



STATUTORY INSTRUMENTS.

S.I. No. 117 of 2024



EUROPEAN UNION (CONTESTABLE AND FAIR MARKETS IN THE
DIGITAL SECTOR) REGULATIONS 2024

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I, SIMON COVENEY, Minister for Enterprise, Trade and Employment, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purpose of giving further effect to Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022¹ on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act) hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Union (Contestable and Fair Markets in the Digital Sector) Regulations 2024.

Interpretation

2. (1) In these Regulations –

“Act of 2014” means the Competition and Consumer Protection Act 2014 (No. 29 of 2014);

“authorised officer” means a person appointed under section 35 of the Act of 2014;

“Commission” means the Competition and Consumer Protection Commission;

“Council Regulation” means Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022¹ on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act).

(2) A word or expression that is used in these Regulations and which is also used in the Council Regulation has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Council Regulation.

(3) A reference to a numbered Article in these Regulations is a reference to the Article so numbered of the Council Regulation.

Designation of Commission as Competent Authority

3. The Commission is designated, for the purposes of the Council Regulation, as the competent authority that is enforcing the rules referred to in Article 1(6).

¹ OJ No. L.265, 12.10.2022, p. 1.

Designation of Expert by Minister

4. The Minister for Enterprise, Trade and Employment shall designate an expert for the purposes of Article 49(4).

Construction of References

5. Sections 24, 25 and 35 of the Act of 2014 shall apply for the purposes of these Regulations subject to the modification that references to the relevant statutory provisions shall be construed as references to these Regulations.

Powers of Authorised Officers to provide necessary assistance for the purpose of Article 23(8)

6. (1) An authorised officer, when exercising any powers under Article 23, may be accompanied by such other authorised officers or members of the Garda Síochána or both as he or she considers necessary.

(2) For the purpose of assisting the European Commission with an inspection conducted by the European Commission in accordance with Article 23, an authorised officer may, on production of a warrant issued under paragraph (3), enter the premises, land or means of transport referred to in Article 23(2)(a), using reasonable force where necessary, and provide any other necessary assistance to enable the officials and other accompanying persons authorised by the European Commission to conduct their inspection in accordance with Article 23.

(3) Where an authorised officer provides information on oath to a judge of the District Court for the purpose of a warrant being issued in relation to an inspection referred to in paragraph (2) –

- (a) the information on oath so provided shall include –
 - (i) a statement to the effect that the information on oath is being provided in relation to an inspection referred to in paragraph (2), and
 - (ii) sufficient information to allow the judge of the District Court to discharge his or her functions under Article 23(10),
- (b) before issuing the warrant, the judge of the District Court shall have regard to the matters under Article 23(10), and
- (c) the judge of the District Court, shall, where he or she is satisfied as regards the matters referred to in Article 23(10), issue a warrant authorising an authorised officer (accompanied by such other authorised officers or members of the Garda Síochána or both) at any time or times within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter the premises, land or means of transport referred to in Article 23(2)(a), using reasonable force where necessary, and provide any other necessary assistance to enable the officials and other accompanying persons authorised by the

European Commission to conduct their inspection in accordance with Article 23.

(4) An application under this Regulation to the District Court shall be to a judge of the District Court for the time being assigned to the district court district within which the undertaking or associations of undertakings referred to in Article 23 is located.

Obstruction of authorised officer

7. (1) A person who obstructs, interferes with or impedes an authorised officer in the exercise of a power under Regulation 6, shall be guilty of an offence.

(2) Where a member of the Garda Síochána is of the opinion that an offence under paragraph (1) is being or has been committed, then the member may arrest that person without warrant.

(3) A person guilty of an offence under paragraph (1) shall be liable –

- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 6 months, or both, or
- (b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 3 years, or both.

(4) Summary proceedings for an offence under this Regulation may be brought and prosecuted by the Commission.

Information by third parties

8. (1) Any third party may inform the Commission in accordance with Article 27 of any practice or behaviours that fall within the scope of the Council Regulation.

(2) Where the Commission determines, based on the information provided under paragraph (1) that there may be an issue of non-compliance with the Council Regulation, it shall transfer that information to the European Commission.

Request for market investigation

9. The Commission may, either alone or with another Member State, request the European Commission to open a market investigation in accordance with Article 41.

Professional secrecy under Council Regulation

10. (1) An authorised officer, a member of staff of the Commission, a member of the Commission, a person engaged by the Commission in any other capacity or any other person involved shall not contravene Article 36(4).

(2) A person who, without reasonable excuse, contravenes paragraph (1) shall be guilty of an offence and shall be liable, on summary conviction, to a class A fine or imprisonment for a term not exceeding 6 months, or both.



GIVEN under my Official Seal,
27 March, 2024.

SIMON COVENEY,
Minister for Enterprise, Trade and Employment.

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