

## Centre for Competition Law and Economics

(A non-profit initiative u/s 8, The Companies Act, 2013)

To

The Secretary  
DMA Team  
European Commission  
1049 Bruxelles/Brussel  
Belgium

8<sup>th</sup> January, 2025

**Subject: DMA.100203 – Consultation**

Dear Sir/ Ma'am,

We write in reference to the public consultation held by the Commission on the proposed measures for interoperability between Apple's iOS operating system and connected devices.

Please find attached our representation on the matter.

### About the Centre

*The Centre for Competition Law and Economics (CCLE) is a research organization working in the field of competition law and economics. The Centre publishes research reports, conducts training activities and assists litigating parties at competition fora across the country to advocate consistent interpretation of the Indian competition law. The Centre regularly collaborates with national law universities and other non-profit organizations to organize seminars, conferences and workshops for the relevant stakeholders to generate capacity in the said field based on mutual interest.*

We would be happy to discuss more on the topic and will be looking forward to meeting you in person.

**Best Regards,**

**Sumit Jain**

**Founding Director**

**Centre for Competition Law and Economics**

<http://www.icle.in>

Contact: +91 93226 83349; +91 81072 87270

Email ID: [centrecomplaw@gmail.com](mailto:centrecomplaw@gmail.com); [contact@icle.in](mailto:contact@icle.in)

## **Response to the Consultation held by the European Commission on the Proposed Interoperability Measures to be Implemented by Apple**

### **General comments**

1. The objective of competition law is to ensure a level playing field between various economic players in the market and enhance the consumer welfare standard. This level playing field could be in various forms - removing entry and exit barriers, spurring innovation, ensuring a dominant entity deals on fair and equitable terms with users and keeping the guardrails of competition intact in the market.
2. The Digital Markets Act (DMA) has been enacted specifically to promote competition in digital markets which are known for unique characteristics such as network effects and increased economies of scale. One of the substantive provisions of the law is to ensure interoperability on the part of the designated gatekeepers as the lack of such a measure keeps the preserved ecosystem immune to disruption and innovation. Such a business practice could have a wide impact on the market where business users are denied opportunities which would have otherwise existed in the allied markets, and end users are locked in the preserved ecosystem.
3. Apple is a case in point which runs its own iOS and iPadOS. The developers are required to make a separate version of the app even though it offers the same functionality to the end users. Another concern reported with Apple hardware and software is incompatibility with the devices of other companies as a subject matter of this consultation. More details are below.
4. The measures on interoperability should in no way compromise the security and integrity of devices which is of equal importance. Any technology-maker is bound to take some time to introduce new technical measures which would ensure interoperability and such technical standards should be rolled out only after robust testing is done. This time taken to introduce new measures, however, should be proportionate with the capacity of the company, the

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complexity of the technology involved, the proposed change in the existing standards and the number of business and end users involved.

### Specific comments

#### 5. iOS notifications and other interactivity

- a. The ability of devices to interact with each other is at the core of interoperability. The document made public for consultation provides technical details on three counts, i.e. interactivity through notifications, background execution and automatic audio switching.
- b. The public document provides specific guidance on all three counts to Apple in terms of providing the complete information, payload and metadata to the third party on equal terms and then letting it take a call on it. The third party would ultimately get to decide which notifications to display and use what technology to the user.
- c. Since this consultation happens after specification proceedings held by the Commission, Apple ought to comply with these details both in letter and spirit.
- d. Based on a survey conducted on ten Apple users in India, it was found that 50% and 20% of the respondents never tried receiving notifications on a non-Apple device from an iPhone and pairing a non-Apple headset with an iPhone respectively, clearly reflecting the need for advocacy. 80% of respondents, however, did mention that they were able to pair their iPhone with a non-Apple headset at the same time. A copy of the survey questionnaire is attached as Annexure with this representation.

#### 6. Features for data transfer

- a. The Commission has classified data transfer features into three broad categories, i.e. high-bandwidth peer-to-peer (P2P) Wi-Fi connection, AirDrop and AirPlay. These three categories stand for allowing wireless transfer of data between devices, the

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ability to share files ('items') and casting content (audio, video and casting) respectively.

- b. As far as interoperability with high-bandwidth P2P Wi-Fi connection is concerned, the public consultation document provides clear guidance to Apple that third-party devices should be able to initiate, establish and use its high-bandwidth P2P Wi-Fi connection as this feature is made available to itself as a solution.
- c. The consultation document has further provided room for Apple to customise where it either provides access to its guardrails to third-party devices on equal terms ('AWDL'), or ensures that the technical system currently used by third-party devices runs effectively on Apple devices ('Wi-Fi Aware') on equal terms ensuring effective interoperability on the part of the users.
- d. In the case of AirDrop, the consultation document provides specific guidance to Apple on ensuring third-party devices are able to use this feature on equal terms including usage of a communication protocol such as BLE, NFC, or P2P Wi-Fi (AWDL or Wi-Fi Aware) as a potential barrier.
- e. As far as the AirPlay feature is concerned, the consultation provides specific guidance to Apple to allow third-party devices to act as receivers, senders and servers of signals and use this feature on equal terms. The document has further provided Apple with a graded timeline to comply once it receives a request from a third party to be a signal receiver, i.e. 60 days for audio and 120 days for video content.
- f. The survey conducted on Apple users found out that, at least, 60%, 70% and 80% have never used P2P Wi-Fi connection, AirDrop and AirPlay as a feature respectively, clearly reflecting the need for advocacy.
- g. It is stated that obligations under 'close-range wireless file transfer services' are a combination of the three categories already discussed while 'media casting' is a reiteration of the obligations already mentioned in the 'AirPlay' category and therefore, no separate comments are warranted.

### 7. Features for device setup and configuration

- a. The consultation document has classified device setup and configuration features under three categories, i.e. proximity-triggered pairing, automatic Wi-Fi connection and NFC controller in Reader/ Writer mode. While proximity-triggered pairing is more of an out-of-the-box experience, automatic Wi-Fi connection ensures that once an Apple device accesses local Wi-Fi infrastructure, it is able to transmit it to other nearby physical Apple devices. The NFC controller feature is connected to making financial transactions using protocol-specific tags.
- b. As far as proximity-triggered pairing is concerned, the procedure is straightforward where Apple allows third-party devices to discover Apple devices in their vicinity through the usage or elimination of relevant protocols on equal terms. On the out-of-the-box proximity-triggered pairing, it is suggested that Apple should get more time to ensure interoperability like AirPlay as it would require the creation of metadata of third-party connected devices through registration and then subsequently mapping them with iOS. This is bound to take time.
- c. On automatic Wi-Fi connection, the document provides specific guidance to Apple in terms of providing relevant Wi-Fi network information to third-party devices such as SSID and BSSID. The aim is to ultimately allow third-party devices to use automatic Wi-Fi connection features on equal terms.
- d. As far as the NFC controller in reader/ writer mode is concerned, the document provides clear guidance to Apple in terms of allowing third-party devices to use this feature on equal terms. This would mean that third-party devices are allowed to interact with this technology directly through NFC core which is a publicly documented framework and usage of any intermediation be stalled.
- e. The survey conducted on Apple users in India was designed in a manner to inquire whether they use automatic Wi-Fi connection as a feature at all, and if yes, how much value they associate with it. Lastly, it was also to inquire whether the users

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want such a technology to interoperate with non-Apple devices. While 70% of the responders used this feature, no user disliked it. All the users in India surveyed either wanted interoperability at play or were indecisive. In other words, no user wanted this technology to be preserved or be restricted to iOS.

### Final comments

8. Apple has already been held in violation of competition law by the EC earlier. The facts of the case were similar to those under this consultation where Apple tries to lock in users into its ecosystem and then leverages the same to sell its own products. Similar cases are pending against the company in India and the US where the investigation is in the advanced phase. The survey data confirms the difficulty faced by users when it comes to interoperating iOS with non-Apple devices.
9. Interoperability lies at the heart of promoting competition as unlike other obligations such as the ban on bundling, tying, self-preferencing and cross-utilisation of data, this obligation is a positive one. To put it in other words, it's a two-way solution where apart from the gatekeeper, business users on the other end also have to move. The business users on the other end either have to adopt the standards and protocols once made available by Apple ('AWDL') and implement them in their devices, or get access to the iOS ecosystem ('Wi-Fi aware'). In both cases, the ability to innovate is enhanced and consumer choice is increased.
10. This consultation happened at a time when the Commission already had a 'regulatory dialogue' with Apple to assist in compliance. Apple ought to implement the specific directions in letter and spirit to ensure interoperability. The survey results further show that there is a continuous need to engage in advocacy around the usage of technology, competition law and engagement with the policymaker to ensure better outcomes.

## Annexure

# Survey on iOS users

The survey is being conducted by the **Centre for Competition Law and Economics (CCLE)** which is a policy-based research think-tank in India ([www.icle.in](http://www.icle.in)). The purpose of collecting this data is to better understand the preference of iOS users and if, and how, there is any competition dynamics to it. The responses would be used by the Centre to make a representation before the government on policy.

The responses are collected on an anonymous basis to ensure confidentiality.

*\* Indicates required question*

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1. 1. From how long have you been using an Apple product (iPhone, Apple Watch, MacBook etc.)? \*

*Mark only one oval.*

- Less than an year
- 1-10 years
- More than 10 years

2. 2. How many Apple devices do you use? \*

*Mark only one oval.*

- 1
- 2-3
- More than 3

3. 3. Have you ever faced difficulty in pairing an Apple device with a non-Apple device? For instance, pairing your iPhone with a non-Apple smart watch to receive notifications could be a case. Another case could be sharing files using wireless technologies like Bluetooth. \*

If you have faced any such difficulty, please describe it below. If not, write NA (Not Applicable) in the space.

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4. 4. Have you ever used 'AirDrop' as a pre-installed feature in the iOS ecosystem? \*

*Mark only one oval.*

- Yes
- No
- Not aware of the feature

5. 5. Have you ever faced difficulty in sharing files using the AirDrop feature to a non-Apple device? \*

*Mark only one oval.*

- Yes
- No
- Never tried



6. 6. Have you ever used 'AirPlay' as a pre-installed feature in the iOS ecosystem? \*

*Mark only one oval.*

- Yes
- No
- Not aware of the feature

7. 7. Have you ever faced difficulty in sharing content using the AirPlay feature to a non-Apple device? \*

*Mark only one oval.*

- Yes
- No
- Never tried

8. 8. Have you ever used the 'peer-to-peer Wi-Fi' feature in the iOS ecosystem? \*

*Mark only one oval.*

- Yes
- No
- Not aware of the feature

9. 9. Have you ever faced difficulty in sharing data using the peer-to-peer Wi-Fi feature to a non-Apple device? \*

*Mark only one oval.*

- Yes
- No
- Never tried

10. 10. Are you able to receive notifications from your iPhone to non-Apple devices such as smartwatch? \*

*Mark only one oval.*

- Yes
- No
- Never tried

11. 11. Are you able to pair your iPhone with a non-Apple headset? \*

*Mark only one oval.*

- Yes
- No
- Never tried

12. 12. Have you ever tried directly connecting a Wi-Fi network using your iPhone to other Apple devices such as smartwatch, MacBook etc.? \*

*Mark only one oval.*

- Yes
- No

13. 13. How much value do you associate with this automatic direct connection? \*

*Mark only one oval.*

- I love it! (Best)
- I find it useful (Good)
- I am agnostic to it (Neutral)
- I don't find it useful (Bad)
- I hate it! (Worst)
- Never tried

14. 14. Would you like this feature to be extended to non-Apple devices as well? \*

*Mark only one oval.*

- Yes
- No
- Can't say

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