

Case 51183 – Google – Google Play Billing

Statement regarding the CMA’s decision to close an investigation on the grounds of administrative priority

The Competition and Markets Authority (the ‘**CMA**’) has closed its investigation under the Competition Act 1998 (the ‘**Competition Act**’) in the above matter (the ‘**Investigation**’) on the grounds that it no longer constitutes an administrative priority for the CMA.

For the avoidance of doubt this does not constitute a decision by the CMA as to whether the Chapter II prohibition of the Competition Act (the ‘**Chapter II prohibition**’) is being or has been infringed.

The decision is addressed to Alphabet Inc., Google Ireland Limited, Google UK Limited (company number 03977902) and Google LLC and any other member of their corporate Group (together, ‘**Google**’) and relates to the investigation into Google Play’s billing system (‘**GPB**’).¹

The CMA will continue to monitor Google’s conduct in the market. Its decision to close the case on grounds of administrative priority does not prevent, pre-judge or fetter the CMA’s ability, if appropriate, to open an investigation under the Chapter II prohibition in future, or to take action in respect of the conduct considered as part of the Investigation under the powers it has now gained in the Digital Markets, Competition and Consumers Act 2024 (the ‘**DMCC Act**’) or its other tools. As explained below, the CMA considers that the use of its DMCC Act powers in particular may be more appropriate to assess and as necessary address the type of conduct considered as part of the Investigation.

Background

On 10 June 2022, the CMA opened the Investigation, having determined that it had reasonable grounds at that stage to suspect that Google had infringed the Chapter II prohibition in relation to the distribution of native applications (or ‘**apps**’) on Android devices in the UK.

¹ Google Play’s billing system 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.

In the Notice of Intention to Accept Commitments published on 19 April 2023 (the ‘**NIAC**’), the CMA set out concerns arising from Google Play’s rules which oblige app developers offering digital content to use GPB to process in-app payments. The CMA explained that those competition concerns related 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.²

The CMA explained in the NIAC that, to address these concerns, Google had offered proposed commitments. The CMA invited responses from interested third parties to the consultation on whether or not the proposed commitments should be accepted by the CMA. The consultation closed on 19 May 2023.

Having regard to the responses to the NIAC, the CMA decided that it would not be appropriate to accept the proposed commitments.³

The Digital Markets, Competition and Consumers Act 2024

The DMCC Act received royal assent on 24 May 2024 and will enter into force in due course.

The DMCC Act provides the CMA with new, more effective tools to address barriers to competition in digital markets. It gives the CMA the power to designate firms as having Strategic Market Status (‘**SMS**’) in relation to a digital activity. Part of the Government’s rationale for the DMCC Act was the view that the existing competition framework was not set up to address effectively certain features of fast-moving digital markets that can lead to a small number of firms establishing entrenched and substantial market power.⁴

For firms that are designated as having SMS, the CMA is able to set requirements for how these firms should conduct themselves in relation to that activity (Conduct Requirements) or to intervene to address adverse effects on competition arising in relation to the digital activity (Pro-competition Interventions).

² Set out in more detail in the [NIAC](#), section 4.

³ See the CMA’s decision not to accept commitments, available at: [Investigation into suspected anti-competitive conduct by Google - GOV.UK \(www.gov.uk\)](#).

⁴ See Overview of the CMA’s provisional approach to implement the new Digital Markets competition regime 11 January 2024 ([Overview of the CMA’s provisional approach to implement the new Digital Markets competition regime \(publishing.service.gov.uk\)](#)), paragraph 3.2.

In terms of how the powers under the DMCC Act will complement the CMA's other tools – including Chapter II of the Competition Act – the CMA will consider which of its tools is most suited to the issue it is seeking to address.⁵

No decision has yet been taken as to the digital activities or firms that will be investigated by the CMA for possible SMS designation once its DMCC Act powers are in force. We will consider the potential concerns identified in the Investigation and set out in the NIAC alongside other relevant concerns relating to digital markets in taking any such prioritisation decisions in due course.

Prioritisation assessment under the Competition Act

The CMA has reviewed the appropriateness of the continuation of the Investigation under Chapter II of the Competition Act given recent developments, including in particular the forthcoming availability to it of the new powers provided to it by the DMCC Act. As set out above, the CMA has closed the Investigation under the Competition Act on the grounds that it no longer constitutes an administrative priority.

The CMA has regard to its published Prioritisation Principles at certain points in the life cycle of a project, when deciding whether it still warrants the continued commitment of resources. The CMA generally prioritises according to the strategic significance and impact of the work balanced against the risks and resources involved, and whether the CMA is best placed to act.⁶ As part of this, the CMA keeps under review the tools it uses to deliver anticipated benefits, and – as noted above – which is best suited thereto.⁷

The CMA wants to achieve real-world impact for the people it serves.⁸ This includes ensuring digital markets are competitive, as identified in the CMA's Annual Plan 2024-2025 as an area of focus.⁹ The CMA considers that the distribution of native apps on Android devices in the UK remains an area of strategic significance in terms of prioritisation.

However, the CMA is conscious that this is a fast-moving area in which app store operators are adjusting their offerings in many jurisdictions to reflect product and

⁵ See Overview of the CMA's provisional approach to implement the new Digital Markets competition regime 11 January 2024 ([Overview of the CMA's provisional approach to implement the new Digital Markets competition regime \(publishing.service.gov.uk\)](#)), paragraph 7.12.

⁶ CMA Prioritisation Principles 30 October 2023 CMA188 ([Prioritisation Principles \(publishing.service.gov.uk\)](#)), paragraphs 2.1 and 2.2.

⁷ CMA Prioritisation Principles 30 October 2023 CMA188 ([Prioritisation Principles \(publishing.service.gov.uk\)](#)), paragraph 3.13.

⁸ CMA Prioritisation Principles 30 October 2023 CMA188 ([Prioritisation Principles \(publishing.service.gov.uk\)](#)), paragraph 3.5.

⁹ CMA Annual Plan 2024-2025, Figure 4: [Annual Plan 2024 to 2025 - GOV.UK \(www.gov.uk\)](#).

technological developments, as well as regulatory interventions globally. In this context, a more holistic consideration of Google's rules in this area alongside the wider commercial terms in its Google Play app store offering is likely to be most effective in achieving meaningful, timely impact where appropriate. In this context, the CMA is mindful that:

- enforcement under the Competition Act would, if progressed, potentially take a significant period of further time, involving the issuing of a statement of objections and consideration of representations from Google before a final decision could be taken;
- should the CMA continue the Investigation and find an infringement, any directions issued at the end of the Investigation to seek to promote competition in the market, would relate specifically to the conduct covered by the infringement decision, and thus potentially be less able to take account of Google's wider activities in mobile ecosystem markets; and
- the CMA will soon have the option to consider firms' conduct in digital markets under the DMCC Act framework instead. Any use of such powers in relation to matters covered by the Investigation would be subject to the CMA prioritising an investigation into whether Google has SMS in relation to a relevant digital activity, and making such a designation finding. As noted, no decisions have yet been taken in this regard. However, were it to do so, the nature of the CMA's DMCC Act powers may enable any concerns identified to be addressed in a more timely, holistic and flexible manner than would likely be possible within the current Competition Act investigation.

Conclusion

For the reasons set out above, the CMA has closed its Investigation under the Competition Act on the grounds that it no longer constitutes an administrative priority for the CMA.

The CMA's decision to close the Investigation should not be understood to imply that the CMA considers that the concerns set out in the NIAC were unfounded or have ceased to exist. Nor is the CMA making a decision as to whether there has been an infringement of the Chapter II prohibition.

This decision does not affect any other action that the CMA may wish to take in relation to Google's conduct in this area in the future.

Competition and Markets Authority

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