

ANTITRUST CLIENT BRIEFING

# European Commission publishes final report on sector inquiry into Internet of Things

28 January 2022

## Background and Areas of Focus

On 20 January 2022, the European Commission (EC) published its [final report](#) on the consumer Internet of Things (IoT) following an 18-month sector inquiry. The 12-page report identified several key areas in which practices seen in the IoT “could potentially have a negative impact on competition, innovation and consumer choice in the consumer IoT sector in the EU”.

The sector inquiry focused on consumer-related products and services that are connected to a network and can be controlled at a distance, for example via a voice assistant or mobile device. These include:

- **Smart home appliances** (such as refrigerators, washing machines, smart TVs, smart speakers, and lighting systems)
- **Wearable devices** (such as smart watches or fitness trackers)
- **Services available via smart devices** (such as music and video streaming services and the voice assistants used to access them)

In the EC’s preliminary IoT report from 9 June 2021, the EC received responses to its questionnaire from more than 200 companies active in the manufacturing of smart devices, as well as from 14 standard-setting and industry organisations. The publication of the preliminary report was followed by a public consultation open to all interested stakeholders, which ended on 1 September 2021, with 26 submissions received. These submissions form the basis for the final report, which is accompanied by a staff working document summarising the main findings of the inquiry.

One of the key concerns identified is on voice assistants and their operating systems. The EC found that some of the voice assistants “play an important role as key points of entry to their respective consumer IoT ecosystems” — mirroring the definition of a “gatekeeper” under the Digital Markets Act proposal — which “may allow them to control other firms’ ability to benefit from such network effects” or “obtain unprecedented access to user (and sometimes competitor) data.” Based on concerns expressed in the report, Competition Commissioner Margrethe Vestager stated, “If we see that things are systemic, this is not enough to find it and fine it and punish it one place when it’s everywhere, then of course, we need to do more. We need to call upon regulation”.

## Key Findings

### Main features of competition

The majority of respondents pointed to the cost of the technology investment and the competitive situation as the main barriers to entry or expansion in the consumer IoT sector, alongside various interoperability issues, the lack of access to data, and regulatory barriers.

Whilst respondents generally expected continued or increasing growth in the consumer IoT services, smart home device, and wearable device segments, most respondents did not expect to see new entrants in the market for general-purpose voice assistants in the short term, given that the costs of developing and operating new general-purpose voice assistants are seen as prohibitively high.

The leading companies behind the general-purpose voice assistants are vertically integrated and have built their own ecosystems within and beyond the consumer IoT sector by combining their own and integrating third-party products and services into an offering with a large number of users.

### Interoperability in consumer IoT ecosystems

Interoperability in the consumer IoT sector is essential for the full deployment of use cases and functions that the various types and brands of consumer IoT products and services provide.

In practice, consumer IoT products and services are generally centred on a few proprietary consumer IoT technology platforms, namely voice assistants and smart device operating systems. The majority of respondents considered that leading technology platforms are key entry points to first- and third-party services and products in the consumer IoT sector. To achieve interoperability with those platforms, smart device manufacturers and consumer IoT service providers need to follow certification processes to gain approval for their customised integrations and abide by the mostly non-negotiable terms and conditions of these platforms.

## Standards and the standard-setting process

The findings of the sector inquiry indicate that the consumer IoT sector has a highly segmented environment when it comes to standards: devices and services rely on a combination of open standards, protocols, and proprietary and open source technologies.

The integration of standalone technologies into such ecosystems is reported as a “must-have” for consumer IoT hardware manufacturers and app developers. This, in turn, leads to an environment in which proprietary technologies of such ecosystems play a major role, in particular at the level of device definitions, application layers, and user interfaces.

Many respondents recognised the importance of standardisation to achieve interoperability, but others warned that consolidation of existing standards should be a priority point to avoid development of competing and potentially conflicting standards. In addition, the number and cost of existing standards were put forward as disadvantageous to smaller players, creating barriers in terms of overall production costs and procedural/administrative and legal burdens.

## The role of data

In relation to data use cases within consumer IoT companies, respondents reported that they use the data collected for (i) the normal functioning of consumer IoT products and services; (ii) personalisation of the user experience; (iii) business analytics; (iv) product maintenance and development; and (v) other use cases (e.g., marketing communication, safety, and fraud prevention). Respondents further indicated that data might be used for user profiling purposes going forward but that this business opportunity is not very advanced yet and would need to comply with data protection rules.

Several contractual provisions seem to govern business-related aspects of consumer IoT data. Such agreements may include clauses in relation to personal data protection, processing, storage, and use. Each company’s privacy policy is also relevant for data (flow) management.

In terms of data sharing and portability, the report notes that there are no industry-wide standardised formats for collecting and sharing data between consumer IoT companies. Data is typically processed either in a company-specific proprietary format or in a non-standardised but commonly used non-proprietary file format.

## Next Steps

The EC’s findings in other sector inquiries, most recently into e-commerce and pharmaceuticals, resulted in the opening of separate investigations under Articles 101 (restrictive business practices) and/or 102 TFEU (abuse of dominant market position) into the conduct of individual market participants.

The EC will likely come to similar conclusions in the IoT sector inquiry. Conduct concerning voice assistants and smart device operating systems appears to be particularly exposed as these assets constitute high barriers to entry.

The report explicitly refers to the ongoing legislative debate on the scope of the Digital Markets Act (DMA), in which the European Parliament has suggested to include “virtual assistants” as core platform services. As the EU’s co-legislators have kicked off their triologue negotiations over the final text of the DMA, the findings of the report could clear the way for the DMA to take voice assistants

into account and address some of the concerns highlighted in the report on the use of data, interoperability, and potential self-favoring.

## Contacts

If you have questions about this briefing, please contact one of the authors listed below or the Latham lawyer with whom you normally consult:



**Carles Esteva Mosso**  
carles.estevamosso@lw.com  
+32.2.788.6266  
Brussels



**David Knobel**  
david.knobel@lw.com  
+32.2.788.6145  
Brussels

**Werner Berg**  
Knowledge Management Counsel  
werner.berg@lw.com  
+32.2.788.6151  
Brussels

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