



HAUSFELD
FOR THE CHALLENGE

Decoding The Digital Markets, Competition & Consumers Act

What your business needs to know

Spring 2025

Summary

The Digital Markets, Competition and Consumers Act 2024 (“**DMCCA**”) came into force on 1 January 2025 and introduces a new framework for regulating digital markets. The regime covers digital products and services such as social media platforms, mobile app stores, online browsers, and e-commerce platforms.

The new regulatory framework aims to promote growth and innovation, ensure fair access to digital ecosystems, and curb anti-competitive practices within digital markets. The new powers are designed to address competition concerns in digital markets on a forward-looking basis, in a flexible and efficient process, tailored to the specific sector and players. This is particularly relevant for publishers, who rely on fair access to digital platforms to reach audiences, monetise content, and compete effectively in an evolving media landscape.

What the DMCCA hopes to achieve

The new regulatory powers provided to the CMA under the DMCCA are designed to boost competition by enabling the CMA to effectively address the specific barriers present in digital ecosystems which affect effective competition and innovation. In practice, these powers will be exercised by the Digital Markets Unit (“**DMU**”) with a remit to prevent abuses of market power and, in turn, encourage greater innovation. It will achieve these aims through a variety of means, including designation of Strategic Market Status (“**SMS**”) to firms who are recognised as having “entrenched and substantial” market power. The DMU will have the ability to impose Conduct Requirements (“**CRs**”) on SMS firms and make Pro Competition Interventions (“**PCIs**”) where appropriate. This new framework is designed to protect consumers and business from exploitation and prevent practices which undermine fair competition. This, in turn, is intended to ensure that smaller firms are not unfairly pushed out of the market but are instead able to grow and compete, that consumers are given greater choice, and that a wide range of sectors are supported as a consequence.

Current status

The DMCCA became law in May 2024.

Parts 1, 2 and 5, cover Digital Markets, Competition, and Miscellaneous provisions, and came into force on 1 January 2025. It is expected that Parts 3 and 4, which respectively provide for a consumer enforcement regime and a replacement for the unfair trading regulations, will come into force in April 2025.

Key features

1. Digital Markets Competition Regime
 - a. SMS – The Act empowers the Competition and Markets Authority (“**CMA**”) to designate firms with substantial and entrenched market power as having SMS. If a tech company with significant market power is designated as having SMS in relation to a specific digital activity, the CMA will then have a range of powers at its disposal

to promote fair competition, to level the playing field for competitors or potential entrants, and to improve the choices available to consumers.

- b. Conduct requirements – SMS firms must comply with a specific set of rules on how it conducts its business in relation to the designated digital activity. These rules are designed to promote fair dealing, prevent self-preferencing, and/or enhance trust and transparency. There is no strict timetable for imposing CRs and their development, including detailed analysis and consultation, can take place in parallel with SMS and/or PCI investigations. They can then come into force immediately, where appropriate, or the CMA can determine a period of time between the date of imposition and the date that the CR comes into force (known as an “**implementation period**”). However, once imposed, CRs must be proportionate,¹ of a permitted type,² and only be imposed having had regard to the consumer benefits that may follow.³
- c. PCIs – The CMA also has the power to launch PCIs, which are designed to remedy or mitigate any adverse effects on competition uncovered by the CMA in relation to an SMS firm’s digital activities. Whereas CRs are relatively narrow in focus, a PCI investigation is market-wide and will consider whether a factor or combination of factors relating to a relevant digital activity – i.e. a digital activity in respect of which a firm has been designated as having SMS – is having an adverse effect on competition (“**AEC**”). If so, the CMA may make PCIs in order to generate greater competition through longer-term dynamic changes within digital activities.

2. Consumer Protection

- a. Direct enforcement – Under the DMCCA, the CMA has the power to decide whether key consumer protection laws have been breached. If they have, the CMA will be able to take direct action in the form of fines and other penalties.
- b. Enhanced consumer rights – These powers of direct enforcement strengthen consumer rights by ensuring efficient and consistent protection against unfair practices and the adoption of processes designed to ensure close engagement with consumers and businesses. Particular areas of focus for the CMA include aggressive sales practices, the provision of information to consumers that is objectively false, and contract terms that are very obviously imbalanced and unfair.
- c. Informed choices – Consumers will benefit from improved choice architecture and defaults that aid decision-making. They will also have greater clarity and control over the use of their data.

¹ The CR(s) imposed must be a proportionate means of achieving one or more of the following objectives: (i) fair dealing, (ii) open choices, and/or (iii) trust and transparency.

² The DMCCA specifies an exhaustive list of permitted CRs, some of which impose positive obligations on an SMS firm (e.g. to trade on fair and reasonable terms, or to provide clear, relevant, accurate and accessible information about the relevant digital activity to users) and others that are intended to prevent an SMS firm from doing something (e.g. applying discriminatory terms to certain users, self-preferencing of its own products, or using data unfairly).

³ The CMA must have regard to the benefits for consumers that it considers would likely result (directly or indirectly, short or long term) from the CR or combination of CRs.

3. Innovation and Growth

- a. *Level playing field* – The regime aims to create a level playing field for start-ups and scale-ups, fostering innovation and economic growth across the UK tech sector.
- b. *Investment opportunities* – By promoting fair competition, the Act unlocks opportunities for investment and innovation, benefiting both large firms and smaller businesses.

Immediate action

Within a month of taking effect, the CMA launched SMS investigations into (1) Google's general search activities; and (2) Google's and Apple's mobile ecosystems. These investigations are expected to conclude in October this year and will reveal to extent to which the CMA will alter the conduct of big tech companies to achieve the aims of the regime.

1. *Google Search* – the investigation will explore whether:
 - a. *there is weak competition in search;*
 - b. *Google gives special prominence to its own products and services over those of its competitors; and*
 - c. *Google exploits consumer data and publisher content.*

Of particular relevance to the publishing industry, the CMA will consider whether:

- *to impose requirements to ensure fair terms for use of publisher content,⁴ including both payment and non-payment terms.*
- *publishers should have greater clarity and control over the use of their content looking, in particular, at how Google have used publisher content in the development of its AI offerings; and*
- *to impose requirements on Google to ensure search rankings are non-discriminatory and that there is an effective complaints process in relation to the same.*

2. *Google and Apple mobile ecosystems* – this investigation will consider:
 - a. *the extent of competition between Apple's and Google's mobile ecosystems;*
 - b. *whether Apple and Google's leverage their market power in operating systems, app distribution and/or browsers to favour their own apps and services;*
 - c. *whether app developers are exploited in the terms and conditions imposed by Apple and Google; and*
 - d. *whether users may be hampered in their ability to make active choices about which apps they are using on mobile devices.*

Publishers may be particularly interested in the following potential interventions that may arise from this investigation:

⁴ This builds on the CMA's previous analysis and, for example, its previous joint advice with Ofcom from 2022 that pointed to concerns that publishers do not receive fair terms when Google uses their content ([link](#)).

- measures designed to restrict Apple and Google's ability to leverage their control of mobile operating systems and app distribution in order to extend their market power into other activities, such as enabling users to make active and informed choices about the product or services they use and/or set as a 'default' service. This, in turn, could see the growth of third-party alternatives and, as a result, improve the bargaining position of publishers as to the use their content; and
- controls in relation to the current level of commission (up to 30%) that is payable to Apple and Google in respect of in-app purchases of digital content and requirements for Apple and Google to permit the use alternative payment methods for in-app content, including within the app or by linking to a separate website.

What the DMCCA means for publishers

1. Fair bargaining mechanisms for content – the DMCCA aims to ensure fair terms for use of publisher content. These could include both non-payment terms (for example the way content is presented and attributed, and publishers' access to data on how their content is used) and payment terms. Any breach of conduct requirements imposed on SMS firms in relation to payment terms with publishers can then be resolved by the CMA through its 'Final Offer' ("FOM") mechanism.
2. Greater control over use of content – the DMCCA is intended to give publishers greater clarity and control over use of their content. For example, Google has access to publisher content for the purposes of populating its search results pages (and therefore ensuring publishers are visible to search users). However, as is already under consideration in the Google Search SMS investigation, there are concerns that Google then further utilises this content to develop its AI offerings without input from publishers. The DMCCA therefore aims to give you greater transparency over any onward use of your independently created valuable content and to ensure fair and accurate attribution of credit for the same.
3. Prevention of leveraging – the DMCCA will enable to CMA to address any attempts by SMS firms to leverage their strong position in one digital activity into another (e.g. Google leveraging its strong position in general search to further its position in AI). This promotes a more level playing field amongst big tech firms and seeks to ensure that smaller firms are able to compete. This, in turn, may result in greater choice for publishers and a consequently stronger bargaining position in relation to content.

PPA Action

The PPA worked closely with MPs, Lords and third-party stakeholders as the DMCCA was making its way through parliament, raising awareness about the importance of the pro-competition regime to tackle market dominance of large platforms.

We are engaging with the CMA as they are assessing how to use the new powers, highlighting the issues that affect publishers the most, including algorithm changes and restriction of access to user data.

Glossary of terms and acronyms

- **Adverse effect on competition (“AEC”)** – An adverse effect on competition (“AEC”) occurs when any factor, or combination of factors, relating to a relevant digital activity prevents, restricts, or distorts competition in connection with the relevant digital activity in the UK.
- **Countervailing benefits exemption (“CBE”)** – The CMA must close a conduct investigation where representations made by the designated undertaking under investigation lead the CMA to consider that overall, the conduct results in benefits for users or potential users that outweigh the negative consequences for competition. This is referred to as the countervailing benefits exemption. For the exemption to apply, the criteria set out in section 29(2) of the Act must be satisfied.
- **Competition and Markets Authority (“CMA”)** – The Competition and Markets Authority is the principal competition regulator in the United Kingdom. It is a non-ministerial government department in the United Kingdom, responsible for promoting competitive markets and tackling unfair behaviour. It was formerly known as the Office of Fair Trading and/or the Competition Commission.
- **Conduct requirement (“CR”)** – Once a firm is designated as having Strategic Market Status (“SMS” – see below) in respect of a digital activity, the CMA may impose one or more conduct requirements (“CRs”) on the designated firm (“SMS firm” – see below) to guide how it should conduct itself in relation to that digital activity.
- **The Digital Markets Act (“DMA”)** – The DMA is a European piece of legislation that establishes a set of objective criteria to qualify a large online platform as a “gatekeeper” and ensures that they behave in a fair way online and leave room for contestability. The Digital Markets Act is one of the centrepieces of the European digital strategy and has clear comparisons with UK regulation under the Digital Markets, Competition and Consumers Act 2024 (“DMCCA”).
- **The Digital Markets, Competition and Consumers Act 2024 (“DMCCA”)** – A new regulatory framework introduced on 1 January 2025 aimed at promoting growth and innovation, ensuring fair access to digital ecosystems, and curbing anti-competitive practices within digital markets.
- **The Digital Markets Unit (“DMU”)** – The DMU is the team within the CMA that has been set up to promote competition and tackle unfair behaviour by the largest digital technology firms under the DMCCA.
- **Enforcement order (“EO”)** – Orders imposing obligations on a firm for the purpose of remedying a breach of a CR.

- **Final offer mechanism (“FOM”)** – An enforcement tool which empowers the CMA to resolve payment-related breaches of conduct requirements to deal on fair and reasonable terms.
- **Interim enforcement order (“IEO”)** – An order imposed on an interim basis by the CMA in relation to a suspected breach of a CR, which requires a firm to take or not take certain actions.
- **Pro-competition intervention (“PCI”)** – The CMA can make a pro-competition intervention to remedy an AEC it finds in relation to a digital activity for which a firm has been designated. This may be by making a pro-competition order (‘PCO’), and/or by making a non-binding recommendation to another public authority on steps they should take.
- **Pro-competition order (“PCO”)** – A binding order that may result from a PCI investigation imposing requirements on an SMS firm.
- **Strategic market status (“SMS”)** – Only those designated as having SMS in respect of a digital activity will be within the scope of the digital markets competition regime. The CMA may designate an undertaking as having SMS in respect of a digital activity carried out by the undertaking where the CMA considers that—
 - the digital activity is linked to the UK, and
 - the undertaking has substantial and entrenched market power and a position of strategic significance in respect of the digital activity.

Additionally, for an undertaking to be designated, it must meet certain minimum turnover thresholds set out in the Act.

- **SMS firm** – An undertaking designated as having strategic market status.

Get in touch



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