

Qualcomm Technologies
International Limited
Building 4 - Chiswick Business Park
566 Chiswick High Road
London
W4 5YE
www.qualcomm.com

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Qualcomm Technologies International non-confidential response to the CMA Consultation on the draft guidance for the new digital markets' competition regime

To Whom It May Concern.

Please find below Qualcomm Technologies International non-confidential response the CMA's draft guidance for the new digital markets' regime.

At your convenience, we would welcome the opportunity to meet with the team to discuss our response in more detail.

Kind regards,

Qualcomm Technologies International Inc.

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I. Introduction

Qualcomm Technologies International Ltd welcomes the opportunity to respond to the Competition and Markets Authority's (CMA) consultation on the draft guidance for the new digital markets' competition regime.

Qualcomm is the world's leading wireless technology innovator. We invest in inventing cellular standards, such as 4G, 5G and now 6G, and also continue to grow as one of the world's largest fabless semiconductor companies. Qualcomm's technology powers many of the world's best-known brands and products across mobile, audio, PC, wearables, Extended Reality (XR), Internet of Things (IoT) and automotive to name but a few. These products are primarily powered by Snapdragon which is Qualcomm's consumer facing brand. Snapdragon can be found in devices from Samsung, Google, HP, Lenovo, Microsoft, Meta, Bose, NOTHING and many more.

Our success, and that of our customers, is underpinned by significant investment in innovation to develop technologies and products that improve how we work, live, and ultimately thrive. In 2023, Qualcomm invested almost \$9 billion in R&D which accounts for approximately 25% of our annual revenue. In total, since our inception in 1985, we have spent over \$90 billion on R&D.

Our four sites in the UK (Belfast, Bristol, Cambridge, and Farnborough) have played an important part of that investment. Our sites in Belfast, Bristol, and Cambridge, which lead our voice, music, and wearables business, are responsible for developing much of the technology that underpins these products.

Qualcomm welcomes the CMA's draft guidance for a new digital markets competition regime. We strongly believe that an open and competitive digital market is essential for helping innovators reach businesses and consumers with great products that can transform the way we do business and live our lives for the better.

We therefore welcome the CMA's work to enable more choice for consumers and businesses by ensuring that ecosystems are open, such that companies can compete on a level playing field.

II. Response to specific questions

Strategic market status (SMS) including the CMA's proposed approach to (a) substantive SMS assessment and (b) SMS investigation procedure

(a) Substantive SMS Assessment

Qualcomm supports the proposed approach to designating firms with Strategic Market_Status (SMS) in relation to a specific digital activity. We recommend that as part of that process, the CMA develop its expertise and market awareness through regular engagement with the participants in the digital sector. Consistent with CMA's forward-looking approach, regular engagement with market participants can provide CMA with real-time updates as the markets evolve.

(b) SMS Investigation Procedures

Qualcomm supports the SMS investigation procedures detailed by the CMA in its draft guidance document.

When considering which firms to open SMS investigations into, we welcome the CMA's willingness to use its statutory powers to gather information while also considering its own previous research as well information from other regulators.

Leveraging specialist regulators expertise, such as Ofcom, will be helpful to understand the dynamics of the UK's digital market, including any issues that may affect competition. In addition, as part of the process for deciding to open an SMS investigation as well as during the investigation, the CMA should engage all relevant stakeholders to ensure that from the outset they are considering all areas of the digital activity as part of the investigation. These could include consumers, firms in the supply chain, and competitors and potential competitors of all sizes in the digital activity involved. We encourage the CMA to make the process as streamlined and confidential as possible while limiting the burdens on the consulted parties. This approach can help facilitate participation by stakeholders, especially SMEs.

Further, it is essential that the CMA conducts SMS investigations in a timely manner, including in assessing whether to open an SMS investigation. Delay in the investigation may delay the designation, and in turn, eventual compliance with the relevant conduct requirements (CRs) by the designated firms. We believe the CMA should build on its previous work streams and market investigations to ensure that it can efficiently open SMS investigations or augment the SMS investigations. An example is the CMA's 2021 market study into the mobile ecosystem. This study already resulted in a final report, including

detailed findings relating to several key factors of competition, such as data on market outcomes¹ and barriers to switching between mobile operating systems.²

Conduct requirements including the CMA's proposed (a) analytical approach to imposing (CRs) and (b) procedure for imposing CRs

(a) Analytical approach to imposing CRs

We welcome the diligent approach set out by the CMA to imposing conduct requirements (CR) in its guidance document. We believe that the regulator's ability to target CRs at the specific digital activities of SMS firms represents a significant opportunity for delivering better outcomes for consumers and businesses while maintaining proportionality.

We welcome the four principles laid out by the CMA to determine the most appropriate and effective CR for achieving its aims. However, we would encourage the CMA to be specific, where possible, in both the stated aim of the CR and the CR. As the EU's Digital Markets Act and the subsequent compliance investigations have shown, more specific guidance both help firms comply with requirements and help the regulatory assess how well they do so. At the same time, when CMA decides to impose higher-level requirements, it is essential that CMA also design and implement measures to prevent circumvention of the requirements.

(b) Procedure for imposing CRs

We also welcome the CMA's plan for consultation on CRs, and where appropriate, conducting the CR consultation simultaneously with the SMS designation consultation. Such engagement will be beneficial for considering the proportionality of any CRs on SMS firms, including any potential unintended consequences or wider effects on consumers and businesses.

While we believe that flexibility is important to ensure the effectiveness of CMA's investigation and imposition of CRs, as with the SMS designation investigation, the imposition and implementation of CRs should also be done in a timely manner. Given the fast-moving nature of digital markets, delays in imposing CRs may lead to irreversible harm. By taking a flexible and timely approach, the CMA can ensure that UK consumers and businesses are not left behind neighbouring jurisdictions who have been benefiting from their own timely digital markets regime.

https://assets.publishing.service.gov.uk/media/62a22d5bd3bf7f036750b0d8/Appendix D 002 .pdf.

¹ Competition & Markets Authority, CMA's market study into mobile ecosystems, Appendix B: market outcomes (6 Oct., 2022), https://assets.publishing.service.gov.uk/media/62a20facd3bf7f036ddfe89e/Appendix B - Market outcomes.pdf.

² Competition & Markets Authority, CMA's market study into mobile ecosystems, Appendix D: barriers to switching between mobile operating systems (6 Oct., 2022),

Pro-competition interventions including the CMA's proposed (a) analytical approach to assessing whether there is an adverse effect on competition, (b) analytical approach to designing pro-competitive interventions (PCIs) and (c) procedure for PCI investigations

(a) Analytical approach to designing PCIs

We welcome the CMA's proposed clear approach to identifying appropriate pro-competitive interventions (PCIs). Once again, when considering a PCI or pro-competitive order (PCO), it is essential that the regulator engages the wider ecosystem to ensure that any intervention (structural or behavioural) will achieve its intended goal. Engaging the wider ecosystem will enable the CMA to design strategic interventions that are grounded in an understanding of the market and technology to help address the identified adverse effect on competition (AEC).

As with designing CRs, we encourage the CMA to impose specific obligations where possible, especially with behavioural remedies, and at the same time implement measures to prevent circumvention of higher-level requirements.

We encourage the CMA to exercise its power to coordinate with other regulators, who may have more appropriate expertise_and powers to intervene. Through the Digital Regulation Cooperation Forum, we would encourage the CMA to work closely with sector specific regulators such as Ofcom, the Information Commissioner's Office, and the Financial Conduct Authority to leverage their expertise.

Monitoring including the CMA's proposed approach to (a) monitoring compliance, (b) monitoring effectiveness and (c) monitoring whether to impose, vary or revoke competition requirements.

(a) Monitoring and compliance

We welcome the CMA's plan to continue to monitor to market to see if future SMS investigations or CRs are required to tackle emerging issues.

In all of CMA's monitoring efforts, we again would like to highlight the importance of the CMA taking a proactive approach to engaging the wider ecosystem to ensure a full breadth of views are being heard. We believe this will be helpful for CMA's forward-looking approach in SMS analysis and CR design and implementation, as well as ensuring compliance with CRs and PCIs.

Enforcement of competition requirements including the CMA's proposed approach to (a) breaches of competition requirements and (b) enforcement of conduct requirements

(a) Breaches of competition requirements

We believe CMA's proposed approach to investigating a potential breach of competition requirements gives ample opportunity for the SMS firm to make its own representations to the CMA. At the same time, we recommend that CMA ensure that it seek feedback from all relevant stakeholders in the ecosystem in its investigation, recognizing that a breach by an SMS firm may affect a large number of them.