



BT Group plc
1 Braham Street,
London E1 8EE,
United Kingdom
bt.com

13 December 2024

BT Group's Response to the CMA's Provisional Decision Report on Mobile Browsers and Cloud Gaming

1. We agree with the CMA panel recommendation that the CMA should start assessing whether firms have SMS in the activities set out in the CMA's provisional conclusions in its Enterprise Act investigation, as soon as possible¹.
2. We agree that the potential adverse effects on competition identified are better addressed under forward-looking requirements to guide the conduct of firms designated with SMS. This will better allow the CMA to develop effective and comprehensive means of addressing the competition concerns it has identified².
3. The CMA will need to carefully consider the potential for circumvention of its remedies to ensure that all mechanisms to technically or contractually restrict competition are included in the scope of the SMS findings.
4. We are particularly concerned that mobile browsers and browser operating systems are unlikely to be the only ways in which firms that control mobile eco-systems can restrict or set unreasonable terms, including technical terms or price (including revenue share or other partnership terms), for access to mobile connectivity. This is likely to especially be the case where bundled with applications and services offered via mobile handsets.
5. We note the CMA's 2022 Market Study Final Report into Mobile Ecosystems concludes that firms have control of key mobile ecosystem gateways and finds harm to consumers from weak competition³ in the following areas:

¹ Paragraph 50 of the Summary Section of the Mobile Browsers and Cloud Gaming Provisional Decision Report

² Paragraphs 11.51 – 11.74 in the Mobile Browsers and Cloud Gaming Provisional Decision Report

³ Section 7 of the Mobile Ecosystems Market Study Final Report

- a. “Apple and Google have substantial and entrenched market power in mobile operating systems as there is limited effective competition between the two and rivals face significant barriers to entry and expansion”⁴; and that
 - b. “Apple and Google’s control over their respective mobile ecosystems allows them to set the ‘rules of the game’ for app developers, who rely on their app stores to reach customers and have little or no ability to negotiate over terms”⁵
6. When considering where harms could occur from the conduct of firms designated with SMS, we urge the CMA to consider linkages between different digital activities within the wider market, i.e. links between the CMA’s work on mobile browsers/browser operating systems and other significant commercial activities occurring in the wider mobile ecosystem dominated by firms that may have SMS. We note that the CMA’s draft Digital Markets Competition Regime Guidance states at paragraph 2.10 that:
 - a. “In identifying a digital activity and considering which of the firm’s products it may comprise, the CMA will typically look at how these products are offered and consumed. For example, the CMA may consider how the potential SMS firm structures itself and its business model, how businesses and consumers use and access its products and any *interlinkages* among them”
7. We also encourage the CMA to consider the risk of disintermediation in the telecoms industry with respect to eSIMs, which is an additional area where handset providers could exercise their strong market position.
8. We consider that firms’ market dominance over the areas highlighted in the 2022 Market Study Final Report, also gives rise to significant risk to consumer choice and MNOs’ investment incentives in 5G network slicing, as explained below.
9. In an emerging market such as 5G network slicing, it is important that consumers and content providers can choose freely and easily between services. There is also a risk that, as a result of this market power and control, economic growth opportunities achieved through MNO innovation and investment will be lost.
10. Purchasing and making use of a 5G network slice is likely to require access to different parts of a mobile eco-system than the browser or browser engine alone to fully function as intended by the MNO.

⁴ Section 3, page 28 of the Mobile Ecosystems Market Study Final Report

⁵ Section 6, page 181 of the Mobile Ecosystems Market Study Final Report

11. There is a significant risk that firms' control over these key mobile ecosystem gateways means they will act as gatekeepers to 5G network slicing, reducing the scope for direct consumer choice, in turn reducing the value of slicing and discouraging investment.
12. This could occur through a variety of mechanisms, including:
 - a. dominant firms defining app groups with little regard for MNOs and app developers;
 - b. dominant firms' self-preference through bundling or tying; or
 - c. dominant firms imposing exploitative terms in partnership agreements.
13. We have attached a presentation on 5G slicing we have shared confidentially with Ofcom on this and would welcome the opportunity to discuss it with the CMA.