

Notice of intention to accept binding commitments offered by Alphabet Inc, Google Ireland Limited, Google UK Limited and Google LLC in relation to Google Play's rules which oblige app developers offering digital content to use Google's own billing system for in-app purchases

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1. Executive Summary

- 1.1. On 10 June 2022, the Competition and Markets Authority ('**CMA**') opened an investigation into the conduct of the undertaking comprising Alphabet Inc., Google Ireland Limited, Google UK Limited (company number 03977902) and Google LLC and any other member of their corporate Group (together, '**Google**'). In particular, the CMA is considering Google's rules governing the distribution of apps on Android devices in the UK, specifically Google Play's rules which oblige app developers selling access to in-app digital content or services to use Google Play's billing system¹ (the '**GPB Requirement**'), Google's in-app payment system, pursuant to its powers under the Competition Act 1998 (the '**Act**') (the '**Investigation**').
- 1.2. This Investigation followed the CMA's final report in the Mobile Ecosystem Market Study ('**MEMS**'), which considered four areas: mobile devices and operating systems; distribution of native apps; mobile browsers and browser engines; and Apple and Google's role in competition between app developers. During the course of the MEMS, app developers raised a wide range of concerns regarding Google's terms and conditions, including the total service fee payable to Google where its billing system is used, and rules which oblige app developers selling access to in-app digital content or services to use GPB exclusively for in-app purchases.²
- 1.3. Of the concerns identified in the MEMS, this Investigation has focussed specifically on the Google Play rules that oblige app developers offering digital content to use GPB to process in-app payments (the '**Conduct**'), and certain competition concerns that result from that Conduct, as described further in section 4 below (the '**Competition Concerns**'). Those Competition Concerns relate to the potential negative effects of those rules on a) other companies' ability to compete with Google to provide payment services to app developers selling access to digital content or services through their app; and b) app developers' ability in certain respects to retain a direct relationship with users of their apps who purchase such digital content or services.
- 1.4. As set out in paragraph 2.20 below, in September 2020 Google clarified that all Google Play-distributed apps are required to use GPB exclusively for in-app sales of access to digital content and services on Google Play (previously many had relied on an exception which permitted certain app developers to make sales through an alternative billing system, without paying any service

¹ Google Play's billing system ('**GPB**') is Google's in-app system for Google Play users to purchase digital content or services from app developers including, for example, one-time only purchases and subscriptions. Google charges a service fee for these transactions, before passing on the developer's portion to app developers.

² Mobile ecosystems market study, Final Report, Appendix H: Apple's and Google's in-app purchase rules.

fee to Google). Having set various deadlines for app developers to comply, Google ultimately stated that any apps that were still non-compliant with the requirement to use GPB exclusively for in-app purchases of access to digital content or services would be removed from Google Play from 1 June 2022.

- 1.5. This Investigation does not cover other potential concerns that third parties have raised about aspects of Google Play's rules, for example, Google's right to charge a service fee for in-app purchases of access to digital content or services on Google Play in and of itself, the precise level of that service fee, or which transactions are subject to such a fee. The MEMS report concluded that there is a strong case for interventions across a number of different areas in relation to mobile ecosystems, but that many of these were more suited to being considered further – and as necessary addressed – by the proposed new Digital Markets Unit ('**DMU**') within the CMA, which will enforce the pro-competition regulatory regime for digital markets in the UK that the Government intends to establish.³ This may include further action to regulate particular firms' conduct in the distribution of apps more broadly.
- 1.6. In the current Investigation, the CMA is concerned that Google may be abusing its dominant position by requiring the exclusive use of GPB by developers of apps selling access to in-app digital content or services ('**Digital Content Apps**'). By its nature, this provision precludes any competition from third parties in relation to the cost or quality of billing services for transactions in Digital Content Apps, which would otherwise have the potential to deliver benefits for developers and users in terms of prices, increased choice and/or innovation. The CMA is concerned that the imposition by Google of the GPB Requirement also results in app developers being prevented from having a direct relationship with customers (app users) in certain respects, making it more difficult for them to offer a high-quality service or to tailor offers or products to their users.
- 1.7. As described in paragraphs 2.21 and 2.22 below, since the Investigation launched, Google has announced a pilot in the European Economic Area ('**EEA**') allowing app developers to use alternative billing systems for purchases of access to digital content or services: either a) *alongside* GPB (referred to in this Notice as User Choice Billing ('**UCB**')) or b) *instead of* GPB (referred to in this Notice as Developer Only Billing ('**DOB**')). In addition, Google has launched pilot programs to offer UCB in Australia, Brazil, Indonesia, Japan, South Africa and the United States,⁴ having already begun offering UCB in South Korea to comply with changes to domestic legislation

³ [Government response to the consultation on a new pro-competition regime for digital markets.](#)

⁴ <https://support.google.com/googleplay/android-developer/answer/12570971?hl=en>.

there.⁵ UCB was also introduced in India in response to recent regulatory developments.⁶

- 1.8. On 18 April 2023, Google offered commitments to the CMA (as described in section 5 of this document and set out in Schedule 1), for the purpose of addressing the CMA's Competition Concerns arising from the Conduct (the '**Proposed Commitments**').⁷
- 1.9. A key element of the Proposed Commitments is that developers of Digital Content Apps will be given the option of using an alternative billing system for processing in-app transactions (by implementing either UCB or DOB). App developers will be able to apply to offer an alternative billing system for in-app transactions, either on its own (DOB) or alongside GPB (UCB). For a short initial period, applications for DOB and UCB will be limited to non-gaming apps, before being extended to all apps by October 2023 at the latest.
- 1.10. If a developer chooses UCB and a user pays through an alternative billing system, the Google Play service fee would be reduced by 4 percentage points. If a developer chooses DOB, the Google Play service fee would be reduced by 3 percentage points. App developers choosing UCB or DOB will continue to be eligible for any existing Google programs that offer discounted service fees (e.g. for the first \$1 million (USD) of earnings by an app developer per year; for automatically renewing subscription products purchased by subscribers; and for developers offering certain types of media content⁸) and will still be offered the relevant 4 or 3 percentage point reduction from the service fee. For UCB, while an app developer must continue to offer GPB as an option to users for a particular product or service, it may charge users different (e.g. lower) prices for choosing the alternative billing system, or offer them different benefits as part of using the alternative billing system, such as loyalty points.
- 1.11. Based on the information the CMA has received to date, and for the reasons set out below, the CMA provisionally considers the Proposed Commitments to be appropriate to address the particular Competition Concerns resulting from the Conduct that the CMA has investigated in this case. Both DOB and UCB would allow app developers the opportunity to use billing systems of their choosing (and DOB would allow them to choose not to offer GPB at all), breaking the link that the GPB requirement currently creates between access

⁵ <https://support.google.com/googleplay/android-developer/answer/11222040?hl=en>.

⁶ <https://support.google.com/googleplay/android-developer/answer/13306652?hl=en-GB>.

⁷ Under Section 31A of the Act the CMA may, for the purposes of addressing the competition concerns it has identified, accept from a party under investigation commitments to take such action (or to refrain from taking such action) as the CMA considers appropriate.

⁸ <https://play.google.com/console/about/programs/mediaprogram/>.

to Google Play and the use of Google's proprietary billing system for in-app sales of access to digital content or services.

- 1.12. Those app developers opting to use an alternative billing system will have the possibility of establishing direct relationships with customers and overseeing their own transactions. They may also be able to offer pricing deals which are different to prices where GPB is used. Moreover, third party payment processors will be able to offer their services to potential app developer customers for in-app purchases of digital content or services within an app distributed on Google Play, allowing app developers to benefit from increased choice and competition.
- 1.13. The CMA has also been following developments in other jurisdictions where Google and/or Apple (which has similar rules in relation to its distribution of native mobile apps for iOS devices⁹) have changed their app store rules to allow alternative billing systems either voluntarily or to meet new rules or a competition authority infringement decision. The CMA considers that the details of alternative billing systems already being offered in other jurisdictions are informative in terms of the context in which the CMA is considering the Proposed Commitments. In particular, and as explained further in section 6 below, the CMA has had regard to the adoption of programs that Google has rolled out to offer UCB in South Korea¹⁰ and, on a pilot basis, UCB and DOB in the EEA.^{11,12}
- 1.14. The Proposed Commitments mean that GPB will no longer be mandatory, giving app developers a choice *in principle* between offering users Google's billing services, another provider's, or both. However, the CMA recognises that certain conditions and requirements that will be put in place under the terms of the Proposed Commitments for app developers which choose an alternative billing system may affect whether the commitments are effective *in practice* in addressing the CMA's Competition Concerns. For the choice between alternatives and GPB to be an effective one, the relevant conditions and requirements should provide realistic scope for switching to an alternative billing system by app developers with a clear preference to do so.
- 1.15. This Notice of Intention to Accept Binding Commitments (the '**Notice**') therefore contains specific questions to test in particular our provisional view

⁹ Apple's conduct in relation to the distribution of apps on iOS and iPadOS devices in the UK and, in particular, the terms and conditions governing app developers' access to Apple's App Store, is subject to a separate CMA investigation: <https://www.gov.uk/cma-cases/investigation-into-apple-appstore>.

¹⁰ [Changes to Google Play's billing requirements for developers serving users in South Korea - Play Console Help](#). UCB has also been made available in a similar way in India.

¹¹ Google blog: [An update on Google Play billing in the EEA, 19 July 2022](#). As the UK is outside the EEA, these changes do not apply to apps distributed to consumers in the UK via the UK Play Store.

¹² UCB is also being piloted by Google in Australia, Brazil, Indonesia, Japan, South Africa and the United States.

that the process of switching to an alternative billing system under the Proposed Commitments, and any necessary associated costs, would not unduly deter such switching by app developers. Similarly, this Notice has certain questions on the scope that the Proposed Commitments allow for providers of billing systems and services to supply these to interested app developers.

- 1.16. Section 6 below invites responses from parties in particular about the following aspects of the Proposed Commitments:
 - a. the extent of the proposed reduction in Google's service fee under each of UCB and DOB;
 - b. the proposed process for the reporting of in-app purchases turnover to Google either manually or using APIs, in order for a service fee to be calculated on in-app transactions;
 - c. the use of information screens and, for UCB, a billing choice screen; and
 - d. the CMA's proposed process for monitoring Google's compliance with the commitments, including in particular its commitment not to retaliate against app developers choosing to use UCB or DOB.
- 1.17. The text of the Proposed Commitments is summarised in section 5 below and is set out in Schedule 1 to this Notice. Details of how to comment are provided at the end of this document in section 7, together with a list of key consultation points and questions on which the CMA is seeking feedback in particular. The closing date for comment is **5pm on 19 May 2023**.
- 1.18. The CMA does not intend to publish the responses to the consultation; however the information contained in the responses may be used or summarised on an anonymous basis, including in any commitments decision or notice of intention to accept any modified commitments.
- 1.19. The CMA will consider the responses it receives before deciding whether or not to accept the Proposed Commitments. If it accepts the Proposed Commitments, the CMA will close the Investigation without reaching a finding as to whether the Conduct infringed UK competition law. The Commitments will take effect from the date of such acceptance. However, acceptance of the Proposed Commitments would not prevent the CMA from recommencing the Investigation if, for example, it had reasonable grounds to suspect that Google was not adhering to one or more of the terms of those Commitments. Moreover, as noted, the CMA expects to obtain powers to regulate certain firms' conduct in relation to various digital activities under the anticipated new regime for digital markets. To the extent that these extend to the distribution of

apps, including through Google Play, the CMA may introduce further requirements governing such activities. These may apply alongside the Commitments, or – where they overlap and render the Commitments unnecessary in whole or part – may result in the Commitments being varied or falling away.

1.20. The remainder of this Notice is structured as follows:

- a. Section 2 provides information on the Investigation and the key characteristics of the rules which oblige app developers offering in-app sales of access to digital content or services to use GPB;
- b. Section 3 sets out the CMA’s preliminary view of the most plausible definition or definitions of the relevant markets for the distribution of native apps on Android devices in the UK and Google’s position in the relevant market;
- c. Section 4 sets out the Competition Concerns identified by the CMA as arising from the Conduct;
- d. Section 5 summarises the Proposed Commitments offered by Google;
- e. Section 6 sets out why, based on the information received to date, the CMA provisionally considers that the Proposed Commitments would address the Competition Concerns resulting from the Conduct and that acceptance of the Proposed Commitments is appropriate in this case. Section 6 also addresses specific questions to third parties where the CMA invites evidence in response to these questions; and
- f. Section 7 provides details of how to comment on the Proposed Commitments.

2. The CMA's investigation

The Investigation

- 2.1. On 10 June 2022, the date on which the CMA issued its final report in the MEMS, the CMA opened a formal investigation under the Act, having determined that it had reasonable grounds at that stage to suspect that Google had infringed the provisions set out in Chapter II of the Act (the '**Chapter II prohibition**') in relation to the distribution of applications (or 'apps') on Android devices in the UK. The Chapter II prohibition prohibits a dominant company from abusing its position in a way that affects trade within the UK.
- 2.2. In particular, the CMA's focus has been investigating whether Google holds a dominant position in a market or markets relating to the distribution of native apps on Android devices including in the UK and concerns that Google may be abusing any such position of dominance by requiring app developers which sell access to digital content or services in-app to use GPB; and/or by precluding potential competition from alternative providers of payment services for in-app purchases of access to digital content or services.
- 2.3. During the course of the Investigation, the CMA took steps to gather evidence from Google and third parties, including app developers.
- 2.4. The Investigation does not cover other potential concerns that parties raised during the course of the MEMS relating to other aspects of Google Play's rules, for example, Google's right to charge a service fee for in-app purchases of access to digital content or services on Google Play in and of itself, the precise level of that service fee, or which transactions are subject to such a fee. The MEMS report concluded that there is a strong case for interventions across a number of different areas in relation to mobile ecosystems, but that many of these were more suited to being considered further – and as necessary addressed – by the proposed new DMU within the CMA, which will enforce the pro-competition regulatory regime for digital markets in the UK that the Government intends to establish.¹³ This may include further action to regulate particular firms' conduct in the distribution of apps more broadly.

The Proposed Commitments offer

- 2.5. During the Investigation, Google indicated that it would like to resolve the CMA's CA98 investigation through some form of early resolution. Following further discussions with the CMA, Google submitted a proposal to offer commitments to address the CMA's Competition Concerns under section 31A

¹³ [Government response to the consultation on a new pro-competition regime for digital markets.](#)

of the Act. This submission was made by Google without prejudice to its position that it has not infringed the Act. Accordingly, and in line with paragraph 10.22 of the CMA's guidance on its investigation procedures under the Act (the '**Procedural Guidance**'),¹⁴ the CMA proceeded to discuss with Google the scope of commitments which the CMA considered would be necessary to address the concerns it had identified.

- 2.6. Section 31A of the Act provides that, for the purposes of addressing the competition concerns it has identified, the CMA may accept, from such person (or persons) concerned as it considers appropriate, commitments to take such action (or refrain from such action) as it considers appropriate. The CMA has broad discretion in determining which cases are suitable for commitments.¹⁵ The Procedural Guidance describes the circumstances in which the CMA typically considers it appropriate to accept binding commitments and the process by which parties to an investigation may offer commitments to the CMA.
- 2.7. As described in paragraph 10.21 of the Procedural Guidance, a business under investigation may offer commitments at any time during the course of the investigation until a decision on infringement is made. In this case, no decision on infringement has yet been made.
- 2.8. On 18 April 2023, Google offered the Proposed Commitments set out in Schedule 1. The offering of commitments does not constitute an admission by Google of an infringement of the Chapter II Prohibition.
- 2.9. Having considered the Proposed Commitments and the evidence available to it, the CMA is provisionally of the view that these address its Competition Concerns, for the reasons set out in this Notice. Formal acceptance of the Proposed Commitments would result in the CMA terminating its investigation and not proceeding to a decision on whether or not the Conduct infringes the Chapter II Prohibition.

The party and the products under investigation

- 2.10. Google is predominantly an advertising business, with around 90% of its global revenue generated through advertising in 2021. As well as advertising services Google provides a number of products and services, such as its Google Search engine, Android operating system ("Android"), Google Play and Google Chrome browser ("Chrome"). Google also designs, manufactures and markets a range of hardware including smartphones, personal computers,

¹⁴ [Revised Guidance on the CMA's investigation procedures in Competition Act 1998 cases \(Revised CMA8, January 2022\)](#).

¹⁵ Paragraph 10.21 of the Procedural Guidance.

tablets, smart home products, wearables and accessories. Android is the operating system on Google's own mobile devices (i.e. mobile phones and tablets), and is also licensed to third-party device manufacturers for use on their mobile devices.¹⁶

- 2.11. Although the majority of its revenues are derived from search advertising, Google also generates substantial revenues from its operation of Google Play.
- 2.12. The parent company of the Google corporate group, Alphabet Inc. which has its headquarters in California, reported fourth-quarter 2022 consolidated revenues of US \$76.05 billion for the fiscal year ended December 31, 2022.¹⁷
- 2.13. Within the Google corporate group, Google LLC takes commercial decisions regarding access to Google Play, and the application of the provisions of Google's Developer Program Policy and Developer Distribution Agreement (governing app distribution).

Google Play and native app distribution on Android

- 2.14. Google Play is Google's digital platform, launched in 2008, which allows users of Android devices to access and download native Android apps¹⁸ (both Google's own and those of third-party developers). The number of apps on Google Play has grown considerably since its launch; there were [900,000-1,000,000] app developers making a total of [3-3.5] million native apps available on Android devices through Google Play in the UK in 2021.¹⁹
- 2.15. There are alternative distribution channels through which app developers may reach Android users (namely sideloading,²⁰ alternative Android app stores,²¹ pre-installation²² and mobile webpages or web-apps²³). However, the CMA found in the MEMS that, in practice, Google Play is the principal route to reach the Android user base and that this was, at least in part, due to the technical and contractual restrictions put in place by Google, which

¹⁶ Mobile devices which run on Android are referred to in this document as "Android Devices".

¹⁷ [Alphabet Announces Fourth Quarter and Fiscal Year 2022 Results](#)

¹⁸ 'Native' apps are apps written to run on a specific operating system and, as such, interact directly with elements of the operating systems in order to provide relevant features and functionality.

¹⁹ See paragraph 3.159 of the [MEMS final report](#), published in June 2022.

²⁰ Sideloading is downloading software on a smartphone directly, without using an app store. The CMA considers that sideloading may require a certain amount of technical knowledge on the part of the user and users may encounter off-putting barriers, such as safety warning screens, when attempting to sideload apps.

²¹ There are multiple alternative Android app stores including the Samsung Galaxy Store and Amazon AppStore.

²² Google apps, such as Google Search, Google Chrome and Google Play, are generally pre-installed on Android devices based on agreements between Google and third-party manufacturers of Android devices, as detailed in the MEMS Final Report, Appendix E. Other app developers can seek to have their native Android apps pre-installed on Android devices through agreements with relevant manufacturers, however, this is generally only an option for the most popular apps as set out in Chapter 4 of the MEMS Final Report.

²³ The CMA found in the MEMS Final Report that '*most app developers submitted that they did not consider web apps and webpages to be adequate substitutes to native Android apps*', para 4.138.

discourage or otherwise make it difficult for users to obtain apps from alternative sources. Therefore, for the vast majority of Android developers the principal means of distribution of apps is through Google Play.

- 2.16. App developers that distribute their products on Google Play must adhere to non-negotiable terms and conditions determined by Google in its absolute discretion. Developers which enrol in Google's Developer Program and set up a Developer Account are charged a one-off US\$ 25 fee. This applies regardless of the method by which an app developer monetises their app (i.e. including sales of digital content, sales of physical goods or services, subscriptions, in-app advertising etc). When registering and setting up a Developer Account with Google Play, app developers agree to enter into the Google Play Developer Distribution Agreement ('**DDA**'), which requires compliance with Google's Developer Program Policy ('**DPP**'). The rules governing the use of Google Play, including the rules which oblige app developers offering in-app sales of digital content or services to use Google Play's billing system (the '**GPB Requirement**'), are set out in the section of Google's DPP headed 'Payments'.
- 2.17. The use of GPB became mandatory for Digital Content Apps in 2012.²⁴ Within the broad category of Digital Content Apps, some apps were able to benefit from exceptions to the requirement to use GPB. In particular, apps not using in-app purchase at all (e.g. so-called "consumption only" apps, where users purchase digital content outside the app, for example a newspaper subscription or video streaming subscription purchased on a website (that is, outside of the app), but then read, watch or listen to the purchased content in the app) were not obliged to use GPB.
- 2.18. There was also an exception for in-app purchases of digital content that may be consumed outside of the app itself (e.g. MP3 downloads) (the '**Digital Content Exception**').
- 2.19. A number of app developers which considered that their Digital Content Apps qualified for the Digital Content Exception proceeded to use their own billing system to handle in-app purchases of digital content instead of integrating GPB into their app. These app developers consequently also did not pay service fees to Google for Google Play's services in relation to their sales of digital content.
- 2.20. In September 2020, Google clarified its Payments policy to make clear that Google Play-distributed apps selling access to digital goods and services are

²⁴ Apps selling physical goods and services have never been subject to a requirement to use GPB. Physical goods include goods such as groceries, clothing, houseware and electronics. Physical services include services such as transportation services, airfare, gym memberships and food delivery.

required to use GPB exclusively.²⁵ Developers of Digital Content Apps were given a deadline of 30 September 2021 by which to comply with Google's requirement by implementing GPB and removing any alternative billing systems from their apps.²⁶ Google later extended this deadline to 31 March 2022,²⁷ and indicated that any apps that were still non-compliant with the requirement to use GPB exclusively for in-app purchases from 1 June 2022 would be removed from Google Play.²⁸

Changes in Google's Payments policy affecting Digital Content Apps in the EEA

- 2.21. In July 2022, Google announced 'a new program to support billing alternatives for EEA users',²⁹ stating that it had made changes to its Payments policy for the EEA recognising that the introduction of the EU Digital Markets Act ('DMA') would impose new requirements for designated gatekeeper app stores in relation to app developers' choice of billing system.³⁰ Under this pilot program, developers of non-gaming Digital Content Apps can offer users in the EEA an alternative billing system for sales of access to digital content and services, instead of GPB, if the app and alternative billing system meet certain requirements specified by Google. Under this "Developer Only" billing pilot, where an app developer uses an alternative billing system, the service fee it must pay for in-app purchases is reduced by 3 percentage points.
- 2.22. Google subsequently made a further announcement³¹ that from 1 September 2022 it would allow developers of non-gaming apps in the EEA and a number of other countries (not including the UK)³² to enrol in a 'user choice billing' pilot, under which developers could use an alternative billing system alongside GPB for sales of access to digital content and services. Eligible developers of Digital Content Apps which apply to participate in the pilot must ensure that their apps and alternative billing system meet certain requirements specified by Google. Under this "User Choice" billing pilot, where the user chooses the app developer's alternative billing system, the service fee it must pay for in-app purchases is reduced by 4 percentage points.

²⁵ Developers selling through GPB also incur service fees in relation to all in-app purchases made.

²⁶ [Android Developers Blog: Listening to Developer Feedback to Improve Google Play \(googleblog.com\)](https://android-developers.googleblog.com/2021/09/listening-to-developer-feedback-to-improve-google-play.html)

²⁷ [Android Developers Blog: Allowing developers to apply for more time to comply with Play Payments Policy \(googleblog.com\)](https://android-developers.googleblog.com/2022/03/allowing-developers-to-apply-for-more-time-to-comply-with-play-payments-policy.html)

²⁸ [Google Play Console Help: Understanding Google Play's payments policy](https://support.google.com/googleplay/android-developer/answer/12570971?hl=en)

²⁹ [An update on Google Play billing in the EEA, 19 July 2022](https://support.google.com/googleplay/android-developer/answer/12570971?hl=en)

³⁰ As the UK is outside the EEA, these changes do not apply to apps distributed to consumers in the UK via the UK Play Store.

³¹ <https://support.google.com/googleplay/android-developer/answer/12570971?hl=en>

³² As of 1 December 2022, these were Australia, Brazil, India, Indonesia, Japan, South Africa and United States.

2.23. Google has not presently extended the “Developer Only” billing pilot or the “User Choice” billing pilot to gaming apps, although it has stated that it expects to expand billing alternatives to developers of gaming apps for their users in the EEA in advance of the DMA’s effective date.³³

³³ [Offering an alternative billing system for users in the European Economic Area \(EEA\) - Play Console Help \(google.com\)](#).

3. Market background

- 3.1. This section sets out the CMA's preliminary view of:
 - a. the most plausible definition or definitions of the relevant markets for the distribution of native apps on Android devices in the UK; and
 - b. Google's position in the relevant market.
- 3.2. The purpose of this section is to provide context for section 4, which describes the CMA's assessment of Competition Concerns based on Google's conduct. It draws in particular on the CMA's findings in the MEMS, which preceded the opening of this Investigation.

The relevant market

- 3.3. While it is not necessary for the CMA to reach a definitive conclusion on the definition of the relevant market for the purpose of this document, the CMA's preliminary view is that the relevant product market (that is the market in which the CMA would assess whether Google held a dominant position) is likely to comprise the supply of services to app developers that enables the installation, distribution and operation of native apps on Android devices. These are services provided to developers by Google that include Google Play, Software Development Kits, the app review process, Google's Developer Program Policies and certain APIs and programming languages and are collectively referred to in this Notice as 'native app distribution services on Android devices'.
- 3.4. Google Play and other app stores are two sided platforms – they allow app developers to distribute their native Android apps to users of Android devices; and users of Android devices to access and download native Android apps.
- 3.5. The CMA's preliminary view is that there is no overall 'system market' which would include both the Android mobile device and native app distribution services on those Android devices. Rather, native app distribution services on Android devices are likely to be in a separate aftermarket which is secondary to the supply of Android devices to users. This is because, as the CMA found in the MEMS, consumers do not place significant importance on native app distribution conditions when choosing devices³⁴ given the costs of apps is a

³⁴ Approximately 3% of Android users who listed multiple factors considered 'Price of subscriptions/content for apps available on the device' the most important when choosing a new device (Q6b, Base: 945). [Consumer purchasing behaviour in the UK smartphone market for the MEMS](#), figure 7.

small, non-transparent and uncertain proportion of the overall costs of owning a mobile device.³⁵

- 3.6. On Android devices, app developers may have different alternatives for the installation, distribution and operation of the content within native Android apps and/or their users may have alternative methods of accessing this content. The CMA has considered initial evidence on the extent to which these potential alternatives, namely native app distribution services on iOS devices and/or alternative Android app stores, the distribution of web apps, the distribution via alternative devices (e.g. PCs, laptops, gaming consoles), 'alternative purchase channels' (such as websites), pre-installation and sideloading, are in fact credible substitutes, in order to inform its preliminary views on the relevant product market. As explained in the paragraphs below, the CMA's preliminary view is that the supply of native app distribution services on Android devices is in a separate market to the potential alternatives it has considered.
- 3.7. First, the CMA's preliminary view is that native app distribution on Android devices is in a separate market to native app distribution on iOS devices. This is because the evidence we have seen is that very few consumers multi-home across both iOS and Android devices, which means that app developers generally feel they need to list on both Android and iOS app stores as each provides unique access to a large number of mobile device users. In addition, the overall extent of switching from Android to iOS devices is low,³⁶ in part due to material perceived barriers to switching between mobile devices.³⁷
- 3.8. Android users could access alternative Android app stores which may either be pre-installed by Android manufacturers or sideloaded by users. However, the CMA's preliminary view is that these app stores place only a limited constraint on Google Play. In particular:
 - a. usage of alternative Android app stores, both by Android device users and app developers, is substantially lower than Google Play (they account for less than 10% of native app downloads).³⁸ Consistent with

³⁵ In addition, the CMA considers that while app developers may differentiate their app offerings across the App Store and Google Play (e.g. in terms of functionality), we do not consider that this would lead to users switching between iOS and Android devices in order to access a different app store. See [MEMS final report](#), published in June 2022, [paragraph 4.166](#).

³⁶ See [Consumer purchasing behaviour in the UK smartphone market for the CMA's MEMS](#), figure 24.

³⁷ In the MEMS final report, the CMA concluded that '*the availability and characteristics of other devices and family and friends using the same operating system pose significant perceived barriers to switching*'. See [MEMS Appendix D](#), published in June 2022, [paragraph 70](#).

³⁸ See [paragraph 4.35](#) and [Figure 4.2 MEMS final report](#), published in June 2022.

this, evidence from app developers shows they do not consider alternative Android app stores to be a suitable alternative to Google Play.

- b. Alternative Android app stores face barriers to effective competition. For example, Google Play benefits from significant indirect network effects³⁹ given its size relative to any other alternative Android app store.
- c. A range of practices by Google limit the constraint from alternative Android app stores, including new entrants. For example, Google has a range of agreements with certain manufacturers, through which it ensures that Google Play is pre-installed and prominently placed on the device home screen of the vast majority of Android devices. This may reduce the likelihood of Android users choosing other Android app stores, given that the pre-installed Google Play provides them with access to a large volume of quality native apps (and more than any other app store).

3.9. Therefore, the CMA does not consider that it is a credible option for app developers to delist from Google Play in response to the worsening of conditions on Google Play.⁴⁰

3.10. Second, the CMA's preliminary view is that the distribution of native apps on Android devices is in a separate market to the distribution of web apps. Evidence from app developers shows that web apps are not seen as an adequate substitute for native apps due to the inferior or limited functionalities and performance of web apps at present compared to native apps. The CMA considers web apps are not currently a viable alternative to native Android apps for many app developers.⁴¹

3.11. Third, the CMA's preliminary view is that the distribution of native apps on Android devices is in a separate market to the distribution of apps via alternative devices (e.g. PCs, laptops, gaming consoles). This is because the potential for switching to app distribution via alternative devices appears to be limited by various factors, including the extent to which the same content is available across platforms, the degree of multi-homing that exists and the different use cases across different types of device.⁴²

³⁹ That is, the benefit to users of an app store increases with the volume and quality of apps they can access through that app store and similarly the benefit to app developers increases with the number of users they can access through an app store. The presence of indirect network effects is likely to act as a particular barrier to new entry and expansion as it creates a 'chicken and egg' problem – an app store needs a critical mass of users to attract app developers, but also need a critical mass of app developers to attract users.

⁴⁰ See paragraphs 4.148 to 4.153 of the [MEMS final report](#) published in June 2022.

⁴¹ See paragraphs 4.134 to 4.140 of the [MEMS final report](#), published in June 2022.

⁴² See paragraphs 4.172 to 4.180 of the [MEMS final report](#), published in June 2022.

- 3.12. Fourth, the CMA's preliminary view is that there is likely to be a limited competitive constraint on Google arising from users switching to purchase content in 'alternative purchase channels' (e.g. websites) and then accessing this content within the app on their Android devices.⁴³ This is because this possibility is only available for certain apps that make the same content available for purchase across platforms. For example, this is not a constraint in relation to the app developers which either only have a native app on Android mobile devices or do not offer the option for users to access content purchased elsewhere in the native app on mobile devices. In any event, the potential for users to purchase content that can be used in apps through an alternative purchase channel appears to be unlikely to affect the non-price terms and conditions that Google can impose on app developers, which are still reliant on Google to distribute their native apps on Android devices regardless of whether users choose to purchase content elsewhere.
- 3.13. Fifth, the CMA's preliminary view is that there is likely to be a limited competitive constraint on Google arising from Android manufacturers pre-installing apps. Pre-installation does not appear to be a viable alternative to Google Play for the vast majority of app developers. The cost to an app developer may be prohibitive; manufacturers may be selective in their choice of pre-installed apps; and none of the app developers that responded to the MEMS report identified pre-installation as an alternative to Google Play.⁴⁴
- 3.14. Finally, the CMA's preliminary view is that there is likely to be a limited competitive constraint on Google arising from users sideloading native Android apps. There is only a small proportion of downloads from sideloading and certain app developers said they do not use sideloading as a distribution channel or identify it as an alternative to Google Play noting sideloading of apps may lead to a suboptimal experience as features may break and it requires users to turn off the security settings.⁴⁵
- 3.15. With respect to the geographic market for native app distribution services on Android devices, the CMA provisionally considers that the relevant market is at least UK-wide.

Google's position in the relevant market

- 3.16. Google Play is the main channel through which native Android apps are downloaded, accounting for over 90% of native app downloads on Android

⁴³ See paragraphs 4.172 to 4.180 of the [MEMS final report](#), published in June 2022.

⁴⁴ See paragraphs 4.59 to 4.64 [MEMS final report](#), published in June 2022.

⁴⁵ See paragraph 4.109 to 4.110 [MEMS final report](#), published in June 2022.

devices in every year since 2017.⁴⁶ It also faces a limited constraint from current and potential rivals in relation to native app distribution on Android devices.⁴⁷

- 3.17. As noted above, there are alternative distribution channels through which app developers may reach Android users. However, the CMA's view is that in practice, Google Play is the principal route to reach the Android user base due to the technical and contractual restrictions put in place by Google, which discourage or otherwise make it difficult for users to obtain apps from alternative sources. Therefore, for the vast majority of Android developers the principal means of distribution of apps is through Google Play.
- 3.18. The CMA also considers that Google's market position gives it substantial discretion to set the rules for native app distribution on Android devices and to enforce compliance with these rules. Google reviews new apps and updates via its Google Play app review process and rejects apps which it considers do not comply with its rules (after notifying developers of their non-compliance issues so they have the opportunity to resolve these).
- 3.19. Based on the above, the CMA's preliminary view is that Google is likely to be dominant in the supply of native app distribution services on Android devices.

⁴⁶ This figure includes downloads on mobile devices using a version of Android based on Huawei's Mobile Services and mobile devices using Amazon's Fire OS. See paragraph 4.35 and Figure 4.2 [MEMS final report](#), published in June 2022.

⁴⁷ See Chapter 4, [MEMS final report](#), published in June 2022.

4. The CMA's competition concerns

- 4.1. The CMA is concerned that Google requiring the exclusive use of GPB by developers of Digital Content Apps may amount to an abuse of a dominant position. By its nature, this provision precludes any competition from third parties in relation to the cost or quality and range of payment services for in-app transactions in Digital Content Apps, which would otherwise have the potential to deliver benefits for developers and users in terms of increased choice and innovation.
- 4.2. A further consequence of the GPB Requirement is that app developers are prevented from having a direct relationship with customers in certain respects. The CMA's concerns are that:
- a. app developers may face limitations in how they respond to customers who have paid through GPB, as a result of Google's role in processing those transactions;
 - b. app developers may be limited in their ability to tailor their products due to potential limitations around access to user-level data about purchases; and
 - c. app developers may be limited in their ability to tailor their prices and/or promotions because they have to use GPB (for example, where they are obliged to use pre-defined price tiers or where certain promotional offers are not available on GPB),
- (collectively, the '**Competition Concerns**').
- 4.3. Google told the CMA that the GPB Requirement enables it to reliably collect a service fee on in-app sales of access to digital content or services that developers make as a result of distributing apps through Google Play.⁴⁸ In addition, Google told the MEMS, before this Investigation opened, that its payment policy enables Google Play to collect its service fee in a way that aligns Google's success with developer success, since Google makes money only when developers of certain apps successfully sell their apps, in-app content, or subscriptions to users.⁴⁹
- 4.4. However, the CMA's concern is that the GPB Requirement goes beyond what is necessary for Google to achieve this commercial aim, because less restrictive methods appear to be available (for example, through app developers reporting transactions made through their own billing systems at

⁴⁸ Google's response dated 1 July 2022 to the CMA's RFI dated 22 June 2022, paras 25 and 33.

⁴⁹ [CMA MEMS final report, Appendix H, para 19](#).

regular intervals, or through developers notifying Google in near real time of whenever transaction takes place via a third-party billing system through the use of an API). Google has already begun to implement these other methods in other jurisdictions where Google now permits app developers to use alternatives to GPB for in-app purchases of access to digital content or services.

5. The Proposed Commitments offered by Google

5.1. In order to address the CMA's Competition Concerns (as described in section 4), and without prejudice to its position that it has not infringed the Chapter II Prohibition by the Conduct, Google has offered formal commitments to the CMA relating to that conduct, as set out in further detail in Schedule 1 to this Notice and summarised below.

Google's Proposed Commitments

- 5.2. To address the CMA's Competition Concerns, Google will allow app developers of Digital Content Apps (available on the UK Play Store) to offer alternatives to GPB for processing in-app payments for access to digital content or services, through either User Choice Billing ('UCB') or Developer Only Billing ('DOB'):
- a. app developers which choose UCB will be permitted to enable or update their apps to offer an alternative billing system alongside GPB within their apps for in-app purchases of access to digital content or services. Google will reduce the amount of the service fee that the app developer would otherwise pay by at least four percentage points where a user chooses the developer's alternative billing system to make an in-app purchase.
 - b. app developers which choose DOB will be permitted to enable or update their apps to offer an alternative billing system within their apps for in-app purchases of access to digital content or services (i.e. without also offering GPB). Google will reduce the amount of the service fee by at least three percentage points where a user makes an in-app purchase via the developer's alternative billing system.
- 5.3. By no later than 1 October 2023, Google commits to allowing all developers of Digital Content Apps on the UK Play Store, including gaming apps, the option of choosing either UCB or DOB in place of requiring GPB only for in-app purchases. Prior to 1 October 2023, gaming apps will not be entitled to use an alternative billing system.
- 5.4. In order to implement the Proposed Commitments Google will permit developers of Digital Content Apps to make an application to enable or update their apps to offer either UCB or DOB. The Proposed Commitments set out how app developers must report the value of in-app transactions that are subsequently handled outside of GPB, to enable Google to calculate and raise an invoice for its service fee.

- 5.5. The process for handling such reporting will become automated from 1 January 2024 at the latest, by which point Google has committed to provide a technical solution (including APIs) to report transactions using an alternative billing system in an automated manner, rather than app developers having to manually report such transactions to Google. Google will notify the CMA as soon as reasonably practicable if it encounters difficulties in achieving this.
- 5.6. Limits will be placed on the amount of data Google can request from app developers for the purpose of reporting relevant transactions, and the use that Google can make of that data. In particular, Google commits that the data it requests from developers when reporting transactions will be the minimum data necessary to support developers offering an alternative billing system. Google will not use this data for the purpose of competing with those developers' apps. Google will also commit to establish appropriate levels of protection and security for the handling of any data provided.
- 5.7. Where an app developer no longer elects to use GPB exclusively for in-app transactions, developers will allow an information screen to be shown to users before a user makes an in-app purchase. This information screen only needs to be shown to users before their first purchase in an app using the developer's alternative billing system. For the UCB option, Google will allow a choice screen to be shown to users informing them of their alternative billing options.⁵⁰ The billing choice screen will be shown each time they make an in-app purchase for digital content or services. The billing choice screen will explain how payments and related services, such as handling cancellations and refunds, will be dealt with by the app developer rather than Google if the user chooses an alternative billing system. Developers can also display information on particular prices, promotions and additional features (e.g. loyalty programs) available to users selecting their own billing option, before the user is shown the choice screen.
- 5.8. The alternative billing system must be an in-app billing system where transactions are concluded within the app (including via an embedded webview).
- 5.9. Google has also committed that it will not engage in retaliatory measures directed at developers of Digital Content Apps or their users for the reason of those developers electing to offer an alternative billing system.
- 5.10. Google has committed to provide a Compliance Statement and Evaluation Report to the CMA every three months for an initial implementation period

⁵⁰ See further paragraphs 6.39 to 6.42 below.

until 1 July 2024 and then every six months thereafter so that the CMA can monitor its compliance with the commitments.

- 5.11. The Proposed Commitments will be in place for a period of five years from the Effective Date subject to earlier variation and/or release as set out in paragraphs 32 to 35.

6. The CMA's assessment of the Proposed Commitments

6.1. For the reasons set out below, the CMA has reached the provisional view that acceptance of the Proposed Commitments would be an appropriate way to address its Competition Concerns. The CMA will consider the responses it receives to this Notice before deciding whether or not to accept the Proposed Commitments. If it accepts the Proposed Commitments, the CMA will close the Investigation without reaching a finding as to whether the Conduct infringed UK competition law. The Commitments will take effect from the date of such acceptance.

The CMA's Guidance

6.2. Pursuant to section 31A of the Act, for the purposes of addressing the competition concerns it has identified, the CMA may accept from such person (or persons) concerned as it considers appropriate, commitments to take such action (or refrain from taking such action) as it considers appropriate.

6.3. The Procedural Guidance states that the CMA is likely to consider it appropriate to accept binding commitments only in cases where: (a) the competition concerns are readily identifiable; (b) the competition concerns are addressed by the commitments offered; and (c) the proposed commitments are capable of being implemented effectively and, if necessary, within a short period of time.⁵¹

6.4. The Procedural Guidance further states that the CMA will not, however, accept commitments where compliance with such commitments and their effectiveness would be difficult to discern or where the CMA considers that not to complete the relevant aspect of its investigation and make a decision would undermine deterrence.⁵²

The CMA's assessment

6.5. In the following section the CMA describes the key aspects of the Proposed Commitments and sets out the CMA's preliminary conclusions regarding how the Proposed Commitments would address the CMA's Competition Concerns. Unless otherwise stated, paragraph numbers highlighted in this section refer to the relevant paragraphs of the Proposed Commitments in Schedule 1.

⁵¹ *Revised Guidance on the CMA's investigation procedures in Competition Act 1998 cases (Revised CMA8, January 2022)* paragraph 10.18.

⁵² *Revised Guidance on the CMA's investigation procedures in Competition Act 1998 cases (Revised CMA8, January 2022)* paragraph 10.20.

- 6.6. The key proposal within the Proposed Commitments is to give developers of Digital Content Apps the option of choosing between GPB exclusively, or an alternative billing system, for processing in-app transactions (by implementing either UCB or DOB).
- 6.7. Based on the information the CMA has received to date, the CMA provisionally considers this proposal to be appropriate to address the particular Competition Concerns resulting from the Conduct that the CMA has investigated in this case. Specifically, it would break the link that the GPB requirement currently creates between access to Google Play and the use of Google's proprietary billing system for Digital Content Apps. In particular, the Proposed Commitments would:
- a. provide app developers the opportunity to use billing systems of their choosing (and DOB would allow them to choose not to offer GPB at all) and which they consider to be the best billing option for their own app users. In particular, app developers will have greater flexibility on the points made at paragraph 4.2 above. Those opting to use an alternative billing system will have the possibility of establishing direct relationships with customers and overseeing their own transactions. They may also be able to offer pricing deals which are different to those where GPB is used, to target particular customer preferences, and to improve their product offering. For example, a developer could offer a loyalty program or partner with a particular billing system provider that offers it an especially attractive deal in return for being promoted by the developer as a preferred partner.
 - b. allow competition from alternative providers of payment and related customer care services for in-app transactions for Digital Content Apps distributed via the UK Play Store. In other words, third party payment processors will be able to offer their services to potential app developer customers for these in-app transactions. This will not only allow alternative billing system providers to offer their services to new customers, but could also create incentives for those providers to develop innovative products specifically for in-app payments of digital content and offer app developers integrated services across different channels (e.g. integrating the handling of web-based transactions with that for in-app transactions).
- 6.8. The CMA also provisionally considers that the Proposed Commitments would be capable of being implemented effectively and within a short period, given that Google has already allowed app developers to offer alternative billing systems in certain other jurisdictions, albeit the terms and conditions on which Google has opened Google Play up to those systems outside the UK may

differ from those governing the UK proposal in some respects. Google has proposed that it would introduce alternative billing in the UK in two phases (as described in paragraph 6.12 below) and that all app developers will be able to apply to take up the scheme by 1 October 2023.

- 6.9. In addition, the CMA's provisional view is that compliance with the commitments and their effectiveness would not be difficult to discern. In particular, the reporting and compliance provisions in the Proposed Commitments will allow the CMA to monitor Google's implementation of the commitments and its ongoing compliance. Nor does the CMA consider that accepting commitments in this case would undermine deterrence.
- 6.10. As described above, the Proposed Commitments mean that GPB will no longer be mandatory, giving app developers a choice *in principle* between offering users Google's billing services, another provider's, or both. However, the CMA recognises that certain conditions and requirements that will be put in place under the terms of the Proposed Commitments for app developers which choose an alternative billing system may affect whether the commitments are effective *in practice* in addressing the CMA's competition concerns. For the choice between alternatives and GPB to be an effective one, the relevant conditions and requirements should provide realistic scope for switching to an alternative billing system by app developers that wish to do so.
- 6.11. In the paragraphs below, the CMA summarises the specific aspects of the conditions and requirements that are set out in the Proposed Commitments in connection with choosing to use an alternative billing system. On certain points, we have set out specific questions to test in particular our provisional view that the process of switching to an alternative billing system under the Proposed Commitments, and any necessary associated costs, would not unduly deter such switching by app developers. Similarly, this Notice has certain questions on the scope that the Proposed Commitments allow for providers of billing systems and services to supply these to interested app developers.
- (a) *Phased roll-out of the Proposed Commitments depending on the type of app developer (non-gaming or gaming apps)*
- 6.12. Google proposes to roll out the Proposed Commitments in two phases:
- a. Phase 1 – as described in paragraphs 19 and 20, Google will allow non-gaming apps available on the UK Play Store (i.e. apps not in the Games category on Google Play) to offer UCB or DOB by no later than one

month from the date on which the commitments become effective (that is, the date upon which the CMA formally accepts the Commitments); and

- b. Phase 2 – as described in paragraphs 21 and 22, Google will allow gaming apps available on the UK Play Store (i.e. apps in the Games category on Google Play) to offer UCB or DOB by no later than 1 October 2023.

6.13. Google has explained that implementing new payment programs and facilitating alternative billing options for users is a large and complex exercise involving significant technical work and ecosystem considerations. In particular, Google needs to make sure alternative billing systems meet minimum safety standards and are capable of guarding against fraudulent behaviour. Google is concerned that gaming apps carry specific consumer protection needs (for example, protection against unauthorised purchases by children) and therefore it considers that additional time is required to test the impact of alternative billing systems on user and developer behaviour before this is rolled out to all gaming apps.

6.14. The CMA considers that it is important that the Proposed Commitments are available to all apps available on the UK Play Store. Notwithstanding that gaming apps will only be eligible to apply from 1 October 2023, Google's proposal involves a relatively short delay for the roll-out to gaming apps, in the context of the Proposed Commitments being effective for a five year duration.

(b) App developer choice of using GPB or an alternative billing system

6.15. Google proposes (paragraph 7) to allow interested developers of Digital Content Apps listing their apps on the UK Play Store to use alternative billing systems. By being able to adopt UCB and/or DOB, such app developers would have the choice of whether to also offer GPB alongside that alternative billing system. In this section we cover the application process and compliance with additional terms - different requirements will apply depending on whether an app developer chooses UCB or DOB.

6.16. First, as described in paragraph 9, developers of Digital Content Apps that wish to use an alternative billing system for the UK Play Store instead of or in addition to GPB will need to:

- a. complete a valid application including the information requested by Google (for example, the developer's billing address and the App or countries for which it intends to offer UCB or DOB);
- b. comply with Google's Developer Terms of Service for alternative billing system (**'Alternative Billing Terms of Service'**);

- c. allow an information screen to be shown to users before a user makes an in-app purchase (see further details set out in paragraphs 6.31 to 6.41 below);
 - d. implement consumer protection safeguards;
 - e. provide customer support for users of the alternative billing system; and
 - f. report transactions carried out through the alternative billing system (see further details set out in paragraphs 6.27 to 6.30 below).
- 6.17. The CMA's provisional conclusion is that allowing app developers a choice between GPB and an alternative billing system, by implementing either DOB or UCB, will address the CMA's particular Competition Concerns in relation to its current investigation: both DOB and UCB allow app developers the opportunity of using billing systems of their choosing, providing greater flexibility on the points made at paragraph 4.2 above, and allowing competition from alternative providers of payment and related customer care services for in-app transactions for Digital Content Apps distributed via the UK Play Store. DOB removes the requirement for app developers to offer GPB at all, while UCB offers developers a further option should they wish to continue to offer GPB alongside their chosen alternative, and offer users the choice of which billing system to use. Developers opting for UCB will also be able to encourage users to choose their alternative billing system by offering lower prices or other benefits through that system.
- 6.18. Some app developers may prefer to switch to an alternative billing system entirely (DOB), whereas others would prefer to retain GPB alongside an alternative (UCB). As noted above, it is also possible that some app developers may choose to offer both UCB and DOB in relation to different apps they operate. Google's commitments package therefore provides flexibility to app developers, including the ability to switch to and from DOB and UCB (effective from the start of the following month). For example, an app developer may choose to initially adopt UCB, and then – once its users have begun to use and are familiar with its alternative billing system – adopt DOB.
- (c) Google's baseline service fee rate to be reduced by at least 4 percentage points for app developers choosing UCB and by at least 3 percentage points for app developers choosing DOB*
- 6.19. Google proposes (paragraphs 23-25) that for those developers choosing to offer UCB, the service fee it charges on payments made using the alternative billing system will be at least 4 percentage points lower than the service fee for payments made using GPB. For those developers choosing to offer DOB instead of GPB, Google will reduce the service fee by at least 3 percentage

points in relation to all transactions using DOB, as compared with the fee it would charge if the app developer had not opted to use DOB.

- 6.20. Google has reserved the ability to adjust its service fees (but not decrease the amount of the reduction from the fee payable for transactions using GPB) provided that any adjustment does not substantially undermine the purpose of the Proposed Commitments (as described in paragraph 25). The reductions will be available equally to those within or outside one of the developer programs that Google currently offers that have a discounted service fee.
- 6.21. This section sets out: (a) details of the level of reduction on Google's service fee where app developers choose an alternative billing system; and (b) provisions for reporting turnover by means of manual and technical solutions in order to calculate service fees payable.

Level of reduction from Google's service fee

- 6.22. Google has submitted that:
- a. the service fee discount (whether app developers choose UCB attracting a 4 percentage point discount, or DOB attracting a 3 percentage point discount) is sufficient to enable app developers to switch to offering their users an alternative billing system. In particular, Google submitted that those discounts would cover developers' average payment processing costs and leave a margin for any incremental costs for customer support services that an app developer may need to incur if it chooses an alternative billing system;
 - b. regarding payment processing service fees, Google has submitted that a developer using a payment processing service with an Interchange++ fee structure would incur a cost of around 1.4% for a Visa or Mastercard debit card payment.⁵³ Google further noted that developers may also incur certain other transaction processing costs (e.g. chargeback fees, cross-border transaction fees, foreign exchange fees, or processing fees) and costs for transactions made by users via a developer's alternative billing system;
 - c. some developers on Google Play may already be covering the setup and fixed costs of offering an alternative billing option, for example if they already operate such a system for direct sales on their websites;
 - d. regarding customer support fees, Google submitted that general customer support services and related costs are a function of offering an

⁵³ Google cited [Interchange++ fee structure \(hips.com\)](https://hips.com)

app on Google Play and selling products to users, regardless of the billing system used by the developer. Under the terms of the current Google Play rules under the DDA, developers offering apps on Google Play are obliged to provide customer support to users;⁵⁴ and

- e. Google considers that any incremental customer support costs related to billing specifically are likely to be limited. Google Play currently provides customer support services in relation to billing, Google estimates that its customer support costs in terms of agents on call for billing queries on Google Play account for less than [redacted] of consumer spend. In addition, Google submitted that several third party billing providers include customer support services in their service through their chosen alternative billing solution. For example, Worldpay provides order management for refunds. Google considers this to be a reasonable indication of what such customer support functions may cost other developers.

6.23. Google has also explained that it is willing to offer a more significant discount to app developers which choose UCB because UCB carries fewer reputational and financial risks for it than DOB.

6.24. The CMA, in reaching its provisional views on the Proposed Commitments, has used Google's evidence as to its own costs as evidence as to the costs likely to be faced by app developers when switching to an alternative billing system. The CMA would like to hear evidence from a range of respondents (including payment service providers and app developers), based on their own costs, as to whether the service fee reductions proposed provide sufficient scope in practice for app developers to switch to an alternative billing system.

6.25. Google has also pointed to its experience of rolling out programs in the EEA and the fact that a number of app developers have already applied to offer DOB or UCB based on the same service fee discounts as it has proposed for the UK (and some have also opted to offer both (for different apps)).⁵⁵ Google has submitted that as app developers' costs (including payment processing costs) are likely to be similar in the UK and the EEA, it has no reason to believe that the uptake seen in the EEA would not be replicated in the UK. In

⁵⁴ For example, developers are required to respond to customer queries regarding information about their products, and may also offer their own refunds policy.

⁵⁵ Google indicated that, as at 16 March 2023, a number of developers had signed up to the DOB program for EEA users, and some had signed up to *both* the EEA DOB pilot program and the UCB pilot program in any of the jurisdictions where this pilot was available at that date (as developers are free to opt for different programs for their different apps). The developers that have signed up to DOB only to date include both small app developers such as [redacted] (which has fewer than 5,000 downloads) as well as larger developers such as [redacted]. The types of developers that have signed up to offer an alternative billing system to users under the EEA DOB program and the UCB program include those in social media, education, music and audio, fitness, business, news, and entertainment.

addition, Google has emphasised that developers are able to switch from DOB to UCB and vice versa, and to implement UCB for some of their apps and DOB for others, so they are not limited to one program or the other once they have signed up.

- 6.26. The CMA provisionally considers on the basis of the evidence available to it that, taken together, the terms on which Google is offering UCB and DOB (including the service fee reduction and the other requirements, likely costs and potential benefits for app developers associated with each option) would allow app developers sufficient scope to switch to an alternative billing system. As explained above, the CMA has had particular regard to the fact that Google is making available both UCB or DOB to app developers and can point to interest in both of these schemes (with the same respective service fee reduction levels available) in the EEA, indicating that substantially equivalent offers in other jurisdictions have enabled some app developers to switch.

QUESTION 1: Please highlight whether you consider that app developers who wish to use an alternative billing system will have the scope in practice to adopt DOB or UCB on the terms proposed, providing supporting evidence where available.

Similarly, the CMA welcomes responses from payment service providers as to whether they are likely to have the ability and incentive in practice to offer such services.

Respondents making specific representations regarding the proposed reductions in service fee, for example, are requested to explain, with evidence, the costs app developers would expect to incur replicating (whether in-house or by procuring it from third parties) the payment processing service and any associated customer care costs provided under GPB. Where these cost estimates are based on a respondent's existing terms with third party payment (or other) service providers, please include the name of the provider in question.

Payment service providers are also requested to provide and explain the likely fees for supplying such services.

In any published final decision explaining whether or not to accept the Proposed Commitments, the CMA will not disclose confidential details of respondents' commercial contracts or costs without first anonymising that information or seeking confidentiality representations from the information provider.

Reporting turnover – manual and technical solutions

- 6.27. The Proposed Commitments contain an obligation for developers to report transactions carried out through an alternative billing system to Google so that Google can invoice developers for the service fees payable in relation to those transactions (paragraphs 9(g) for UCB and 13(f) for DOB). App developers will be required to ‘manually’ report transactions during an initial period before Google implements a technical solution for developers to report transactions in an automated way.
- 6.28. The manual reporting process will require app developers to account for and report monthly to Google Play the amount of all paid transactions from the alternative billing system for invoicing. Instructions for monthly reporting will be provided to app developers which sign up to the pilot. Google has submitted that developers will be required to provide Google with a report including details of transactions for purchases of any of the developer's products, as set out in paragraph 3.2 of the Alternative Billing Terms of Service.⁵⁶
- 6.29. Google has further explained that initially, where users select an alternative billing system, the process will include the following steps:
- a. Within five business days following the end of each calendar month, developers will need to provide Google with a report, in a standard form, covering the paid transactions for that month.
 - b. Google will then issue an invoice on 30-day payment terms to each developer for all service fees and any taxes owed.
 - c. There will be a process through which developers will be able to raise invoice disputes with Google.
 - d. Google will have the right to audit the developer's records relating to Play's service fee and any taxes owed on transactions using alternative billing systems, in order to verify the accuracy of the information reported to Google.⁵⁷
- 6.30. Pursuant to paragraph 26, Google has committed to introduce, by 1 January 2024 at the latest, a technical solution (including APIs) for app developers to

⁵⁶ [DEVELOPER TERMS OF SERVICE FOR ALTERNATIVE BILLING SYSTEM - Play Console Help \(google.com\)](#)

⁵⁷ Further details are available at the Alternative Billing System Terms of Service available at: <https://support.google.com/googleplay/android-developer/answer/12370703>.

report transactions carried out through their alternative billing system to Google in an automated manner.

QUESTION 2: Please provide comments on the proposed reporting process for turnover relating to in-app transactions. For example, do you consider that the reporting process is reasonable? If you consider it would result in material costs or burdens for developers once a technical API is available, please support with evidence. Please indicate if your views differ in relation to the interim period before the technical solution is implemented?

(d) Requirement for app developers to display an Information Screen before a user can make a purchase and for app developers choosing UCB to display Google's Billing Choice Screen

Pre-purchase Information Screen

- 6.31. As noted above, in order to qualify for the alternative billing systems app developers will be required to allow an interstitial screen to be shown to users before a user makes an in-app purchase explaining the implications of using an alternative billing system. The wording of those interstitial screens, and the points in the user journey at which they are shown, differs between UCB and DOB.
- 6.32. Where an app developer chooses **UCB** Google has proposed the following wording for this Information Screen:⁵⁸

“Changes to your checkout options

Each time you make a purchase, you'll now choose either Google Play or the developer as the seller. Your choice will determine:

- Who secures your purchase, processes your payment, and stores any payment information*
- Who provides customer support for the purchase*
- Who is responsible for applicable consumer rights*

Only purchases through Google Play are secured by Google. Play features such as Play gift cards, Play Points, purchase controls, and subscription management are only available when you choose Google Play at checkout.”

⁵⁸ This Information Screen text reflects Google's existing UCB programs available [here](#).

- 6.33. The information screen only needs to be shown to each user the first time the user initiates a purchase within the particular app.⁵⁹
- 6.34. Where an app developer chooses **DOB** Google’s proposed wording for this Information Screen is currently as follows:

“This app does not use Google Play’s billing system

The developer will be the seller of all in-app purchases and manage all aspects of your purchases, including customer support, refund requests, and applicable consumer rights. Google Play features like gift cards, Play Points, subscription management, and purchase controls won’t be available.”

- 6.35. The information screen only needs to be shown to each user the first time the user initiates a purchase within the particular app.⁶⁰
- 6.36. Following the effective date of the Commitments, any further changes to these interstitial screens (or the frequency with which they will appear) will be notified to the CMA in advance of being implemented.
- 6.37. The CMA provisionally agrees that, where an app developer uses an alternative billing system, it should be made clear to users that their payments will not be handled by GPB (which is what they may expect from their other past usage of that or other apps), but rather will be handled by the app developer or a payment provider chosen by the app developer. However, the CMA considers that it is important to ensure that any requirements for interstitial screens providing such consumer information should be neutral in presentation and appear no more frequently than is necessary to ensure they are appropriately informed of the change, so as not to create undue friction in the consumer’s user experience.
- 6.38. Google also commits at paragraphs 12 and 15 (in relation to app developers offering UCB and DOB respectively) to provide app developers with the ability to provide information regarding their alternative billing system within their apps at any point prior to the information screen (and, for UCB, Billing Choice Screen), provided this is not misleading. For UCB, for example, this may include notifying users of potential differences in the price they will pay or other relevant differences for users in each of the billing systems (see further paragraph 6.42 below).

⁵⁹ Details of the current guidelines for developers in relation to the UCB information screen can be found [here](#).

⁶⁰ Details of the current guidelines for developers that Google intends to apply also in relation to the DOB information screen can be found [here](#).

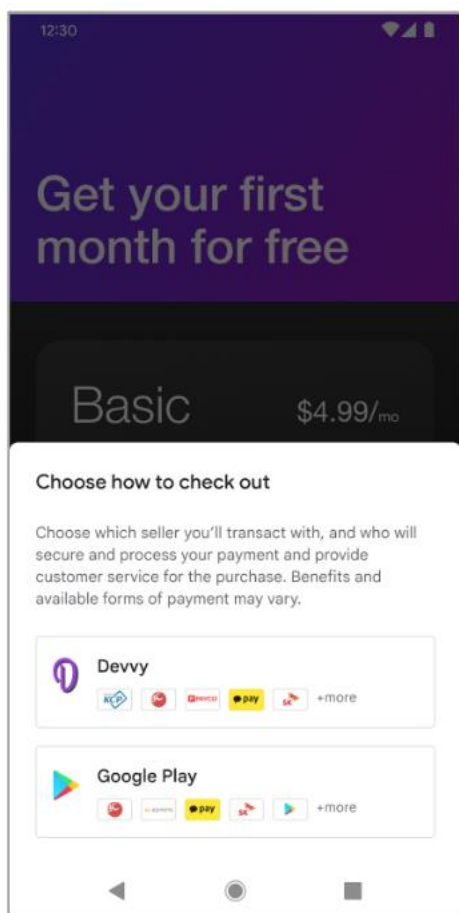
QUESTION 3: Do you agree with the proposal to include an interstitial screen, and with the content and frequency of the notifications? If you have any concerns about the requirement to display an interstitial screen to consumers, please support these with evidence.

UCB Billing Choice Screen

- 6.39. In addition to the requirement to display a pre-purchase Information Screen, app developers choosing **the UCB option** will be required to allow a Billing Choice Screen to be displayed to users each time users make an in-app purchase.⁶¹
- 6.40. As described in paragraph 11, Google will allow a choice screen to be shown to users informing them of the alternative billing options from which they can choose. Google will commit to ensuring that the following principles apply in relation to the Billing Choice Screen: it is presented in a fair and equal manner; enables users to make a timely, informed and engaged choice; and presents choice to users in a meaningful way which is most relevant to their context.

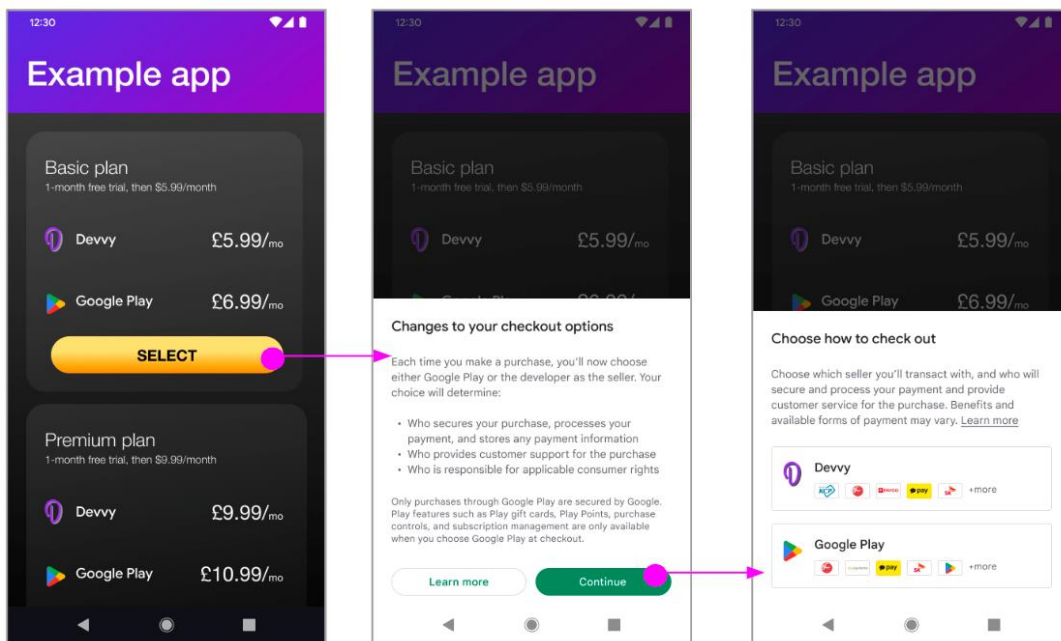
⁶¹ Details of the current guidelines for developers in relation to the UCB billing choice screen can be found [here](#).

6.41. Google has provided an example of how the Billing Choice Screen could be presented, as follows:

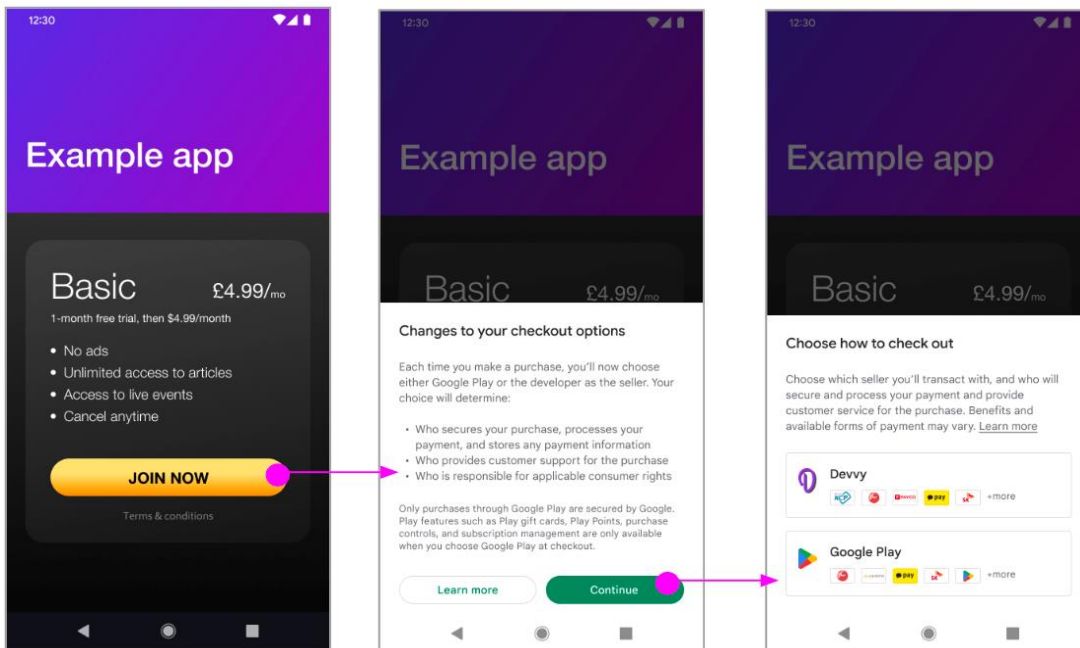


6.42. Developers may design the screens preceding the information screen and Billing Choice Screen and present their offer as they see fit (provided that they comply with Google's developer policies, e.g. do not mislead users). Google has provided the following illustrative examples showing how developers can choose to display different prices for their billing system in the screens preceding the Billing Choice Screen. These illustrations show (i) different prices for the alternative billing system compared with GPB; and (ii) the same prices for both billing systems:

Flow showing different prices for the alternative billing system compared with GPB



Flow showing the same price for both billing systems (the alternative and GPB)



QUESTION 4: Do you have any comments on the requirement to display a UCB Billing Choice Screen or on the proposed wording or format of the Billing Choice Screen? To the extent you have concerns, please support these with evidence of the particular costs or other issues that you consider arise.

(e) Non-retaliation

- 6.43. At paragraph 28 Google commits not to engage in any retaliatory measures directed at a developer or its users for the reason of that developer having chosen to offer an alternative billing system.
- 6.44. The CMA provisionally considers that this commitment will be sufficient to reassure app developers that opting for an alternative billing system will not lead to negative consequences or unfavourable treatment by Google.
- 6.45. Moreover, as part of a Compliance Statement to be provided to the CMA at regular intervals throughout the duration of the Proposed Commitments (see further paragraph 6.46 below), Google will confirm that it has not engaged in retaliatory measures against developers who no longer use GPB. This confirmation will be supported by the information set out in items 16 to 20 of the Evaluation Report, such as Google's provision to the CMA of a log of any changes to relevant policies and terms of service which distinguish between developers offering an alternative billing system and other apps available on the UK Play Store.

QUESTION 5: Do you consider that the Proposed Commitments provide sufficient reassurance to app developers wishing to switch to an alternative billing system that they would not be negatively treated for doing so? Please support with any available evidence.

(f) Reporting and compliance

- 6.46. Google will commit to provide the CMA with a signed Compliance Statement and Evaluation Report in the form attached at Annex 1 of the Commitments as set out in paragraphs 29 and 30. These will be provided every three months for an initial period from the Effective Date until 1 July 2024, and subsequently every six months for the duration of the Commitments.
- 6.47. The Compliance Statement (attached as Annex 1 to the Proposed Commitments) will include an Evaluation Report for Google to complete providing metrics on items such as the uptake of alternative billing (whether UCB and/or DOB); the rates of approvals, rejections and complaints regarding the applications process; the timescale for Google to approve applications; details of changes to Google's Alternative Billing Terms of Service; and details of how Google is ensuring that there is not any retaliation against apps choosing to use alternative billing.
- 6.48. The CMA provisionally considers that the reporting and compliance provisions will allow the CMA to monitor (i) Google's implementation of UCB and DOB along with the Alternative Billing Terms of Service during the initial Phase 1

and Phase 2 rollouts and (ii) Google's ongoing compliance with the Commitments for their duration.

(g) Duration and review

- 6.49. The Proposed Commitments will apply from the Effective Date for a period of five years as set out in paragraph 35. The CMA considers that this period is sufficient to provide app developers with certainty when deciding whether to switch to an alternative billing system.
- 6.50. Paragraph 35 also refers to the circumstances, set out in the Act, in which Google may offer a variation or substitution of, or the CMA may release, the Proposed Commitments.
- 6.51. The UK Government has said it will publish draft legislation in the current parliamentary session that will confer powers on the CMA to regulate strategically significant firms that it considers to have a substantial, entrenched market position in relation to particular digital activities, i.e. SMS status. These powers are expected to include the ability to impose legally binding obligations on such firms.
- 6.52. The CMA has not decided whether, when it acquires such powers, it would seek to designate Google with SMS status in relation to any given digital activity (or activities). However, it is possible the CMA will impose obligations under those new regulatory powers that cover (in whole or part) the Competition Concerns addressed by the Proposed Commitments. The Proposed Commitments therefore include a provision in paragraphs [32 to 34] that, where the CMA considers such overlap exists, the commitments will, to the extent necessary, fall away and be replaced by the regulatory obligation. The CMA considers this will help ensure that Google's business practices continue to be regulated most effectively following the planned change in legislation, while avoiding imposing unnecessarily duplicative regulation on Google.

7. The CMA's intentions and invitation to comment

The CMA's intentions

- 7.1. For the reasons set out above, the CMA provisionally considers that the Proposed Commitments offered by Google, as set out in Schedule 1 to this Notice, are sufficient to address the Competition Concerns identified by the CMA. Therefore, the CMA proposes to accept the Proposed Commitments offered by Google by means of a formal commitments decision.
- 7.2. As required by paragraph 2(2)(d) of Schedule 6A of the Act, the CMA now invites interested third parties to make representations on the Proposed Commitments and the CMA will take such representations into account before making a final decision on whether to accept commitments.
- 7.3. As noted above, the CMA has not reached a final view and invites all interested parties to submit observations and evidence in order to assist the CMA in its final assessment of the Proposed Commitments. Any non-disclosure agreement a party may have in place with Google should not prevent them from responding to this consultation. Information regarding the ways in which the CMA handles confidential information is set out in paragraphs 7.6 and 7.7 below.

Invitation to comment

- 7.4. Any person wishing to comment on the Proposed Commitments should submit written representations to the email address given below, by **5pm on 19 May 2023**. Please quote the case reference **51183** in all correspondence related to this matter:
 - FAO: Amanda Adams, Assistant Director and Andrew Groves, Project Director, Competition and Markets Authority.
 - Email: 51183-Consultation@cma.gov.uk with the subject title 'Response to Google Proposed Commitments'.
- 7.5. Written submissions are welcomed on any aspect of the Proposed Commitments but we would particularly seek views on the issues highlighted above in section 6 and the following questions:
 1. Please highlight whether you consider that app developers who wish to use an alternative billing system will have the scope in practice to adopt DOB or UCB on the terms proposed, providing supporting evidence where available.

Similarly, the CMA welcomes responses from payment service providers as to whether they are likely to have the ability and incentive in practice to offer such services.

Respondents making specific representations regarding the proposed reductions in service fee, for example, are requested to explain, with evidence, the costs app developers would expect to incur replicating (whether in-house or by procuring it from third parties) the payment processing service and any associated customer care costs provided under GPB. Where these cost estimates are based on a respondent's existing terms with third party payment (or other) service providers, please include the name of the provider in question.

Payment service providers are also requested to provide and explain the likely fees for supplying such services.

In any published final decision explaining whether or not to accept the Proposed Commitments, the CMA will not disclose confidential details of respondents' commercial contracts or costs without first anonymising that information or seeking confidentiality representations from the information provider.

2. Please provide comments on the proposed reporting process for turnover relating to in-app transactions. For example, do you consider that the reporting process is reasonable? If you consider it would result in material costs or burdens for developers once a technical API is available, please support with evidence. Please indicate if your views differ in relation to the interim period before the technical solution is implemented?
3. Do you agree with the proposal to include an interstitial screen, and with the content and frequency of the notifications? If you have any concerns about the requirement to display an interstitial screen to consumers, please support these with evidence.
4. Do you have any comments on the requirement to display a UCB Billing Choice Screen or on the proposed wording or format of the Billing Choice Screen? To the extent you have concerns, please support with evidence of the particular costs or other issues that you consider arise.
5. Do you consider that the Proposed Commitments provide sufficient reassurance to app developers wishing to switch to an alternative billing system that they would not be negatively treated for doing so? Please support with any available evidence.

Confidentiality

- 7.6. The CMA does not intend to publish the responses to the consultation with any commitments decision or notice provisionally to accept any modified commitments. However, the information contained in the responses may be used or summarised on an anonymous basis, including in any commitments decision or notice of intention to accept any modified commitments. If, notwithstanding anonymisation, respondents consider that there is particular information in the response which they consider to be confidential, they should highlight this in their response with an explanation as to why.⁶²
- 7.7. In the event that the Proposed Commitments are not accepted and the CMA is considering disclosing any information contained in the responses to Google on an attributable basis (such as in a Statement of Objections), the CMA will revert to the provider of that information to obtain representations on confidentiality. The CMA will then consider those representations before deciding whether the information should be disclosed under Part 9 of the Enterprise Act 2002.

⁶² Further information on the CMA's approach to the treatment and disclosure of information, including to identifying confidential information, is available in the guideline [Transparency and Disclosure: Statement of the CMA's policy and approach \(CMA6\)](#)

Schedule 1: The Proposed Commitments offered by Google

See separate document.