

ACT | The App Association feedback to the United Kingdom Competition and Markets Authority's working papers 1-3 regarding the mobile browsers and cloud gaming market investigation

I. About ACT | The App Association

The App Association is a global trade association for small business technology companies. Our members are entrepreneurs, innovators, and independent developers within the global app ecosystem that engage with verticals across every industry. We work with and for our members to promote a policy environment that rewards and inspires innovation while providing resources that help them raise capital, create jobs, and continue to build incredible technology. App Association members are located throughout the UK, driving innovation, competition, and job creation. The App Association appreciates the opportunity to comment on the Competition and Markets Authority's (CMA) working papers related to its investigation into the mobile browsers and cloud gaming markets.

II. Comments on WP1: nature of competition in the supply of mobile browsers and browser engines

In analysing competition within the UK's mobile browsers and browser engines market, the CMA addresses a wide range of potential barriers. We believe that certain aspects of this analysis require a more nuanced approach to avoid unintended consequences that could stifle innovation or disproportionately impact small and medium-sized enterprises (SMEs).

The CMA's market delineation examines the structural characteristics and key players in the mobile browsers and browser engines sector. We believe that it is crucial for CMA's analysis to reflect that market share alone does not necessarily indicate anti-competitive behaviour. For instance, the requirement for iOS browsers to use Apple's WebKit engine should be considered not only in terms of market power but also regarding the security, privacy, and ease of development benefits it provides, particularly for SMEs.

The CMA's discussion on indirect network effects emphasizes the advantages large incumbents have due to web compatibility. However, the analysis overstates the barriers these effects pose to smaller competitors without sufficiently recognizing the efforts and advancements made to mitigate these challenges. The paper implies that web developers focus solely on the most popular browsers due to compatibility concerns, which oversimplifies the network effects. This view does not fully capture the dynamic nature of web development, where frameworks and libraries are increasingly used to ensure cross-browser compatibility, thus reducing the perceived disadvantage for smaller browsers. Additionally, the document does not adequately consider the growing trend toward using standard web technologies and practices that enhance compatibility across different browsers. This trend is helping level the playing field for smaller browser engines and should be acknowledged as a mitigating factor against network effects.

The CMA also raises concerns about vertical integration, particularly with respect to how it could potentially limit competition. While vertical integration can pose competitive challenges, the analysis should be more nuanced in recognizing the potential benefits it brings to consumers and smaller developers. The working paper predominantly presents

vertical integration as a barrier to competition but fails to consider the efficiencies and enhanced user experience it can provide. For example, Apple’s integrated ecosystem ensures a seamless user experience and robust security protocols, which are critical in maintaining consumer trust and protecting user data. By integrating hardware, software, and services, large companies can offer a more stable and predictable environment for developers, including SMEs. This stability can reduce development costs and complexity, enabling smaller companies to compete more effectively.

Finally, the CMA’s assertion regarding low user awareness and engagement with mobile browsers suggests a passive consumer base reluctant to switch browsers. While this is a valid observation, it overlooks the increasing consumer awareness about privacy, security and performance issues, which can drive browser choice. The working paper underestimates the growing sophistication of consumers who are increasingly aware of issues like privacy, security, and performance. This awareness can drive demand for alternative browsers that prioritize these features.

We recommend acknowledging advancements in web development technologies that facilitate cross-browser compatibility, thereby reducing the competitive disadvantage for smaller browsers. Additionally, the potential for innovation and differentiation that exists for smaller players and new entrants should be recognized, driven by evolving market conditions and consumer preferences. Finally, the growing consumer awareness about privacy and performance, and the role of marketing and education in shaping user preferences and behaviours, should be reflected in the analysis.

III. Comments on WP2: the requirement for browsers operating on iOS devices to use Apple’s WebKit browser engine

While we appreciate the CMA’s efforts, we find several aspects of the analysis problematic and believe that the paper underestimates the benefits of current policies while overemphasizing potential harms:

- The CMA is encouraged to generally account for the security, privacy, and intellectual property protection-related benefits that unified of a unified browser engine. Smaller developers, in particular, benefit from not having to optimize for multiple engines, which can be resource-intensive and technically challenging.
- The CMA’s analysis should also reflect that market share is not a de facto indicator of market power constituting anti-competitive behaviour. The focus should be on demonstrated harms to consumers and competition, which current evidence does not conclusively demonstrate.
- We urge CMA’s analysis to reflect that centralized control for a platform ensures that unified adherence to security standards, protecting users from potential vulnerabilities, with browsers being no exception. This centralized approach is crucial for maintaining a secure and stable browsing environment, benefiting all users. Further, we note that careful vetting of new features ensures that user privacy and data security are not compromised.

IV. Comments on WP3: access to browser functionalities within the iOS and Android mobile ecosystems

We encourage the CMA to generally distinguish between restrictions that genuinely harm competition and those that enhance consumer security and privacy. While some functionalities offer enhanced user experiences, not all significantly impact user choice. CMA is encouraged to focus on critical functionalities that significantly affect the user experience and competitive landscape.

Security and privacy are paramount for users. The CMA should ensure that any regulatorily mandated changes to features do not undermine the high security and privacy standards that users expect. Any changes to current practices should ensure that security and privacy standards are upheld, avoiding regulatory solutions that might expose users to greater risks.

V. Conclusion

The App Association welcomes the CMA's efforts to maintain the UK's fair and competitive digital economy. We share the CMA's ambition to preserve competitive digital markets and support the effort to identify specific market failures and assess structural issues in detail before determining policy recommendations. This path of action will help to avoid implementing remedies that would unintentionally negatively impact SMEs.

We further urge the CMA to consider security and consumer trust implications as a priority as it continues to investigate the market for mobile browsers and cloud gaming and determines potential remedies. Without trust, consumers will not download SMEs' apps, sticking to apps from known and established brands. It is, therefore, crucial to the success of SMEs and startups that we keep out bad actors by preserving the current security environment of the app economy.

As the CMA moves forward with its investigation, we encourage a balanced approach that recognizes the significant security, privacy, and intellectual property protection-related benefits of digital platforms when considering today's landscape and the path forward for digital platforms. Further, by focusing on actual harms to consumers and competition, rather than market share alone, CMA can support a competitive and secure digital market that fosters innovation and trust.

Sincerely,

Mike Sax
Founder and Chairperson

Stephen Tulip
UK Country Manager