



EUROPEAN COMMISSION

***CASE DMA.100203 – Apple – Operating
systems – iOS – Article 6(7) – SP –
Features for Connected Physical Devices***

(Only the English text is authentic)

**Digital Markets Act
Regulation (EU) 2022/1925 of the European Parliament
and of the Council**

Article 20(1) Regulation (EU) 2022/1925

Date: 19/09/2024

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EUROPEAN COMMISSION

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PUBLIC VERSION

Apple Inc.
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Cupertino, CA 95014
USA

**Subject: Case DMA.100203 – Apple – Operating systems – iOS – Article 6(7)
– SP – Features for Connected Physical Devices**

**Commission decision opening a proceeding pursuant to Article 20(1)
of Regulation (EU) 2022/1925 ⁽¹⁾ of the European Parliament and of
the Council on contestable and fair markets in the digital sector**

Dear Sir or Madam,

- (1) On 5 September 2023, the Commission adopted a decision designating Apple Inc. together with all legal entities directly or indirectly controlled by Apple Inc. (hereinafter referred to as “Apple”) as a gatekeeper pursuant to Article 3 of Regulation (EU) 2022/1925 (the “Designation Decision”). The Designation Decision lists the following core platform services (“CPSs”) that are provided by Apple and which individually constitute an important gateway for business users to reach end users: (i) Apple’s online intermediation service App Store; (ii) Apple’s operating system iOS; and (iii) Apple’s web browser Safari. ⁽²⁾ On 29 April 2024, the Commission adopted a decision amending the Designation Decision by adding (iv) Apple’s operating system iPadOS as a CPS which individually constitutes an important gateway for business users to reach end users. ⁽³⁾

⁽¹⁾ Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act) (Text with EEA relevance), OJ L 265, 12.10.2022, p. 1–66.

⁽²⁾ Decision C(2023) 6100 final.

⁽³⁾ Decision C(2024) 2500 final.

- (2) Following the designation of Apple's iOS as a CPS, Apple was obliged to comply with the obligations laid down in Articles 5, 6 and 7 of Regulation (EU) 2022/1925 by 7 March 2024.
- (3) Pursuant to Article 8(1) of Regulation (EU) 2022/1925, the gatekeeper shall ensure and demonstrate compliance with the obligations laid down in Articles 5, 6 and 7 of that Regulation. The measures implemented by the gatekeeper shall be effective in achieving the objectives of the Regulation and of the relevant obligation.
- (4) Pursuant to Article 8(2) of Regulation (EU) 2022/1925, the Commission may, on its own initiative or at the request of a gatekeeper, open proceedings pursuant to Article 20(1) of that Regulation with a view to adopting an implementing act specifying the measures that the gatekeeper concerned should implement to effectively comply with the relevant obligation.
- (5) It may be appropriate for the Commission in certain cases, following a dialogue with the gatekeeper concerned and after enabling third-parties to make comments, to further specify some of the measures that the gatekeeper concerned should adopt in order to effectively comply with obligations that are susceptible of being further specified or, in the event of circumvention, with all obligations.
- (6) The implementing act referred to in Article 8(2) of Regulation (EU) 2022/1925 shall be adopted within 6 months from the opening of proceedings. Such proceedings are without prejudice to the powers of the Commission to adopt a decision establishing non-compliance with any of the obligations laid down in Regulation (EU) 2022/1925 by a gatekeeper, including the possibility to impose fines or periodic penalty payments. Pursuant to Article 8(9) of Regulation (EU) 2022/1925, the Commission may decide to reopen the proceedings pursuant to Article 8(2) of that Regulation.
- (7) In the implementing act specifying the measures that the gatekeeper concerned should implement to effectively comply with the relevant obligation, the Commission may impose periodic penalty payments pursuant to Article 31(1), point (a) of Regulation (EU) 2022/1925 to ensure compliance with such an implementing act.
- (8) Article 6(7) of Regulation (EU) 2022/1925 is an obligation that is susceptible of being further specified pursuant to Article 8(2) of Regulation (EU) 2022/1925.
- (9) According to Article 6(7) of Regulation (EU) 2022/1925, gatekeepers shall:
 - (a) 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) of Regulation (EU) 2022/1925 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, CPSs, 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; and

- (b) 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.
- (10) On 7 March 2024, Apple submitted its compliance report pursuant to Article 11 of Regulation (EU) 2022/1925 (“Apple’s Compliance Report”) to the Commission. In that report, Apple announced three measures it intended to take to comply with Article 6(7) of Regulation (EU) 2022/1925 in relation to Apple’s iOS CPS: ⁽⁴⁾
- (a) First, Apple is introducing an engineering team focused on ensuring that Apple provides third parties with effective interoperability with newly released iPhone and iOS hardware and software features, at least to the extent required by Article 6(7) of Regulation (EU) 2022/1925;
 - (b) Second, Apple is introducing a new request form for developers to request additional interoperability with hardware and software features built into the iPhone and Apple’s iOS CPS; and
 - (c) Third, Apple is introducing a new effective interoperability solution for third-party browser engines.
- (11) In Apple’s Compliance Report, ⁽⁵⁾ Apple explained that it had already put in place certain interoperability practices before the compliance date of Regulation (EU) 2022/1925 and irrespective of its obligations under that Regulation. In particular, Apple explained that it offers development tools to help developers to write software and offer hardware that interoperates with iOS. Apple also operates a “Made for iPhone” licensing programme, which enables third parties to develop hardware accessories using Apple technologies, including technical specifications and resources needed to communicate with Apple devices. Furthermore, Apple implements numerous industry standards, including to connect the iPhone via Bluetooth or other short-range technology standards with third-party accessories, and standards for hardware functionality such as Wi-Fi and USB.
- (12) While none of the measures Apple outlined in its Compliance Report in order to comply with Article 6(7) of Regulation (EU) 2022/1925 specifically refer to, or implement an interoperability solution for, connected physical devices, Apple has received several requests, primarily between January and March 2024, ⁽⁶⁾ for effective interoperability under Article 6(7) of Regulation (EU) 2022/1925

⁽⁴⁾ Apple’s Compliance Report, pages 21, 73 to 76.

⁽⁵⁾ Apple’s Compliance Report, page 72.

⁽⁶⁾ Apple’s response to the Commission’s identical requests for information 4 (dated 19 February 2024) and 5 (dated 12 March 2024) submitted to the Commission on 23 March 2024.

with regards to connected physical devices. These requests concern effective interoperability with, and access for the purpose of interoperability to, iOS, hardware or software features relating *inter alia* to notifications, the data connection to synchronize and transmit high data volumes, pairing of the connected physical device with the iOS device, and other aspects of establishing and maintaining connectivity. ⁽⁷⁾

- (13) The Commission has engaged with Apple on several occasions ⁽⁸⁾ regarding its compliance with Article 6(7) of Regulation (EU) 2022/1925, including in respect to features for connected physical devices. ⁽⁹⁾
- (14) Interoperability with regard to connected physical devices is of significant economic importance. Many requests received by Apple pursuant to Article 6(7) of Regulation (EU) 2022/1925 concerned interoperability for connected physical devices. According to publicly available forecasts, the global wearable technology market, which is only a subsegment of connected physical devices, was valued at USD 120.54 billion in 2023 and is projected to grow from USD 157.94 billion in 2024 to USD 1 415.26 billion by 2032, exhibiting an annual growth rate 31.5 % during the forecast period between 2024 and 2032. ⁽¹⁰⁾
- (15) Apple informed the Commission that it has moved some of the aforementioned requests to “*the next phase of the interoperability process.*” ⁽¹¹⁾ ⁽¹²⁾ At the same time, Apple is “*still undertaking an assessment*” of other interoperability requests made pursuant to Article 6(7) of Regulation (EU) 2022/1925 and has not yet moved these to the “*next phase*” of Apple’s own review process. ⁽¹³⁾
- (16) In light of the ongoing dialogue with Apple and the time that passed since the submission of many interoperability requests, following the Commission’s initial examination of Apple’s Compliance Report and the available information, and in order to provide Apple with guidance concerning their compliance with Article 6(7) of Regulation (EU) 2022/1925 for connected physical devices, the

⁽⁷⁾ Apple’s RFIs 4 and 5 Response, pages 2 and 11 and Annex 1.

⁽⁸⁾ The European Commission met Apple to discuss Apple’s compliance with Article 6(7) of Regulation (EU) 2022/1925 on, *inter alia*, 28 June 2023, 21 September 2023, 16 November 2023, 14 December 2023, 18 January 2024, 8 February 2024, 20 June 2024, 9 July 2024, 12 July 2024, 17 July 2024, and 3 September 2024 both online and in person.

⁽⁹⁾ Connected physical devices include any physical object which incorporates a connectivity function allowing for the exchange of data with another device with an operating system. This includes both physical objects which already have a connectivity function with another device with an operating system, as well as physical objects which themselves are equipped for such a connectivity function but where such connectivity has not yet been established for another device with an operating system.

⁽¹⁰⁾ <https://www.fortunebusinessinsights.com/wearable-technology-market-106000>, accessed on 27 August 2024.

⁽¹¹⁾ Apple’s monthly Article 6(7) interoperability request reporting for August 2024 submitted to the Commission on 2 September 2024 (“Apple’s August 2024 Report”), page 3 and Annex Q2.

⁽¹²⁾ According to Apple’s response to the Commission’s request for information 8 (dated 11 July 2024) submitted to the Commission on 6 August 2024, page 5, Apple’s interoperability request process has [*several phases, in which Apple reviews the request for eligibility as well as technical feasibility and, if applicable, ultimately develops an interoperability solution*].

⁽¹³⁾ Apple’s August 2024 Report, page 5 and Annex Q4.

Commission considers it warranted to specify the measures to achieve effective interoperability under Article 6(7) of Regulation (EU) 2022/1925 in respect of features which are accessed or controlled via Apple's designated operating system CPS iOS and which can be used for and by any connected physical device.

- (17) While the goal of achieving effective interoperability is clearly set out in Article 6(7) of Regulation (EU) 2022/1925, gatekeepers may need guidance as to how to achieve this goal. This includes aspects such as the exact interoperability solutions offered, their technical implementation, and the modalities of access to be provided to third-parties.
- (18) Achieving effective interoperability pursuant to Article 6(7) of Regulation (EU) 2022/1925 is of paramount importance to ensure contestability of services, software and hardware operating or connected with on iOS. Providing access to the same iOS features as available to Apple allows third-party providers of connected physical devices to challenge the market position of Apple's own connected physical devices and related services. ⁽¹⁴⁾ Lowering barriers to entry and expansion for providers of such connected physical devices increases third-party providers' incentives to innovate and improve their products and has a positive effect on the innovation potential of the wider online platform economy. Similarly, business users offering connected physical devices should not be confronted with an imbalance between the rights and obligations where the gatekeeper obtains a disproportionate advantage. Such imbalance may also consist in excluding or discriminating against business users, in particular if the latter compete with the services provided by the gatekeeper. Market participants, including business users, should have the ability to adequately capture the benefits resulting from their innovative or other efforts.
- (19) Ensuring effective interoperability in relation to connected physical devices, such as smart watches, headsets, and other connected physical devices, also leads to benefits for end users. Consumers will be able to acquire the connected physical device that suits their personal interests best, independently of considerations of the operating system the device connects with and to switch between different operating systems without foregoing the benefits of the connected physical devices they have already acquired.
- (20) The Commission therefore considers it appropriate to further specify the measures that Apple should adopt to effectively comply with Article 6(7) of Regulation (EU) 2022/1925 in respect of features which are accessed or controlled via Apple's designated operating system CPS iOS and which can be used for and by any connected physical device. To the extent relevant and applicable, such specifications might also provide useful indications regarding the measures that Apple has to apply to ensure interoperability of connected physical devices in relation to Apple's other designated operating systems.
- (21) In light of the above, the Commission has decided to, on its own initiative, open proceedings in relation to Apple with a view to the possible adoption of an

⁽¹⁴⁾ A related service could be, for instance, a companion app that is installed on an iOS device to allow a connected physical device of that provider to connect to the iOS device.

implementing act pursuant to Article 8(2) of Regulation (EU) 2022/1925 as regards potential specification of measures that Apple is to implement to effectively comply with Article 6(7) of that Regulation with respect to connected physical devices in relation to Apple's designated operating system CPS iOS.

- (22) The initiation of proceedings does not prejudice in any way the outcome of the Commission's assessment regarding compliance.
- (23) In accordance with Article 5(2) of Commission Implementing Regulation (EU) 2023/814, ⁽¹⁵⁾ the Commission will make this opening of proceedings public.

Done at Brussels, 19.9.2024.

For the Commission

Signed
Margrethe VESTAGER
Executive Vice-President

⁽¹⁵⁾ Commission Implementing Regulation (EU) 2023/814 of 14 April 2023 on detailed arrangements for the conduct of certain proceedings by the Commission pursuant to Regulation (EU) 2022/1925 of the European Parliament and of the Council, OJ L 102, 17.4.2023, p. 6.