

Open Cloud Coalition Response to the CMA's Provisional Decision on the Cloud Services Market

Introduction

The Open Cloud Coalition (OCC) welcomes the CMA's provisional decision on the cloud services market and commends its thorough assessment of the competitive landscape. The UK has a golden opportunity to unlock greater innovation, investment, and economic growth by ensuring a truly competitive cloud market. A thriving, diverse cloud ecosystem will not only lower costs for businesses and the public sector but also fuel job creation, attract global investment, and establish the UK as a leader in digital infrastructure.

The OCC represents a broad coalition of cloud providers and users committed to fostering an open, dynamic, and competitive cloud market. Our 18 members - including Adarga, Centerprise International, Civo, Clairo AI, ControlPlane, Dark Matter, DataVita, DTP Group, Gigas, Google Cloud, National Cloud, Nscale, Prolinx, Pulsant, Room 101, and Smart DCC - support thousands of jobs and contribute significantly to the UK's digital economy.

We strongly support the CMA's recognition of harmful market concentration, restrictive software licensing practices, and lock-in mechanisms that limit choice and innovation. While we agree that the Digital Markets Unit (DMU) offers a flexible and enduring regulatory solution, swift action is needed to prevent further harm to businesses and taxpayers. We strongly urge the CMA to expedite the designation process and explore interim measures to ensure that the UK's cloud market remains open, competitive, and primed for growth while the DMU process is underway.

By taking decisive action, the CMA can help create a cloud environment where businesses of all sizes can compete and innovate, unlocking the full potential of the UK's digital economy.

Key concerns and recommendations

1. Concerns over the DMU referral timeline

While we agree that the DMU's Strategic Market Status (SMS) designation process is a necessary step, it is not a sufficient short-term solution given the timeframes involved. Deferring intervention entirely to the DMU risks allowing anti-competitive practices to become further entrenched, increasing costs to UK businesses and taxpayers.

The DMU designation process will take at least nine months from initiation, with conduct requirements unlikely to take effect before late 2025 or early 2026 at the earliest. If cloud services are not included in the next designation round, this could push intervention later into 2026-2027. The CMA's preliminary findings recognise the risk that cloud providers with significant market power and share will use that power to circumvent remedies and distort the ability of regulators to impose meaningful remedies.

The current market structure is already inflating costs and distorting competition, particularly in public sector procurement and SME cloud adoption. [Recent estimates](#) suggest distortions in software licensing alone could cost UK taxpayers over £300 million by the end of the current Parliament if not addressed.

The industry requires clear guidance from the CMA on interim expectations, particularly for public procurement practices to ensure a level playing field while structural remedies are being considered.

Recommendation: The CMA should work to accelerate the DMU process and explore interim measures or clear guidance to ensure public sector procurement authorities actively consider the anti-competitive impact of restrictive software licensing and excessive egress fees when awarding contracts.

2. The need for immediate action on licensing practices

The OCC welcomes the CMA's provisional finding that Microsoft's restrictive software licensing practices harm competition in the cloud services market. The report correctly identifies Microsoft's ability and incentive to foreclose competition through discriminatory licensing terms, price disparities, and product bundling. However, while the CMA acknowledges the competitive harm caused by these practices, it does not go far enough in outlining an effective remedy to address them in a timely manner.

Given the CMA's own findings that Microsoft's conduct is actively impacting competition, it is important to ensure that regulatory intervention is not delayed in a way that allows these effects to become further entrenched. Past regulatory cases have shown that prolonged investigations can result in competitive harm becoming irreversible before remedies are implemented.

For example, the European Commission (EC) launched an antitrust investigation into Microsoft following a complaint from Slack in 2020. While the EC ultimately found that Microsoft's conduct had restricted competition, the three-year process allowed Microsoft to further strengthen its position in the market. By the time formal action was considered, Teams had already become the dominant product, making it almost impossible to take meaningful action to restore competition.

A similar risk exists in the cloud market if action is deferred until the completion of the DMU process. Without interim steps, Microsoft can continue to expand its market position in ways that would reduce the effectiveness of future remedies, and customers will continue to face higher costs, less choice, and vendor lock-in while regulatory intervention is delayed.

Recommendation: While the CMA cannot impose conduct requirements until an SMS designation is in place, it can take steps to ensure that regulatory intervention is as swift and effective as possible. Proactive measures are needed to prevent further entrenchment of restrictive licensing practices while the DMU process is ongoing. Specifically, the CMA should:

1. Advance its assessment of potential conduct requirements alongside the SMS investigation to ensure remedies can be implemented as soon as designation is confirmed. Delaying this work would unnecessarily extend the period in which anti-competitive licensing practices remain unchecked, which would benefit dominant providers at the expense of economic growth, challengers, customers, and public sector institutions.
2. Issue guidance to public sector procurement bodies, advising them to factor in the competitive impact of restrictive licensing practices when evaluating cloud contracts.
3. Explore whether Microsoft's current licensing practices meet the threshold for enforcement action under existing competition law as an interim measure while the DMU process progresses.

3. Addressing market foreclosure as a result of committed spend agreements

The OCC believes that the DMU designation for the two dominant cloud providers should be expanded to cover Committed Spend Agreements (CSAs). These agreements play a significant role in shaping market dynamics, and their long-term impact on competition must be closely monitored. Ensuring that CSAs fall within the DMU's oversight would allow for appropriate conduct requirements or pro-competitive interventions if they are found to distort competition.

Smaller cloud providers cannot realistically compete when customers are locked into multi-year contracts with the dominant players. These agreements can foreclose competition at the procurement stage, making it prohibitively expensive for businesses to move workloads elsewhere. The CMA's assumption that businesses can simply choose to switch providers ignores real-world technical, financial, and contractual barriers.

Public sector procurement further reinforces market concentration. Frameworks like G-Cloud and Cloud Compute 2 have seen 85% of spending captured by AWS and Microsoft, demonstrating how these agreements entrench the status quo and limit competition.

While the CMA has not identified current harm from CSAs, it concedes that these agreements could become anti-competitive as the market matures. This makes it essential that CSAs remain under close scrutiny in any future DMU designation. The DMU's ongoing oversight powers would allow for conduct requirements or pro-competitive interventions if CSAs begin distorting competition. Without proactive oversight, CSAs risk becoming a permanent structural barrier to market entry.

Recommendation: The CMA should re-evaluate its conclusion on CSAs in its final decision, fully accounting for their long-term competitive impact and ensuring these findings inform the DMU process. The proposed remedies in the CMA's working papers – such as limiting discount periods and capping maximum discount levels for the dominant providers – were both sensible and proportionate. At a minimum, the CMA should ensure greater transparency so that businesses clearly understand the lock-in risks of these agreements, while also having full visibility of alternative providers.

4. Reassessing the competitive impact of cloud credits

The CMA's assessment downplays the competitive harm caused by cloud credits by focusing on their short-term benefits to start-ups while failing to consider their long-term market impact. The primary issue is not just the existence of cloud credits but how they function as an acquisition tool to attract early-stage businesses before transitioning them into CSAs that make switching providers prohibitively expensive.

While start-ups may initially benefit from free credits, the reality is that these credits serve as a hook to draw customers into an ecosystem. Once embedded – through proprietary tools, APIs, and preferential integrations – switching becomes difficult, especially when combined with other discounting mechanisms like CSAs.

The CMA acknowledges that smaller cloud providers cannot match the volume of cloud credits offered by dominant providers, which is precisely why these incentives distort competition.

While the Jigsaw research suggests that start-ups “plan” to switch providers, this does not equate to genuine competition. In practice, many businesses move between dominant providers not because of competitive choice, but because they are incentivised by successive rounds of cloud credits. This creates an illusion of switching, while in reality, it keeps businesses locked into the dominant provider ecosystem and systematically excludes SME cloud providers from gaining early-stage customers.

While the CMA argues that cloud credits are smaller in value than other discounts, it overlooks their strategic importance. Unlike other discounting schemes, cloud credits primarily target start-ups and scale-ups – the future high-growth businesses of the UK economy. By capturing them early, dominant providers entrench their market position for the long term.

This has a direct chilling effect on smaller cloud providers who struggle to attract these key customers, hindering their ability to scale and compete.

Recommendation: The CMA should reconsider its assessment of cloud credits in its final decision, focusing on their long-term competitive impact rather than their short-term benefits. Specifically:

1. Investigate real-world switching behaviour by tracking migration behaviours after cloud credit expiry.
2. Ensure transparency so that businesses using cloud credits fully understand the potential long-term costs and switching barriers before committing to a provider.

3. Assess cumulative market effects of cloud credits alongside committed spend agreements, considering how these tools interact to create structural barriers to competition.
4. Consider proportionate remedies to level the playing field, such as caps on cloud credit values relative to the customer's expected spend or requirements for easier migration pathways post-credit expiry.

5. Taking swift action on egress fees and technical barriers

We welcome the CMA's recognition that egress fees and technical lock-in create barriers to competition, but the lack of immediate remedies is a missed opportunity to prevent further harm. The CMA's provisional decision correctly highlights:

- High egress fees make it financially punitive for customers to migrate workloads away from dominant providers.
- Technical barriers (such as lack of standardisation and proprietary APIs) limit portability across providers.
- Dependency on certain ecosystems creates long-term lock-in effects that prevent effective competition.

Recommendation: While awaiting DMU intervention, the CMA should provide clear guidelines discouraging the use of excessive egress fees in public sector contracts and support the development of interoperability standards to facilitate workload migration between cloud providers.

6. The need for clearer UK government action in public procurement

The CMA acknowledges that AWS and Microsoft dominate public sector cloud contracts, with some evidence suggesting their combined share is even higher in this segment than in the overall market. Despite this, the CMA does not conclude that procurement practices are harming competition, yet it acknowledges inconsistencies in policy implementation. However, the fact that two providers account for such a significant proportion of public sector cloud spend suggests that procurement policies may not be as competitive or open as intended.

While UK government policies like the "Cloud First" policy aim to encourage competition, there is inconsistency in how these are applied across different public sector bodies. The CMA's own findings show that some policies explicitly specify the use of hyperscalers. This contradicts the assertion that procurement frameworks are open and competitive.

The CMA proposes that the Cabinet Office and Crown Commercial Service (CCS) improve data collection on cloud procurement. However, without a clear framework to assess whether procurement policies are exacerbating market concentration, this risks becoming a passive measure rather than an active solution.

The experience of our members shows that procurement processes have significantly reinforced market dominance through:

- Policy biases that favour incumbent providers, limiting opportunities for challengers.
- Single-source contracting mechanisms that disproportionately benefit AWS and Microsoft, restricting competition.
- Lack of competitive re-evaluation of cloud contracts, effectively entrenching long-term monopolisation.
- Cumbersome accreditation and assurance processes that create significant barriers for SMEs, as dominant providers have greater capacity and are often prioritised in procurement frameworks.

Recommendation: While awaiting DMU intervention, the CMA should work with the Cabinet Office and the Department for Science, Innovation and Technology (DSIT) to establish pro-competitive procurement principles that:

1. Mandate pricing parity for software licensing across all cloud providers.
2. Ensure fair exit terms, including prohibitions on excessive egress fees for government workloads.
3. Address procurement design features that implicitly favour dominant providers.
4. Encourage procurement frameworks that support multi-cloud and hybrid-cloud strategies.
5. Commit to a formal review mechanism to evaluate whether cloud procurement policies are enabling or hindering competition.

Conclusion

The OCC welcomes the CMA's provisional decision as a vital step towards creating a more competitive and dynamic UK cloud market. The CMA's recognition of market concentration, restrictive licensing, and technical and commercial lock-in highlights the need for urgent reform.

By taking bold action now, the CMA can help unlock a thriving cloud ecosystem that drives innovation, attracts investment, and supports growth across the digital economy. A truly competitive market will lower costs for businesses, empower a wider range of providers, and foster a new wave of technological advancement. Ensuring fair competition will encourage new entrants, create high-value jobs, and establish the UK as a global leader in cloud services.

To seize this opportunity, the CMA's final decision should:

- Accelerate action on licensing practices, egress fees, and technical barriers to create an open and level playing field, ensuring that remedies through the DMU process can be implemented as swiftly as possible.
- Reassess its conclusions on committed spend agreements and cloud credits, recognising their long-term impact on competition and market structure.
- Strengthen oversight of public procurement to prevent further market distortion and ensure that government spending supports a competitive, innovative cloud ecosystem.

A decisive approach will not only protect businesses from escalating costs but will also unlock investment in challenger providers, ensuring the UK cloud market remains a hub for innovation and technological leadership. The OCC urges the CMA to seize this moment to drive long-term growth, support competition, and shape a fairer, more dynamic digital future.