

12 July 2024

Object: Response to the Guidance on Digital Markets

Dear Sir/Madam,

Please find enclosed a submission from the Consumer Choice Center (CCC) on the guidance regarding the new digital market competition functions delegated to the Competition and Markets Authority (CMA) from the Digital Markets, Competition and Consumers Act 2024 (DMCCA). We are happy for our response to be published.

As the UK Country Associate for the Consumer Choice Center, please do not hesitate to contact me at any stage for further information or discussion on consumer interests and rights, should it interest the CMA.

Yours Sincerely,

[Redacted signature]

[Redacted contact information]

General Views on the Consultation:

At this stage, the Consumer Choice Center (CCC) is not in a position to comment on every aspect of the guidance. The current consultation primarily addresses the framework that the new functions will take place in. As such, the response will only focus on areas where we believe consumer rights and freedom to choose are at stake in the general framework of delegating powers to the CMA. The CCC will make further submissions when the designating process for companies begins and consideration for interventions, as they pertain directly to consumer usage and interface. It is nonetheless important for us to make this submission to remind the CMA and other stakeholders that consumer interests and views should be at the forefront of these consultations. It is the view of the CCC that competitive market exchanges are the most efficient mechanism of exchange, and most useful to consumers.

Overall, we believe that the essential rubric for grading whether CMA should intervene should rest upon consumer welfare. If consumers are being actively harmed by a market structure, proposed acquisition or merger, then CMA must provide adequate evidence that their intervention is necessary, and also to plot the benefits or harms their proposals could carry.

By elevating consumer welfare above market concentration or other quantitative measures, consumer well-being will be better adjudicated and well-respected in our competition policies.

On Conduct Requirements (CRs) and Pro Competition Interventions (PCIs):

The CCC believes strongly in the role of competition in driving innovation, reducing cost and maximising consumer surplus. The CCC also acknowledges that the emergence of big technology companies over the past few years has resulted in a modern and multiplied effect of the Network Effect, whereby a product gains additional value as more consumers use it. Speaking with consumers, policy makers and industry leaders, it transpired that the emergence of such companies has enabled consumers, businesses and other users to benefit from a system whereby the users themselves help supply information and create markets, in a self governing way, a principle known by positive feedback loop. The Network Effect is on the whole a net benefit to consumers, some of these benefits are explained below:

- Increased utility: Consumers gain more value using a service with a larger and more familiar user base. For example, a social media platform where many friends and family have accounts, it would be natural to join that specific platform.
 - As an example, there is no need to mention how useful WhatsApp has been at government levels, even making the headlines and [debates](#), due to the network effect of many senior people in government using the platform and hence leading to an increased utility for its users.
- This also results in improving consumer connectivity and communication.
- Network Effect leads to economies of scale, reducing costs on businesses and consumers in digital activities.

- Such economies of scale also foster innovation: If many people use the same app or operating system, it allows developers to better improve the service provided.
- There is also an advantage in terms of education resources for consumers, where information can be supplied and be readily available on tech platforms which thus benefit from the Network Effect.

When implementing CRs and PCIs, regulators should heed not to impede on the benefits that come from these platforms.

Another concern at this stage is the potential costs to consumers incurred from implementing CRs and PCIs. These measures would lead to a cost in providing services for digital activities, which companies pass on to their users.

On Global Coordination and Interests of UK Consumers:

With the EU legislating its own Digital Markets Act and its nuances, it is important that the CMA coordinates with global counterparts. This is especially true for digital services, ensuring consistency and fairness when CMA intervenes in the UK digital market. It would not be fair to UK consumers and businesses if the CMA imposes stricter interventions for the UK market than its global counterparts, which would feed anti-competitive outcomes that leaves the UK market and its residents behind. The UK needs a framework that champions and elevates innovation, especially post-Brexit, to outcompete our peers on the European Continent.

Compliance simplification is another consideration: If multinational companies adhere to the same frameworks internationally in each country, then it would improve effectiveness in implementing regulations, as well as making clear and efficient for companies to introduce the resulting measures. Various passporting mechanisms should be discussed and entertained, so that UK users can access their desired services more quickly and seamlessly.

On Further Consultation in Designating SMS, CRs, PCIs and etc...:

The CCC welcomes the CMA's continued support on allowing stakeholders to continually be consulted, especially with SMS, CRs, and PCIs, which we will endeavour. Considering the complexity of the digital market around the world, it behoves us to treat digital and business activities of firms on a case-by-case basis, as digital activities have become nuanced and customised to benefit individual user experience.

When significant actions by CMA threaten the ability for consumers to freely access given digital goods or services, there must be accountable processes for addressing negative repercussions. We look forward to being beneficial respondents as these changes and actions are introduced.