



**Professional Publishers Association (PPA) response to CMA's Mobile ecosystems market study interim report**

Written Evidence submitted by the Professional Publishers Association (PPA)

Date: February 4 2022

Sent by email to [mobileecosystems@cma.gov.uk](mailto:mobileecosystems@cma.gov.uk)

**About Us**

The Professional Publishers Association (PPA) is the membership network for UK consumer magazine media and business information publishers, representing around 160 of the UK's most renowned publishing houses. With more than 40 million adults in the UK reading magazine media every month, the sector is worth £3.74 billion to the UK economy, employing more than 55,000 people.

The PPA's membership incorporates the UK's largest publishing houses, including Bauer Media Group, Centaur, Condé Nast, Dennis Publishing, The Economist, Haymarket Media Group, Hearst UK, Immediate Media, and William Reed Business Media as well as many smaller independent publishers. A full list of members can be found here: <https://www.ppa.co.uk/members>

The PPA is historically synonymous with magazines but today its membership is made up of multi-platform media businesses. The platform on which audiences are engaged may still be a printed magazine – 93% of members still publish a printed magazine - but may just as commonly be virtually via any connected device – 75% operate across five or more platforms, including events, mobile and video.

Across these platforms, each month the sector reaches an estimated 44.3 million consumers in the UK, accounting for 83% of the population aged over 15. For the age group 25-64, covering the core of the working age population of 33.7 million people, penetration is 88%.

PPA welcomes the opportunity to respond to the CMA's interim report regarding the market study into mobile ecosystems.

**Overall comments**

We have recently seen a rapid acceleration of specialist publishers' shift to digital as publishers have innovated rapidly to keep pace with consumer needs. The PPA Sector Report 2021 shows that whilst sector revenue is still predominantly from print-related sources, engagement is now predominantly through digital sources. In fact, 69% of consumer engagement is via phone or tablet, against 26% via desktop and 38% via print.

The critical challenge for the sector is monetising these digital engagement channels sustainably in the long term. Monetising digital engagement channels will allow specialist media publishers to invest greater sums in high-quality journalistic content and trusted information sources. The content produced by PPA members, and the wider press and media sector, is an essential public good. The prevailing shift to specialist information sources has been spurred in large part by the dissemination of content online, through search engines and user-to-user services.

Whilst the passing of legislation to put the Digital Markets Unit (DMU) on a statutory footing is the responsibility of Government and Parliament, the non-statutory DMU should look to engage with Government to make the new regime as streamlined and effective as possible. The speed with which digital platforms will be designated with Strategic Market Status (SMS) will be key in guaranteeing the sustainability of UK media.

The Government's 2021 consultation on the new pro-competition regime for digital markets suggests an SMS designation process lasting nine to 12 months following the passing of legislation. Assuming that legislation is passed in 2023, a 12-month designation process followed by potential appeals could see the regime become effective as late as 2026. This may well be too late to guarantee the sustainability of many UK publishers, particularly smaller and independent organisations who have not been able to secure commercial deals with online platforms.

The DMU has already accrued a significant amount of detailed evidence in its market study and other investigations/consultations. The new Digital Competition Bill could clarify that any finding by the CMA and non-statutory DMU of substantial and entrenched market power can be used as sufficient evidence for an SMS designation. The Government should make clear immediately that this is its intention. This will be critical in speeding up the implementation of the new regime. As the CMA acknowledged in its response to the Government's consultation: 'While the UK has been a leader in setting this agenda up to this point, we will need to maintain the pace to avoid falling behind.' For example, we look to recent activity in the European Union and would welcome similar moves here to adopt an ex-ante approach to tech regulation.

Given the uncertainty regarding the time at which the DMU will become effective, PPA would argue that it is best not to rely on the potential impact of the DMU's powers when conducting the CMA's work. In its Interim Report into mobile ecosystems, the CMA states that it is not inclined at this stage to make a market investigation reference. The reasoning for this is that the CMA considers that the DMU is best placed to tackle the competition concerns identified by the market study. Owing to the congested parliamentary timetable and range of competing digital priorities for the Government, there is a distinct risk that the codes of conduct and pro-competitive interventions will not be accessible for several years (if ever).

Given the rapid development of digital markets, which often serve to further entrench the market power of the largest online platforms, the CMA should seriously consider reevaluating its decision to not make a market investigation reference. The principle of not relying on the DMU's potential powers should be applied to all relevant work conducted by the CMA in the period before the DMU is put on a statutory footing and firms are SMS-designated.

## Response to main themes

PPA's conclusion from the CMA's Mobile Ecosystems Market Study is that we agree with the CMA's findings, including where they can be applied to the DMU regime. We urge the CMA not to rely on the DMU to solve the issues raised given the lack of clear timelines for giving the regime statutory powers. We ask that the CMA and Government act quickly on providing the DMU with the necessary powers to level the playing field between publishers and platforms.

The CMA intends the conclusions reached through the course of this market study to contribute to the process of establishing and operationalising this new pro-competition regime and the DMU. PPA agrees with the assessment that Apple and Google have SMS for their mobile operating systems, and the Apple has SMS for its device.

This should allow Google and Apple to be designated as having SMS in these areas immediately when the DMU is given powers through legislation, ensuring the UK does not fall behind the rest of the world in regulation of platforms and tech.

PPA also supports the CMA's assessment of the potential design of codes of conduct for activities within mobile ecosystems and we support the CMA's assessment of potential pro-competitive interventions. However, we reiterate that, given the congested parliamentary timetable and range of competing digital priorities for the Government, there is a distinct risk that the codes of conduct and pro-competition interventions will not be accessible for several years. With the continued rapid

development of digital markets, which often serve to further entrench the market power of the largest online platforms, the CMA should consider reevaluating its decision to not make a Market Investigation Reference.

## **Response to theme 4 - the role of Apple and Google in competition between app developers**

Regarding the mandatory use of IAP, there are practical limitations (and increased user friction) as disabling IAP prevents consumers from completing transactions in the iOS app, yet anti steering rules prevent developers from telling consumers where transactions can be made. In addition, 'the ability of iOS subscribers to access their subscription on a different platform depends entirely on whether they choose to link their Apple ID with their newspaper/magazine account'.

A potential remedy would be 'allowing a greater choice of in-app payment options', enabling app developers to choose their own payment service provider and have a direct selling relationship with the user, rather than require them to exclusively use Apple and Google's own payment systems.

Linked to this, another highly beneficial remedy would be 'allowing greater promotion of off-app payment options' allowing developers to refer users within an app to alternative ways to pay content and subscriptions outside of the app. The opportunity to gain greater revenues via payment on publishers' websites would ensure more revenue could be channelled towards more innovative forms of journalism.

PPA contends that Google and Apple's 'anti-steering' rules are unnecessary. Connected to this, we agree with the CMA's assessment of, and preliminary views on, the potential harm to competition resulting from anti-steering rules, in particular the view that 'there may be viable alternative methods for Apple and Google to collect a commission for their app stores, while also allowing developers to handle payments directly which do not give rise to the potential harms to competition', giving users a 'meaningful choice'. It should be noted that consumers who sign up for a subscription via the app are generally unable to access the same content through a publishers' website. This creates an inferior user experience whilst also denying the publisher a valuable opportunity to further engage consumers by giving publishers greater control over consumers' access to, and dissemination of their content.

As well as less restrictive policies on publisher subscription purchases, Apple and Google should also be required to 'act in consumers best interests when making choices on their behalf'. This is particularly relevant given the inadequate control that developers have over refunds and cancellations, as Apple and Google's control of customer relationships allows them to make key decisions on publishers' behalf. Changes here would again give publishers greater control over consumers access to, and dissemination of their content.

We would further support the proposal for 'a requirement for consistent treatment of own apps and third-party apps for privacy purposes' and note that the CMA is currently undecided on whether, under ATT, businesses compete on an equal footing to attract customers, with transparency in the way they operate and the provision of meaningful choice across the market. We are concerned that Apple is not applying the same standards to itself as to third parties when it comes to seeking opt in from consumers for personalised advertising. Linked to this, we would also support further scrutiny of concerns that choice architecture is potentially being used to influence consumer behaviour in a way that preferences Apple and Google.

PPA encourages the CMA to continue to explore the separation remedies identified. We appreciate that data or operational separation would have less costs, but structural remedies should not be taken off the table.

## Conclusion

The CMA's work regarding digital markets has already recognised the importance of work beyond its core mission to promote consumer interests. The CMA's Digital Markets Taskforce advised: '[...] we also believe it is important that digital markets support the interests of UK citizens, respecting wider rights such as privacy, data protection, and free speech.' A sustainable and diverse UK media is critical to ensuring freedom of speech and guaranteeing that a plurality of views on a wide range of topics are properly represented.

Clearly, competition law is critical to achieving the Government's key aim in its Plan for Digital Regulation, of ensuring 'the UK's media and press sectors are able to flourish online': we believe it is natural that the CMA should look to make this aim a key objective of its forthcoming work on mobile ecosystems.

We appreciate that remedies suggested in the Interim Report (and codes of conduct and pro-competitive interventions proposed for the Digital Markets Unit regime) would benefit a wide range of app developers, but would ask that the CMA take particular care to ensure that these measures will benefit the UK's press and media sectors, including specialist publishers. Given the high public interest in securing the sustainability of UK press and media, and the myriad challenges facing the sector, these remedies must be implemented as a priority. The UK's press and media sector's already have a huge online presence, yet further regulatory delay will limit innovation and prevent digital channels being monetised sustainably in the long term.