

Newsletter, 27 January 2026

Public and Private DMA Enforcement in 2025 – A Year in Review

An overview of the latest DMA action by the EU Commission and the first private enforcement decisions by German civil courts

Public DMA enforcement continued to gain momentum in 2025, reaching its preliminary peak with the first fines imposed on Meta (€200 million) and Apple (€500 million). Further proceedings initiated by the EU Commission are gradually paving the way for private enforcement of the DMA before civil courts. In Germany, the first DMA rulings were issued.

Background

The Digital Market Act (DMA) aims to limit the market power of large digital platforms (so-called gatekeepers) and thus to ensure fair competition in the digital sector. In addition to the public enforcement by the EU Commission, which started in March 2024, aggrieved economic operators such as app developers, competing digital players and also consumers can bring civil actions before civil courts in Member States. The German legislature has facilitated private enforcement by integrating DMA claims into the existing framework for antitrust damages in the German Act against Restraints of Competition (ARC), thereby giving claimants a procedural head start.¹

Public enforcement – most important decisions of the EU Commission in 2025

In 2025, the EU Commission issued a number of decisions against four designated gatekeepers:

- **Non-compliance decisions and fines:** **Apple** (violation of anti-steering rules); **Meta²** (pay-or-consent model; the EU Commission accepted Meta's proposed remedies in December 2025)
- **Specification decision:** **Apple³** (decision relating to interoperability obligations for iOS, iPhone, and iPad)

- **Preliminary findings:** **Alphabet⁴** (self-preferencing of own services in Google Search; violation of anti-steering rules), **Apple⁵** (contract terms for app developers)
- **Proceedings initiated:** **Alphabet⁶** (access conditions for publishers in Google Search)
- **Market investigations:** **Alphabet** and **Amazon⁷** (cloud computing services)
- **Designation decisions:** **Meta⁸** (removal of Facebook Marketplace as a core platform service (CPS) under the DMA); **Apple⁹** (notifying Apple Ads and Apple Maps as CPS (pending))
- **Discontinuation of proceedings:** **Apple¹⁰** (user choice obligations)

Private enforcement – first DMA rulings before German civil courts

Regional Court of Mainz – *Gmail*¹¹

In its ruling of 12 August 2025, the Regional Court of Mainz prohibited Google (subsidiary of gatekeeper Alphabet) from giving preferential treatment to its own email service Gmail when setting up Android devices and using other platform services (including, *inter alia*, YouTube, Google Maps). The claimant, 1&1 Mail & Media, operator of the email services GMX and WEB.DE, challenged Google's practice of requiring users to register a Gmail account when setting up AndroidOS. In the claimant's opinion, the design of the setup process violated Art. 5 (8) DMA (prohibition of tying other services with CPS').

From a procedural perspective, the Regional Court rejected a stay of proceedings under Article 39(5) DMA even though the practice at issue was simultaneously subject of a dialogue between Google and the EU Commission. The Regional Court held that Google had failed to

¹ For more details see COMMEO Newsletter [6/24](#).

² Both: EU Commission, [press release of 23.4.2025](#).

³ EU Commission, [press release of 19.3.2025](#).

⁴ EU Commission, [press release of 19.3.2025](#).

⁵ EU Commission, [press release of 23.4.2025](#).

⁶ EU Commission, [press release of 13.11.2025](#).

⁷ Both: EU Commission, [press release of 18.11.2025](#).

⁸ EU Commission, [press release of 23.4.2025](#).

⁹ EU Commission, [press release of 27.11.2025](#).

¹⁰ EU Commission, [press release of 11.5.2025](#).

¹¹ Regional Court Mainz, judgment of 12.8.2025, 12 HK O 32/24.

demonstrate which decision the EU Commission intended to adopt.

On the merits, the Regional Court dismissed the action insofar as it was directed against Google's German subsidiary. Referring to the ECJ's antitrust ruling in *Suma*¹², the Regional Court found that while a subsidiary may, in principle, be held liable, the relevant conditions had not been established in the present case. In particular, Google's German subsidiary did not operate the CPS' at issue, and there was therefore no sufficiently concrete link between its economic activity and the alleged DMA infringement.

However, the Regional Court ruled that the action against Google's Irish subsidiary as the operator of the relevant CPS' was admissible and (for the most part) well-founded. Relying on Section 33 ARC in conjunction with Article 5(8) DMA, the Regional Court prohibited Google from making the use of Android, Google Play, Chrome, or YouTube conditional upon the creation of a Gmail account, notably, throughout the EU.

Higher Regional Court of Cologne – Facebook AI training

The Higher Regional Court of Cologne adopted a more cautious approach in its *Facebook AI training* ruling of 6 October 2025.¹³ The interim proceedings concerned Meta's announcement that, from May 2025 onwards, it would use content publicly shared by users on Facebook and Instagram to train its proprietary AI model. According to the Consumer Centre of North Rhine-Westphalia, which had brought the action, this practice violated not only data protection laws but also Article 5(2) DMA, which prohibits the impermissible combination of personal data from different core platform services. The Higher Regional Court dismissed the application.

On the procedural side, the Higher Regional Court held that the class action was admissible under the German Act on Injunctions (*UKIaG*) and confirmed the international jurisdiction of German courts pursuant to Article 7(2) of the Brussels I Regulation, as the data processing in question intentionally concerned users located in Germany.

On the merits, following a summary assessment, the Higher Regional Court held that Meta had not infringed Article 5(2) subparagraph 1(b) DMA by using data from Facebook and Instagram in a single dataset for AI training purposes. In the court's view, Meta

did not "combine" personal data in the legal sense, as there was no targeted linking of individual users' personal data across different CPS'.

Comment

The first German civil court decisions demonstrate that the combination of public and private enforcement can enable effective and swift application of the DMA. Germany is assuming a pioneering role in this respect. Notably, the first two German civil proceedings were stand-alone actions rather than follow-on claims, i.e., they were brought without a prior non-compliance decision by the EU Commission and without a stay of proceedings pursuant to Article 39(5) DMA. The latter had previously been discussed as a potential obstacle to private enforcement.

The application of established ARC principles on antitrust damages and, as illustrated by the Regional Court of Mainz, the transfer of antitrust case law to private DMA actions underscore why Germany is particularly well suited as a forum for such litigation.



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¹² ECJ, judgment of 6.10.2021, [C-882/19 – Sumal](https://curia.europa.eu/juris/2021-06-06/sumal_en.html).

¹³ Higher Regional Court Cologne, judgement of 25.5.2025, [15 UKI 2/25](https://www.hrc.de/juris/2025-05-25/15-ukl-2-25_en.html) (German only).