



Duck Duck Go, Inc.

20 Paoli Pike • Paoli, Pennsylvania 19301, United States
+1 267.690.7758 • duckduckgo.com

Aurélien Mähl

Senior Public Policy Manager, Europe
Brussels, Belgium

Mobile Browsers and Cloud Gaming Market Investigation Team
Competition and Markets Authority
25 Cabot Square
London

Dear Sirs and Madams,

Mobile Ecosystems Market Study: Consultation on the Proposed Market Investigation Reference

This letter sets out Duck Duck Go, Inc.'s ("DuckDuckGo") response to the current consultation on the proposed market investigation reference into mobile browsers and cloud gaming. We wish to voice our general support for your decision, and we offer some comments on its scope.

The Market Investigation Reference

Following the disappointing news in the Queen's Speech that the Digital Markets Unit legislation is delayed, we wrote to you on 17 May 2022 recommending that you should launch a market investigation following the market study. We were therefore pleased to see that you have decided to do so, albeit with a narrower scope than we recommended.

To answer the questions raised in your consultation document, we agree that:

- the CMA has reasonable grounds to suspect that one or more features (alone or in combination) in relation to the supply of mobile browsers and cloud gaming (and related ancillary goods and services) prevent, restrict, or distort competition in the UK and that the reference test is met; and
- it is appropriate for the CMA to exercise its discretion to make a market investigation reference in this case.

However, as the CMA already knows, we would have greatly preferred you to launch a market investigation after your previous market study into online platforms and digital advertising, which ended in July 2020. We believe it is not too late, and still appropriate, to reverse that decision. We are now more than two years on from that first market study report and the fundamental issues in search competition are still there, in particular regarding choice and switching.

Privacy, simplified.™



Our preference is therefore for the CMA to launch a separate market investigation covering the search market, but if the CMA is not currently minded to do so, we believe it is open to the CMA to address these issues to a large extent in the forthcoming browsers and gaming market investigation.

The Relevance of Search

DuckDuckGo has a direct interest in the browser market. We offer our own mobile browser for Android and iOS, browser extensions for major browsers including Chrome, Safari, Edge and others and we recently launched our first desktop browser for macOS that is currently in beta.

We fully understand the CMA's desire to keep its market investigation targeted and deliverable, but it is important for the CMA not to close its investigation to the context in which browsers operate. It is essential for the CMA to recognise that the functioning of the browser market is closely connected to the market for search engines. We do not believe it would be reasonable to define them as distinct markets and we do not believe it is reasonable to leave the problems in the search market untouched. Both activities require an injection of user choice. Indeed, existing choice screen remedies are not sufficient – and won't necessarily last without action from the CMA, as the European Commission moves its oversight under the DMA framework.

We recommend the CMA takes account of the following relevant considerations when assessing the functioning of the browser market:

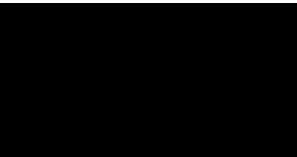
- As demonstrated by the CMA (see e.g. paragraph 3.155 of the final report), Google's strength throughout digital ecosystems stems from its strength in search. Arguably its browser (and indeed its display advertising and mobile operating system) activities primarily exist to protect and enhance its search dominance.
- This issue permeates the subjects that the CMA intends to investigate in its market investigation. For example, when the CMA assesses Apple and Google's conduct that is designed to maximise the use of their own browsers, the CMA must ask itself why they would do that and what it achieves. The answer of course would quickly lead the CMA to the monetisation that Google Search generates as default search engine.
- Similarly, when the CMA analyses the issues surrounding pre-installation and default positions for Safari and Chrome, and the difficulty of changing your browser, that analysis would be incomplete without assessing the relevance of search to these contracts and design decisions. A large part of the value of a browser like Safari indeed derives from the monetisation of its search default: the CMA found that Google pays £1-1.5 billion per year in the UK to Apple for securing the search default on the Apple ecosystem, including on Safari.
- For the purposes of section 131(2) of the Enterprise Act, the CMA is legally able to find a "feature" upstream of the reference market that causes an adverse effect on competition in the reference market. It is open to the CMA to find and remedy a feature of the search market in a market investigation into browsers.
- When the CMA assesses browser remedies, and especially if the CMA is considering a choice screen remedy, it must take into account the impact on the search market and it must design a remedy that would also be effective if implemented in the search market. Indeed, the CMA could legally take the view that the remedy must extend to covering search in order to comprehensively remedy the adverse effect on competition relating to browsers. The two are interconnected.



As regards choice screen remedies, we have developed [10 principles for fair choice screens and effective switching mechanisms](#) applicable to both browsers and search engines, together with Ecosia and Qwant. As the CMA and other regulators across the globe are looking into solutions for improving competition through consumer empowerment, we are hoping to create more clarity and alignment among companies and stakeholders to achieve a user-centric experience online.

We would of course be delighted to continue our engagement with the CMA during the course of the market investigation and in its other work in the tech sector.

Yours faithfully,



Aurélien Mähl
Senior Public Policy Manager, Europe
DuckDuckGo