Figure 5 above, the EC has categorized Alphabet's YouTube as a video-sharing platform. Apple's Safari and Google's Chrome are web browsers. ByteDance's TikTok, Meta's Facebook and Instagram, and Microsoft's LinkedIn are online social network services. Alphabet's Google Maps, Google Play, and Google Shopping, in addition to Booking's Booking.com, and Amazon's marketplace, are categorized as online intermediation services. Alphabet's Google Android, Apple's iOS and iPadOS, and Microsoft's PC OS are operating systems.

In the search CPS category, only Google Search has been categorized. While Meta WhatsApp and Messenger are the only messaging apps categorized as NIICs. The EC has yet to categorize certain services and products as virtual assistants or cloud computing services.

If the AfCFTA Secretariat and CCCC were to learn from EC's categorization of CPS, they would need to understand when a specific CPS falls within the particular CPS categorization. Yet, crucial to the DMA CPS categorization is the question of how the EU identified this specific CPS categorization.

Under the DMA, CPS is categorized through a ***purpose-driven approach*** that underscores the specific role, characteristics, and functionalities of the CPS in question.[10] This is evident in the definition of the specific CPS category. What constitutes specific CPS is defined in the DMA under Article 2 or in secondary legislation. Unlike the AfCFTA Secretariat and CCCC, the EU had already established regulations that inform the definitions of certain CPS.

For example, the definition of an ***online intermediation service*** is taken from Article 2(2) of Regulation (EU) 2019/1150, which seeks to promote fairness and transparency for business users of online intermediation services. It defines an online intermediation service as a service that allows business users to offer goods or ***services*** to consumers, with a view to ***facilitating the initiation of direct transactions*** between those business users and consumers, irrespective of where those transactions are ultimately concluded. An online intermediation service also constitutes an information service, providing services to business users through contractual relationships between the service provider and business users who offer goods or services to consumers

According to the above definition, online intermediation services facilitate commercial transactions between businesses and users. At the core of this definition are the ***purposes*** for which the CPS operates and how its use occurs in actual business and end-user relationships. So far, the EC has designated Google Maps, Google Play, Google Shopping, Amazon Marketplace, Apple Store, and Booking.com as online intermediation services because they facilitate commercial transactions between business users and end users.

In practice, the ***definition and categorization*** of CPS are critical, as they are not only the object of the DMA regulation but also determine the specific obligations under Articles 5, 6, and 7 that the gatekeeper must comply with. In the EU, some digital platforms have contested the EC's categorization of their CPS.[11] To understand the implications of the CPS definition and categorization, the EC's designation

10 Simonetta Vezzoso, 'Super-Apps and the Digital Markets Act'(2024) 12(2) Journal of Antitrust Enforcement 331-337.

11 Alba Ribera Martínez, 'A Game of Hide-and Seek: The European Commission Does not Designate Microsoft Ads, Bind and Edge and Apple's iMessage as DMA Gatekeepers' (Kluwer Competition Law Blog, 20 May 2024).

of ByteDance's TikTok as an online social networking service rather than a video-sharing platform can provide insights to the AfCFTA Secretariat and CCCC.

When is a CPS categorized as a video-sharing platform or online social network in service under the DMA?

Video-sharing platform service: Under the DMA Article 2(8), a video-sharing platform service is defined by cross-referencing Article 1(1), point (aa) of Directive 2020/13/EU, which provides for the provision of audiovisual media services in the EU. This Regulation defines a video-sharing platform service as: a service as defined by Articles 56 and 57 [TFEU], where the ***principal purpose*** of the service or of a dissociable section thereof or an essential functionality of the service is devoted to providing programmes, user-generated videos, or both, to the general public, for which the video-sharing platform provider does not have editorial responsibility, ***in order to inform, entertain or educate***, by means of electronic communications networks within the meaning of point (a) of Article 2 of Directive 2002/21/EC and the organization of which is determined by the video-sharing platform provider, including by automatic means or algorithms in particular by displaying, tagging and sequencing.

This definition anticipates that a video-sharing platform will provide services through videos, with the purpose of informing, entertaining, or educating. Thus, the purpose is stated, and the means through which the service is offered are also identified to inform categorization.

Online social networking service: Article 2 (7) of the DMA defines an online social networking service as a platform that enables end users to ***connect and communicate*** with each other, ***share*** content, and discover other users and content across multiple devices and, in particular, via chats, posts, videos, and recommendations.

This definition emphasizes the purpose of online social networking services as building connections among users, and the means by which this connection occurs is through the sharing of specific content. In addition to the purpose, characteristics, and functionalities of the CPS, the matter also concerns.

In both definitions, videos can be categorized under video-sharing platforms or online social networking services. However, the purposes of videos differ across categories. On video-sharing platforms, the purpose of a video is to *entertain, inform, or educate.* A video on an online social networking service fosters connections and communication among users and enables them to discover one another.

The EC had to grapple with categorizing ByteDance's TikTok as a video-sharing platform service or an online social networking service. In recent reports, by 2025, African TikTok users were approximately 190 million, accounting for more than 11.9% of TikTok's global audience. In addition to entertainment, TikTok has become an important gateway for businesses to reach consumers and sell their products. Thus, it is one of product that the AfCFTA Secretariat and CCCC will consider in their CPS designation regulations. This makes EC's TikTok CPS categorization decision a learning point.

Figure 6: EC's categorization of ByteDance's TikTok CPS.

ByteDance notified TikTok as a video sharing platform CPS to the EC because it allows users to post, view, or search for videos and live streams, comment on and like videos, and follow chosen video creators.[12] ByteDance did not contest that TikTok did provide social networking services. It argued that social networking services were ***marginally used*** and ***ancillary*** to its video-sharing purpose.

The EC did not contest that TikTok was a video-sharing platform service CPS because an essential functionality of the CPS was devoted to user generated videos. However, it found that TikTok also fulfilled the definition of online social networking services because its ***features and functionalities*** went beyond those of video-sharing platform service and thus its categorization as online social networking service best reflected its characteristics and breadth of TikTok's features and functionalities.[13]

In categorizing TikTok as an online social networking service, EC claimed that, in addition to the videos, TikTok allows end users to ***communicate, build connections and discover*** other users through sharing videos, text-based post, likes, comments, content sharing and hashtags. It also has a chat function that allows user to communicate and share content. As a CPS, TikTok facilitates communication and connection between business users and end uses, via content discovers and sharing across multiple devices, with a view of enabling business users to grow their businesses, scale their brand presence and drive sales.[14]

The EC therefore focused on TikTok's broad set of features and functionalities to provide a more encompassing definition of TikTok's CPS. Bostoen and Monti argue that the EC's decision to categorize TikTok's CPS as a social networking service and not a video-sharing platform service could have been informed by the heavier obligations, especially data-related obligations under Article 6(2) of the DMA, imposed on an online social networking platform than on a video-sharing platform.[15] Also, Article 6(12) of the DMA requires gatekeepers offering online social networking services, online search engines, and software applications to apply fair, reasonable, and non-discriminatory general conditions of access to business users.

CPS categorization is critical, as it has a nexus with the specific obligations the undertaking must comply with. ByteDance's contestation that EC should categorize TikTok as a video-sharing platform service and not an online social networking service speaks to the importance of the AfCFTA Secretariat and CCCC to pay attention to the actual features and functionalities of the CPS, and not simply the primary purposes for which the CPS was designed, to qualify a service as falling under the specific CPS categorization.

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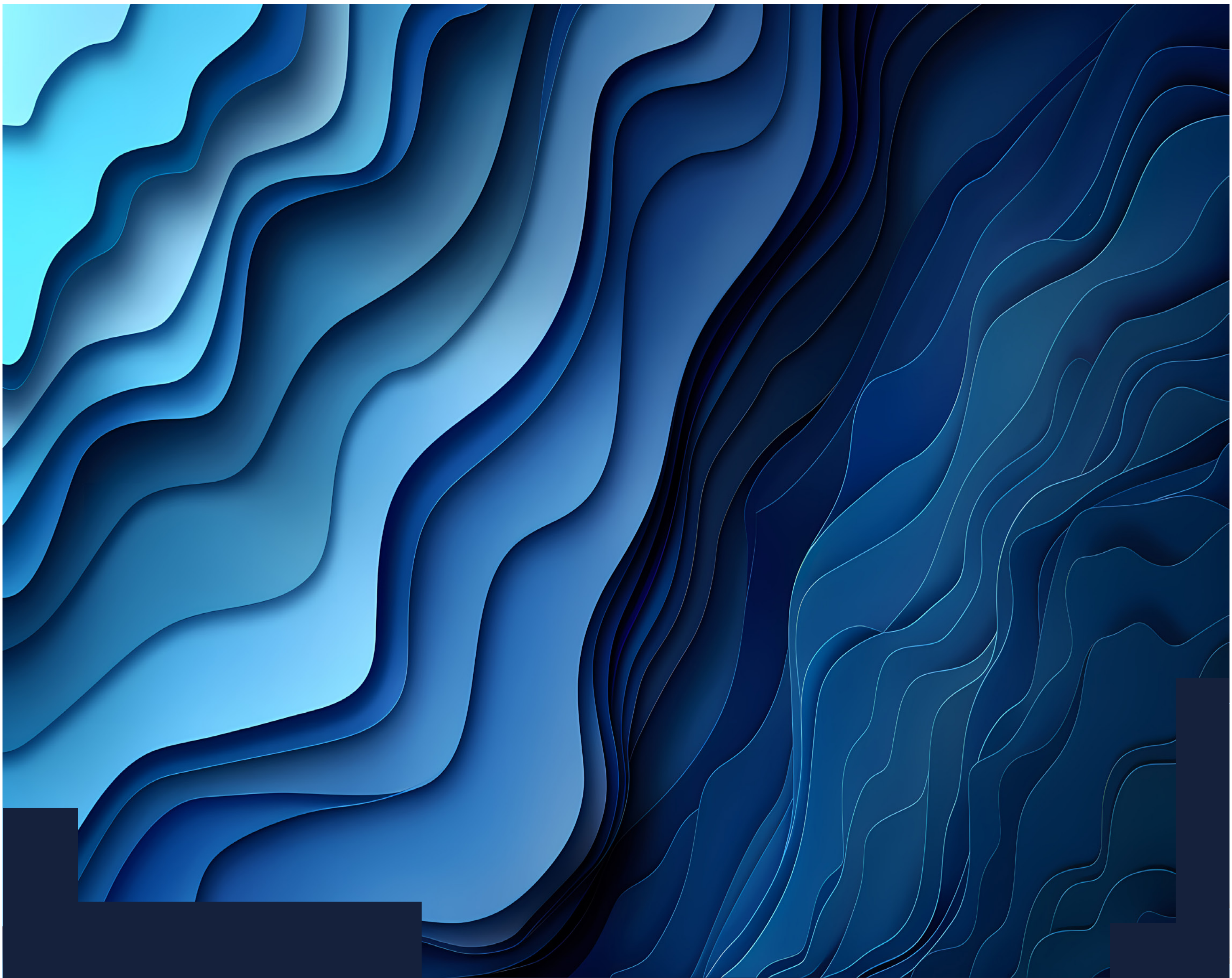
12 EC, Case DMA.100040 ByteDance-Online social networking services, Brussels, 5.9.2023 C (2023) 6102 Final (ByteDance designation decision).

13 See paras 42-42 of the ByteDance designation decision.

14 Para 58, ByteDance designation decision.

15 Friso Bostein and Giorgio Monti, 'The Ryme and Reason of Gatekeeper Designation under the Digital Markets Act' (2025) 0 Journal of Antitrust Enforcement 1-27.



4 Core Platform Service Delineation

Generally, delineation involves defining the boundaries of a specific CPS to inform the assessment of whether it should be designated as a gatekeeper. The delineation of CPS becomes crucial when services are integrated within the same digital ecosystem or when a single undertaking provides different services that fall under the same CPS categorization.

CPS delineation is important because the decision on whether two platform services are treated as distinct is decisive in designating each as a gatekeeper and, therefore, subject to digital market competition regulation (DMCR). Undertakings will, thus, be incentivized to have their CPS delineated as a single CPS to reduce compliance costs.

The DMA does not define how the CPS delineation process would occur in practice. Neither does it provide the requisite legal criteria for the CPS delineation. Nonetheless, in delineating CPS, EC has relied on Section D (2) of the DMA Annex, which provides guidelines on how the EC determines whether a CPS is distinct or single for the purposes of calculating the number of active business users and active end users. The Annex to the DMA considers three parameters:

- ***CPS uses different domain names:*** Where CPS fall under the *same category,* pursuant to, *they will not be considered distinct* mainly on the basis that they are provided using *different domain names*, whether country code top-level domains (ccTLDs) or generic top-level domains (gTLDs), or any geographic attributes.

- ***CPS user purpose:*** Where CPSs are used for ***different purposes*** by either end users or their business users, or both, even if their end users or business users may be the same, and even if they belong to the same category of core platform services pursuant to Article 2 (2) of the DMA, the CPS will be considered ***distinct***.

- ***CPS is offered in an integrated way:*** Where an undertaking is providing CPS in an integrated way, and the CPSs *do not belong to the same category* of CPS, and they are ***used for different purposes by*** either their end users or their business users, or both, under the DMA annex, they are considered ***distinct CPS***. This is despite the fact that their end users and business users may be the same and belong to the same CPS category.

Whether the EC has strictly followed the delineation criteria set in the DMA annex in practice is another question altogether. Key takeaways from the EC's CPS delineation decisions show that it undertakes two steps in analysis.

First, EC determines whether the services fall under the ***same categories*** of CPS under Article 2 of the DMA. If they do not, they are considered distinct CPS. However, if they fall under the same category, EC conducts a second analysis to determine whether the CPS is used by business users and end users for the ***same purpose.*** If so, it constitutes a single CPS. If not, then it constitutes a distinct purpose.

"A relevant criterion for identifying distinct CPSs within the same category of CPSs is the ***purpose*** for which the service is used by either end users or business users, or both" (EC Alphabet designation decisions, para 17).

Emerging scholarship on the enforcement of the DMA has noted that the EC's CPS delineation decisions varied across undertakings. This depended on the regulatory dialogue the EC holds with each undertaking and how it accommodates the peculiarities of each CPS or undertaking's digital ecosystem. Consequently, some of the EC's delineation decisions departed from the letter of the law. This in itself undermines predictability and legal certainty.

"The EC conducted delineation more detached from the letter of the law, since it had to define what the CPS's purpose was as opposed to defining the service by itself. Therefore, if they are used for distinct purposes, they remain distinct CPSs. If they are used for the same purpose, then they may be delineated as a single CPS".[16]

Although EC's CPS delineation decisions have varied considerably from one undertaking to another, the EC's approach indicates that services offered in an integrated manner will not automatically constitute a single CPS. The AfCFTA Secretariat and CCCC can learn from this that services offered in an integrated manner will not automatically constitute a single CPS. Where business users and end users appear to use CPS for ***different purposes***, such CPSs should be considered as distinct, even when their business and end users are the same. Also, services offered.

In delineating CPS, the AfCFTA Secretariat and CCCC can refer to the EC Alphabet, Meta, and Amazon decisions. I analyze the Meta designation decision and offer lessons for the AfCFTA Secretariat, CCCC, and any other regulatory agency that will face the challenge of designating CPS, where CPS are offered in an integrated way and share the same users.

A look at the EC 2023 Meta Designation Decision

In the Meta designation decision,[17] Meta wanted all its core services – Facebook, Instagram, Marketplace, Messenger, and Meta Ads – to be delineated as online social networking services under the DMA.

Figure 7: Meta's arguments against CPS delineation

Meta's argument for designation of its services as a single and not distinct CPS

Meta submits that Facebook and Instagram ***constitute a single ad-supported*** online social networking CPS, comprising all features of Facebook (i.e., Messenger, Marketplace, Facebook Dating and Facebook Gaming Play) and Instagram, as well as Meta's advertising services.

16 Martínez n 7, at 270.

17 Commission Decision of 5 September 2023.Case DMA.100020,100024,100035, 100044, Meta Platforms, paras44-57.

Meta argues that Facebook and Instagram ***serve the same purpose***, are offered in ***an integrated way,*** and, therefore, according to Section D(2)(c) of the Annex to Regulation (EU) 2022/1925, should be considered to form part of a single online social networking CPS within the meaning of Article 2, point (7), of Regulation (EU) 2022/1925 (Meta Designation decisions, Paras 29 and 30).

In Meta's view, if services or products serve the same common purpose and are integrated in the same way, they constitute a single CPS. If this view is correct, according to Meta, only WhatsApp could be regarded as a distinct CPS, but after analyzing it as an online social networking service.

The EC disagreed with Meta and designated its services under different CPS categories. Facebook and Instagram were delineated as distinct online social networking services; Meta Ads as an online advertising service; Marketplace as an online intermediation service; and WhatsApp and Messenger as NIICs.

In EC's view, Instagram and Facebook CPSs fall under the ***same category*** of online social networking services. However, they ***offer distinct services*** because they are branded differently, marketed as distinct services, accessed through entirely different domain names and software applications, require separate accounts, registration, and login processes, and use distinct terms of service.

EC's CPC delineation designation decisions show that where services are offered in an integrated way and fall under the same CPS categorization, a regulatory agency can delineate them separately when it is clear that they serve different services. Yet the CPS purpose alone is not the only determining factor in CPS designation. A regulatory agency must also undertake a ***matter-of-fact analysis*** *that focuses on the features of the services and their interaction with users.*

Consider this, where EC undertook a matter-of-fact analysis. In the Alphabet designation decisions, although Alphabet's Google Play, Shopping, and Maps are integrated in the Google Search market, they were designated as distinct. Alphabet had argued that, by delineating a CPS as a distinct online intermediation service, elements that serve its purpose should be treated as part of the CPS. The EC held that Google Play, Shopping, and Maps were distinct CPS from Google Search, irrespective of the underlying technology used to access them or the form in which they were presented.

What informs CPS delineation is the purpose for which the business users and end users use the platform. In this case, the purposes of the CPSs were different, so they are distinct CPSs that fall under the same CPS category: online social mediation services.

5 Recommendations to the AfCFTA Secretariat and CCCC

Indeed, the EC's CPS designation decisions can offer lessons to the AfCFTA Secretariat and the CCCC that could inform the adoption of regulations to designate gatekeepers' key platform services. Similar to the EU, to avoid false positives and false negatives, when adopting regulations on CPS designation, they should:

a. Identify the specific digital services that constitute a CPS

- To do so, they should ***first define what constitutes a CPS***. In the EC's experience, a CPS is a service or product that enables business users to reach end users in a commercial and professional way. Digital services and products used by end users do not constitute a CPS and are not regulated under the DMA. If the AfCFTA and CCCC contemplate a CPS this way, then CPS will constitute digital services and products that provide an infrastructure for business users to reach end users.

- Upon defining what constitutes CPS, they should identify services within African digital sectors that are likely to constitute CPS. To do so, the AfCFTA Secretariat and CCCC should ***map*** the sectors in which digital services or products are prevalent within their jurisdictions.

- Importantly, when determining whether a service constitutes CPS, attention should be paid to ***actual use*** rather than the service's primary purpose.

b. Define the specific category for each CPS.

- Once a CPS has been identified, it must be placed in a specific category, underpinned by a clear definition that enables undertakings to determine the category in which their CPS falls. While the AfCFTA Secretariat and CCCC could draw on Article 2(2) of the DMA, it is important to note that CPS categorization will depend on the specific sectors in Africa and on how business users and end users actually use those platforms. The definition of CPS can also be drawn from other existing AfCFTA Protocols, such as the AfCFTA Protocol on Digital Trade.

- CPS categorization should be determined by its ***purposes, functionalities, and characteristics.*** This requires that the AfCFTA Secretariat and CCCC understand how the CPS models work.

- The categorization of a CPS should be derived from its ***primary and actual*** purposes, while accounting for its features, interfaces, and functionalities. Also, the tools that foster user interaction. Thus, instead of relying solely on the undertaking's information about how its models work or were designed, a survey targeting business users and end users' use and experience with specific CPS will provide a deep understanding of user experience and actual use.

c. Provide a criterion for determining how to delineate CPS as distinct or single

- Establish a criterion to ***delineate*** whether CPS are distinct or single when offered in an integrated way, fall under the same CPS category, yet have the same business users and end users.

- EC's Meta CPS delineation decisions illustrate that the AfCFTA Competition Authority and CCCC must pay attention to the ***actual*** operation of platforms and to how users use the CPS, even when the CPS are integrated. Notably, the delineation process should focus on the actual use of CPSs by business users and end users.

d. Cooperate and draw lessons from international best practices

- The regulation of digital markets is complex and dynamic. In most cases, regulatory agencies investigate the same regulatory challenges against similar tech companies. This offers a conducive environment for learning.

- The AfCFTA Secretariat and CCCC, before adopting DMCRs to implement Article 11 of the AfCFTA CP and Regulation 38 of the COMESA CCPR, should study how other countries and regions have addressed the same issue.

CONCLUSION

The AfCFTA CP and the COMESA CCPR provide a legislative framework for regulating gatekeepers in Africa's digital markets. The concept of regulating gatekeepers in Africa is largely drawn from the EU DMA, which targets designated gatekeepers. Instead of reinventing the wheel, EC's CPS and gatekeeper designation decisions under the DMA provide a starting point for the AfCFTA and COMESA competition regimes to draw lessons.

The CPS identification, definition, categorization, and delineation matter because EC designation decisions have shown that not all services or products offered by a digital platform constitute a CPS. Each CPS is defined and categorized differently depending on its features and functionalities. When a digital platform offers multiple services, a regulator must delineate them as either single or distinct CPS. Importantly, in practice, the definition, categorization, and delineation of CPS determine whether it falls within the scope of digital market competition regulations and the specific obligations each CPS must comply with.

It is, therefore, not only crucial for the AfCFTA Secretariat and CCCC to set clear thresholds for when an undertaking is designated as a gatekeeper, but also to *specify which CPS will be subject to the designation process*, how each CPS will be *categorized*, and how the *delineation* of the CPS will occur in practice.

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