

MOBILE BROWSERS AND CLOUD GAMING MARKET INVESTIGATION

Summary of Provisional Decision Report response hearing with Apple held on 19 December 2024 from 2pm to 5:30pm

Introduction

1. The CMA explained the purpose of the hearing and recent updates to the market investigation. The CMA also noted it had received Apple's response to the Provisional Decision Report (PDR) on 17 December 2024.

Apple's opening remarks

2. Apple reiterated its position is primarily that of a device manufacturer. It explained that its main priorities are privacy, security and user experience. Apple submitted that the PDR has not sufficiently considered these key factors of Apple's business model in the analysis and that the beneficiaries of the PDR's recommendations would be companies who have commoditised user data and wish to see privacy protections eroded (and on whose submissions the PDR has relied).
3. Apple explained its approach is designed to minimise the need for users to make decisions when not in a good position to do so while retaining the ability to make choices when it does suit them. It stated that the proposed remedies referred to in the PDR (which the Inquiry Group is proposing not to take forward in this market investigation) would limit differentiation between iOS and Android, thus reducing competition between Apple's and Google's ecosystems.
4. Apple welcomed the provisional conclusion in the PDR that there is no Adverse Effect on Competition (AEC) in cloud gaming.

The Information Services Agreement between Apple and Google

5. Apple stated that the PDR misunderstood the purpose and the terms of the Information Services Agreement (ISA) between Apple and Google and that the PDR does not make out that harm to competition at the mobile browser level has occurred.
6. Apple stated that the ISA is aimed at promoting competition on the merits in browsers on iOS devices. Apple stated that the [🔗]. Apple stated the ISA ensures users benefit from best-in-class search and that it creates a level playing field between Safari and Chrome on iOS. Apple stated this ensures it retains the ability to continue innovating and competing at the browser level.
7. Apple stated that there is one provision at the beginning of the 2016 amendment (we understand this to be clause 1(a) of amendment 8 to the ISA) that specifically refers to retaining Apple's latitude to continue innovating on its products where Google is set as

default, including Safari. Apple stated that this makes clear that Apple has not only the incentive but also the ability to continue innovating and competing at the browser level with browsers like Chrome.

8. Apple also stated that it only earns revenue from the Chrome revenue share with respect to qualifying searches on the Chrome browser on iOS devices. It does not earn revenue from iOS users merely using the Chrome browser on iOS.
9. Apple stated that it has significant concerns with any remedy that removes the Chrome revenue share from the ISA (which is considered in the PDR but which the Inquiry Group is not proposing to take forward in this market investigation). In particular, removing the Chrome revenue share would be an unwarranted intrusion on Apple's ability to monetise its platform, and could result in unintended consequences given the potential interaction between the Chrome revenue share agreement and the remainder of the ISA. Apple also highlighted that extending the scope of any such remedy beyond the UK would give rise to the risk that the CMA pre-empts regulatory action in jurisdictions outside the UK contrary to principles of international comity.

The requirement for browsers operating on iOS devices to use Apple's WebKit browser engine, and browser access to functionalities

10. Apple endorsed the recognition in the PDR of WebKit's benefits for users and developers, but maintained its concern that the PDR's analysis was unbalanced and incomplete. Apple stated that a reassessment of the evidence would show no AECs arise in mobile browsing on iOS.
11. Apple stated that it considers the PDR applied the wrong test to define a well-functioning market in mobile browsing on iOS, in particular with respect to WebKit's integration on iOS. Apple disagreed with the suggestion that browser developers could not effectively compete without a diverse range of browser engines, pointing to the roughly 100 different browsers on the UK App Store, with varying features and unique selling points. Apple noted that, on Android, the Blink browser engine has a 97 percent share of supply, which demonstrates that there is not meaningful demand for alternative browser engines. Apple also noted that there are limited differences in how browser vendors market their browsers on iOS and on Android. Apple also pointed out that the PDR had paid insufficient attention to how Chrome built and maintained its dominant position in ways that have nothing to do with browser engine choice.
12. Apple explained that opening access to alternative browser engines may result in unintended consequences, particularly on security, privacy and performance. Apple stated that the WebKit restriction gives users confidence that they can safely try a variety of browsers, which creates benefits for smaller browser developers. Apple also reiterated that fragmentation of browser engines is a significant security risk with browsers potentially using outdated and insecure browser engines, noting that it had updated its previous "patch gap" analysis for [x] browsers with downloads in excess of [x] million and found that [x] of them were using an out-of-date browser engine.
13. Apple noted that iOS users demonstrated confidence engaging with alternative applications in other contexts. Apple explained that users have access to, and make

use of, a variety of messaging, music and navigation applications, for example. Apple stated it did not see a meaningful difference between the ability of users to choose in these circumstances to try alternative applications and their ability to choose to try alternative browser applications.

14. Apple also stated that a view of iOS as a closed system and Android as an open system is inaccurate, as both platforms have a mix of open and closed elements. With respect to iOS, WebKit's underlying source code is open to all third parties and it receives significant contributions from third party developers.
15. In regard to Home Screen Web Apps (**HSWAs**) also known as progressive web apps, Apple noted that the PDR refers to outdated evidence and Apple has more recently extended functionalities to HSWAs. Apple also stated that HSWAs create security risks as, unlike native apps, they do not go through an app review process. However, as HSWAs look very similar to native apps, users may assume they have been through some form of review and this would therefore leave users more susceptible to scams or malicious behaviour.
16. On browser access to functionalities, Apple stated that for the vast majority of WebKit features Apple has offered access on equal terms. Apple stated the PDR focused on a relatively small number of features where Safari has greater access than third parties (contrasting the 31 features discussed in the PDR with the approximately 450 features which it had released since 2022). Apple stated that the few features it is not yet able to offer to developers on secure terms are not competitively significant.

In-app browsers

17. Apple stated it has concerns that the PDR underestimated the security and privacy risks that in-app browsing (**IAB**) capabilities pose, and that implementing the potential remedies (which are mentioned in the PDR but proposed not to be taken forward in this market investigation) would cause significant harm to iOS users.
18. Apple stated that it has heard little interest from app developers in alternative browser engines and that third parties are content with the currently available IAB implementations offered by Apple.
19. Apple stated that it disagrees with the PDR's assessment that Apple has a policy ban on 'remote tab' IABs. This is because, rather than not permitting remote tab IABs, iOS is simply designed differently from Android. Apple explained that it has a different technical solution to allow in-app browsing ; one which addresses security and privacy threats, including those posed by remote tab IABs, that would expose communications between the native app and the browser app to potential abuse or exploitation. Apple also stated that it does not see demand from developers for remote tab IABs.
20. Apple stated that, if bundled engine IABs were allowed on iOS, there would be no technical means for Apple to provide the baseline privacy and security protections that it currently does. Apple would lose the ability to react to potential threats arising from in-app browsing and would no longer be able to proactively take steps to protect users from identified abuse. Instead, Apple would be reliant on implementing policies to obligate IABs designed by other third-parties to meet its security and privacy

requirements but would have no technical means to provide the baseline privacy and security protections that it currently does.

21. Apple referred to the Department for Science, Innovation and Technology's (DSIT) Code of Practice for Software Vendors. Apple noted a survey conducted by DSIT in relation to this code and stated this demonstrated that only 16 percent of respondent developers were aware of the code, that more than half did not follow the practices set out in the code and that roughly two-thirds of respondents had an app rejected from an app marketplace on security or privacy grounds. Apple submitted that these results show that developers are generally not in a position to self-police the app technology for which they are responsible. Apple submitted that adding to developers' responsibilities, particularly in a context where browser engines are a target for attack, risked creating platform vulnerabilities.
22. Apple submitted that the structure of iOS has always allowed developers to embed Software Development Kits (SDKs) to fulfil various use cases, and that this could include in-app browsing. Apple stated that developers or vendors that are experienced in browser technology could develop an SDK and market it to non-browser app developers, which could in turn embed the SDK into their app. Apple noted that experienced browser vendors could develop such an SDK and help deliver an IAB experience that resembles their browser app – such browser-based SDK would be a separate product to the browser app but the browser vendor would be able to gather information from it. Apple also said it could not identify any stakeholders currently using a custom SDK option.

Choice architecture and remedies which the PDR does not propose to take forward

23. Apple reiterated that it does not agree with the CMA's finding of an AEC in mobile browsing on iOS and therefore considers that no remedies are required.
24. With respect to choice architecture, Apple outlined recent changes it made to the default apps settings in the iOS 18.2 release. Apple has implemented a new user journey to change the default browser app in iOS Settings, adding a 'Default Apps' menu in the settings page. This has created one central place to change the default app for a number of functions, including the mobile browser. Apple explained that the process of changing the default browser app is now even easier than before. Apple therefore noted that it does not consider there is a need for further action to be taken with respect to choice architecture on iOS.
25. Apple stated that iOS 18.2 had also introduced support for background upload and download of files from web browsers. The update also implemented support to export data from Safari to other browsers, and support for Safari to import data from other browsers that support it.
26. With respect to remedy options on providing feature access, Apple submitted it would not be appropriate to mandate that access to future WebKit or that iOS features in use by Safari be provided free of charge. Apple noted that developing features is a time- and resource-intensive process, and that there is a significant ongoing cost of maintaining those features once developed. It would be disproportionate to expect that

Apple cannot recoup a reasonable amount of those expenses. Apple stated that to do so would have a chilling impact on Apple's incentives to innovate and would lead to free-riding and underinvestment on the part of third parties, who would simply rely on Apple to do their work for them.

27. Apple reiterated that any remedy should be limited to the UK. Apple explained practical reasons for this, including that apps and services are often tailored to different geographic regulatory requirements. Apple submitted that it would be disproportionately burdensome to require fundamental changes to the architecture of iOS on a worldwide basis to address UK-specific concerns. Apple stated many other jurisdictions worldwide are considering their own forms of digital regulation and if the CMA requires [Apple] to make changes that apply in those other parts of the world, then there is a non-trivial risk that this could contradict what other jurisdictions have determined, placing [Apple] in an impossible compliance position.
28. Apple endorsed the recognition in the PDR that Apple is best placed to determine how the required level of access to the iOS platform that can be granted to third parties is managed. Apple submitted that it should be entitled to set out minimum security and privacy requirements for any introduction of third-party browser engines. Apple also reiterated that it should be permitted to take the time necessary for testing and software development.