

Competition and Markets Authority's Market investigation into mobile browsers and cloud gaming: provisional findings and decision.

Response from Mobile UK

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About Mobile UK

1. Mobile UK is the trade association for the UK's Mobile Network Operators (MNO) – EE, Virgin MediaO2, Three and Vodafone. Our goal is to realise the power of mobile to improve the lives of our customers and the prosperity of the UK.
2. As mobile increasingly becomes the device of choice for running daily life both at home and at work, customers want improved coverage and greater capacity. Mobile UK's role is to identify the barriers to progress and work with all relevant parties to bring about change, be they Government, regulators, industry, consumers, or citizens more generally.

Introduction

3. Mobile UK welcomes the opportunity to respond to the Competition and Markets Authority's ("CMA") provisional findings and proposed decision on its market investigation into mobile browsers and cloud gaming.
4. The publication of these findings is timely. While the CMA's work is not political, this report comes at a time when the Government is formulating its industrial strategy, its infrastructure strategy and is looking to deliver on its five missions, with a particular emphasis on growth, digital inclusion and opportunities for all.
5. The Government has also signalled its intention to carry out a mobile market review in 2025, with a view to ensuring that mobile operators have the investment capacity to build the mobile infrastructure the country needs and to bring new services to market.
6. In this context, the CMA's work is absolutely at the heart of the matter.
7. It will be crucial to the future development of the mobile ecosystem that there are no bottlenecks and that Apple and Google are not able to exercise market power over critical elements of the value chain arising from their control over mobile operating systems.
8. To give one example, a core feature of 5G is 'network slicing'. This feature is at the nascent stage of its market development, but it offers many opportunities for MNOs to develop tailored services and applications alongside basic internet connectivity.
9. But, at the technical level, we are very concerned that Apple/Google, through control over mobile operating systems, could impose standards and terms that would have a detrimental effect on operators' ability to develop products and services based on network slicing.

10. As such, Mobile UK agrees with the investigation's broad conclusion that there are a number of features in the markets for mobile browsers, browser engines and in-app browsing technology which restrict competition. As expanded on below, we are particularly concerned with the control at the level of operating systems and how this can impact on the wider mobile value chain. We believe that the CMA – and subsequently the DMU – must bear this perspective in mind when progressing its work.

Response to provisional conclusions

11. Mobile UK agrees with the CMA's recommendation that the competition concerns identified are best addressed under the DMCC, which would involve the DMU designating Strategic Market Status (SMS) on relevant activities of Apple and Google, where appropriate, and then designing remedies that effectively address the concerns identified in the provisional conclusions. But we believe it is warranted for SMS to be designated across mobile operating systems as opposed to limited to the parts of those systems that constrain the supply of mobile browsers and engines. This would allow addressing all concerns which stem from the gatekeepers' control over the mobile ecosystem.
12. The resulting regime should promote competition both across segments of the value chain (between mobile browser providers etc.) and up and down the value chain on an open and non-discriminatory basis, so that the overall ecosystem enjoys the benefits of competition throughout. Points of particular note are:
- **Quality of Service:** Parties in the value chain must be able to manage the quality of their service. This means ensuring that access to the operating system is available and that permissions (technical or contractual) are given without friction, delay or cost.
 - **Collaboration in the setting of standards:** The ecosystem must co-operate to set and to follow fair and reasonable standards. Apple and Google have a particular role in facilitating the interoperability of standards across the ecosystem e.g. 3GPP for mobile connectivity and chipset manufacturers and App developers.
 - **Open access and non-discrimination:** In app browsers, platform services, OEM devices, CDNs all now have a role in determining a users' experience of "internet access" and the performance of services. Following the principles of net neutrality imposed on the ISPs, rules on open access and non-discrimination should be applied broadly across the ecosystem to ensure a consistent approach is applied.
 - **Consumer choice and fair competition:** Consumer choice and market competition for services should be facilitated by interoperability to enable owned and rival services to compete equivalently and fairly. For example, services should not be embedded and made auto default options (eg. satellite¹) or sold in locations on the platform which do not have equal access by rival service providers. Where multiple service choices in the market

¹ Enders Analysis: **Apple invests and Starlink gets the green light** "The first edition of Apple's new chip, slated to launch next year, will apparently better support on-device features for connecting to satellite networks, with the third generation set for 2027 promising to deliver 'support for next-generation satellite networks', clearly tied into the most recent investment in Globalstar."

exist (or could be developed), the consumer should be free to select the one of their choosing, without interference or preferencing.

- **Platform security and privacy:** Mobile operators now have and must continue to have access to the data required to carry out their services. This becomes even more important as 5G network slicing is deployed, so as to be able to deliver the connectivity appropriate to a user's current activity and service level. With TSR, UK MNOs operate to some of the highest security standards associated with public communication networks. Privacy and security concerns cannot be used by the browser providers to justify discriminatory practices that limit innovation, competition and service development within wider mobile ecosystem. A robust regulatory approach is needed to address these matters.