


PPA (Professional Publishers Association)

Consultation response: Digital markets competition guidance

About the PPA

The Professional Publishers Association (PPA) is the professional body for specialist media businesses in the UK. Specialist publishing remains an integral part of the media industry and the sector is worth £3.74 billion to the UK economy, employing around 55,000 people. Its reach covers 83 per cent of the population, with more than 40 million adults in the UK reading a magazine each month.

For more information about this submission please contact 

Introductory comments

The PPA welcomes the introduction of new powers for the Competition and Markets Authority (CMA) to make necessary interventions to boost digital competition and address market dominance of large technology companies which stifles economic growth. Specialist publishing businesses have been adversely impacted by anti-competitive practices of dominant tech companies.

Some of these practices (such as opaque algorithmic changes and data access asymmetry) are reflected in the CMA's 2021 report on the relationship between platforms and publishers¹, as well as its report on the digital advertising market². Although, the PPA encourages the CMA to build upon its market research given that since 2021, other business practices such as Google's recently announced "AI Overviews"³ - previously known as "Search Generative Experience (SGE)" - have amplified existing concerns and presented additional competitive barriers for the publishing sector.

While PPA welcomes the opportunities that AI could provide, we support responsible innovation which does not further entrench the already powerful positions of dominant players. Unfortunately, products like AI Overviews and Meta AI's chatbot synthesise publishers' content without compensation, drawing engagement away from publishers' advertising and subscription-driven offerings, which threaten to further jeopardise the sustainability of our member's businesses. The CMA's expanded role and powers are therefore extremely timely.

Broadly speaking, we believe that the draft guidelines effectively reflect the intentions of the Digital Markets, Competition and Consumers Act. However, given the scale of

¹ Ofcom and CMA (2021) Platforms and content providers, including news publishers. [Link](#).

² CMA (2019) Online Platforms and digital advertising market study. [Link](#).

³ Google's A.I. Search Leaves Publishers Scrambling - The New York Times ([nytimes.com](https://www.nytimes.com))

concerns, evolving adverse impact and expressed plans of powerful platforms to continue down a damaging path, the PPA wish to make the following recommendations:

- That the CMA ensure that when measuring “digital activities” and imposing “Conduct Requirements” (CRs), that it takes into account emerging technologies such as AI overviews.
- That the CMA ensure it is possible for publishers to access a streamlined route to the Final offer Mechanism (FOM) where an alternative solution seems unlikely at earlier stages.
- That the guidance explicitly states that the CMA’s duty to protect “consumer” interests must include issues such as culture and benefits to democracy and society. The CMA should take into account these issues when designing its conduct requirements.
- That the CMA set out as clear a timeline as possible on Strategic Market Status (SMS) designations and enactment of CRs.
- That the CMA offers as much clarity and flexibility in opportunities for input from the specialist publishing sector when taking stakeholder views on SMS designation and CRs.
- Where is it clear from the designation process, and initial post designation investigation, that CRs will not be sufficient to address the structural problems identified that the CMA proceed directly to Pro Competition Interventions (PCIs)

Digital activities and emerging technologies

The PPA understands that the CMA will designate SMS in respect to “digital activities”. We believe that in doing so, the CMA must encompass within these designations emerging technologies that are fast becoming a significant part of digital activities. Otherwise, the market interventions will not accommodate for the rate of technological change and will not have the intended positive impact on competition.

For example, if the CMA were to designate SMS to Google search, the PPA believes that this must include AI Overviews, as this feature is already having a significant impact on the publishing sector⁴.

The inclusion of emerging tech and services- especially AI powered ones- should not just be a matter of the five year forward looking analysis for entrenchment, but also be part of the list of tech and services within the SMS designation.

⁴ Wright, Webb (2024) As Google embraces generative AI, news publishers chart courses into an uncertain future. [Link](#).

A streamlined route to the Final Offer Mechanism (FOM)

The PPA understands that the FOM has been incorporated into the digital competition regime to act as a backstop measure to resolve breaches of conduct requirements relating to payment terms between SMS firms and third parties⁵.

We are aware that the CMA intends for the FOM to be a “last resort that incentivises parties to engage sincerely at every stage”⁶. While we recognise that alternative routes to solution should be sought where possible, we believe it is vital that the CMA allow publishers a streamlined pathway to the FOM where such alternatives seem unlikely at early stages.

Given the gravity of challenges that similar competition regimes have faced from large technology companies in other markets⁷, we feel it is important that the FOM acts as a genuine incentive for sincere engagement from those companies to avoid the regime being vulnerable to loopholes and stalling.

Consumers as citizens

The PPA notes that the CMA’s statement in the first step of imposing a CR, that:

“CRs must be imposed for the purpose of one or more of the objectives set out in legislation and will typically be intended to ensure that SMS firms do not take advantage of their powerful positions in ways that could exploit consumers or businesses or undermine fair competition”⁸.

We believe that this is a sensible approach. However, we urge the CMA to ensure that its guidance states that “consumer” interests include citizen and societal interests as well as market issues such as purchasing options.

The PPA notes the initial recommendations of the Digital Markets Taskforce, which advised the Government to assign the CMA with an explicit duty to further the interests of “citizens” as well as “consumers”⁹. This approach is already supported by the logic of s29. DMCCA - the countervailing benefits exemption (CBE) - which allows SMS to avoid a CR or a PCI if they can show that the damage identified by the CMA is outweighed by the benefit of the activity in question to the consumer.

The PPA recommends this approach given that the health of digital competition and the health of our plural media are inextricably linked. Specialist publishers provide a diverse

⁵ DBT & DSIT (2023) Final offer mechanism: policy summary briefing. [Link](#).

⁶ Ibid.

⁷ Penfrat, Jan (2024) Delay, depress, destroy: How tech corporations subvert the EU's new digital laws. [Link](#).

⁸ CMA (2024) Digital markets competition regime guidance. [Link](#).

⁹ CMA (2020) Digital markets taskforce: a new pro-competition regime for digital markets. [Link](#).

range of media to citizens which upholds our democracy and allows for other benefits by offering key information sources on social issues. Our members' businesses must be able to compete in the digital market in order to be sustainable. Therefore, the PPA recommends that the CMA and Ofcom use this new regime to take a joined-up approach to their respective duties to promote digital competition and media plurality together.

Timeline

The PPA recognises that there are many stages in the digital markets regime before specialist publishers can benefit from market interventions. In order for our members to be able to plan for market changes, we ask that the CMA communicate the timeline for different stages as clearly as possible.

We also encourage the CMA to follow the approach adopted by European Commission to designated digital intermediaries that fail to comply with designations and interventions, or seek to frustrate findings with complex or perverse responses, by launching swift investigations, and levying thought focusing fine

Clear and flexible approach to engagement

The PPA is pleased that the CMA has stated its intention to invite stakeholders to offer views on SMS designation and CRs¹⁰. We believe that it is essential that the CMA allow our members to offer their perspectives on these issues that affect their businesses. However, we also believe that in order for the CMA to benefit from the insights of specialist publishers, it is important that they offer clarity and flexibility in their engagement approach. Publishers may not have the capacity to produce formal written responses to every proposed SMS designation and every proposed CR. Therefore, publishers should be offered less resource-intensive alternatives to formal written responses, such as private meetings.

Conclusion

Overall, the PPA believes that the CMA's proposed guidelines allow for an effective and impactful pro-competition regime for the digital market. However, we believe that in order for the regulator to be able to most effectively support specialist publishers in this regime, that: digital activities under SMS designation should account for emerging technologies such as SEG, there should be a streamlined route to the FOM where alternatives solutions seem unlikely, consumer interests should account for citizen issues, the timeline for enforcement stages should be clearly laid out, and the CMA must take a clear and flexible approach to engagement with publishers at different stages of enforcement. To the extent CMA would find it helpful to gain further insight into the

¹⁰ CMA (2024) Digital markets competition regime guidance. [Link](#).

issues and developments relevant to the sector from the perspective of PPA's members, PPA would be happy to facilitate this.