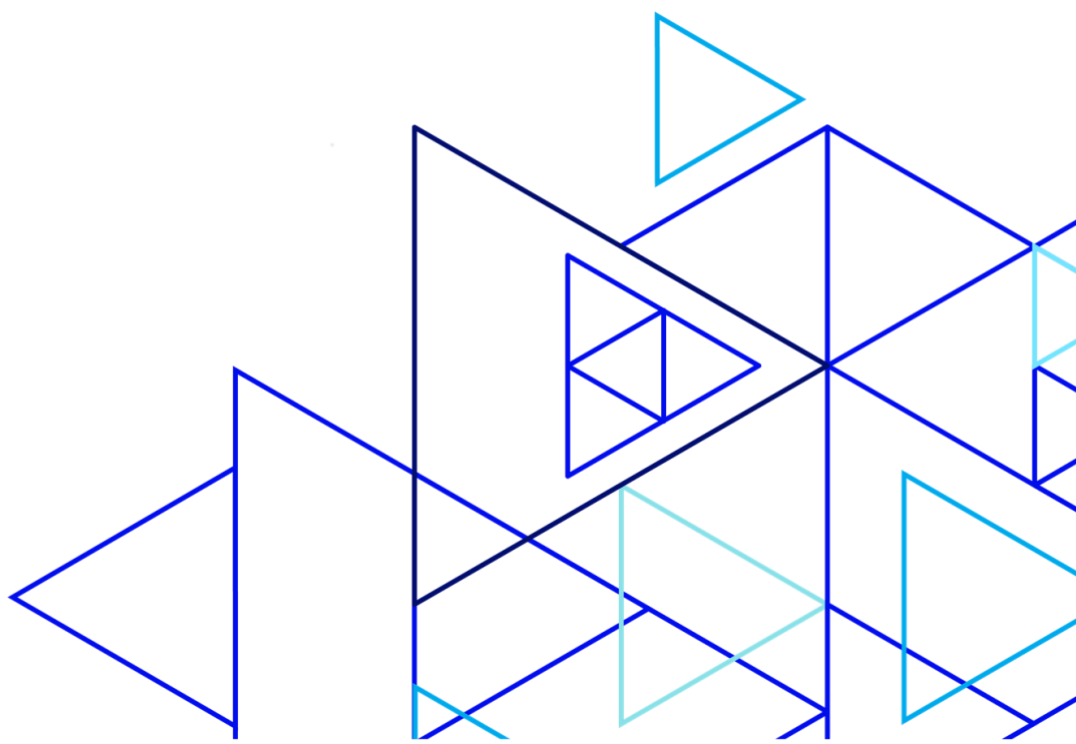


Response to the CMA Cloud Services market investigation's provisional decision report



OVHcloud welcomes the provisional decision published by the Competition & Markets Authority (CMA) on January 28th. The provisional findings are a positive step in acknowledging the existence of harmful practices within the market and offering ways to tackle these.

Cloud services are at the heart of our economies' transformation and a key driver to support the growth of businesses, regardless of their size. **The CMA has a unique opportunity to support both UK businesses and the cloud sector's growth by taking swift actions to restore users' ability to leverage the benefits of cloud services at a fair price, based on their specific needs, and alternative provider's ability to compete and scale in the market.** At a time when the cloud market, particularly in the UK, has never been so concentrated, the CMA can establish itself as a leader in tackling harmful behaviors from Hyperscalers, paving the way for other authorities to follow its lead and restore users' freedom of choice.

As the Authority consults on its provisional findings, OVHcloud would like to offer its comments which are centered around three priorities:

1. Ensure all harmful dynamics are tackled: this includes, in addition to the unfair practices correctly identified by CMA, the need to consider adverse effect that cloud credits and committed spend agreements have on competitive dynamics.
2. Enhance vigilance over emerging practices in the AI market: some harmful practices previously observed in the cloud market are now replicated in the AI market, leading to risks of concentration around cloud market leaders.
3. Need for rapid and concrete measures: while the designation of certain market leaders under the new DMCC regime is a positive proposal, investigations in that sense should be launched as soon as possible to avoid any additional delay to tackle anticompetitive within the cloud market.

I. OVHcloud's comments on the nature of competition in cloud services market

4. OVHcloud welcomes the CMA's analysis, highlighting the strong concentration of the UK cloud market and the sustained returns, above costs of capital, generated by market leaders.
5. OVHcloud concurs with the Authority's analysis that a more competitive market would lead to better market outcomes, improving cloud users' ability to choose the services best fit for their needs at a fair price, and thus support their innovation potential.
6. OVHcloud calls on the Authority's vigilance on several risks linked to the emergence of Artificial Intelligence (AI) with potential to distort competition in the market for cloud services:
 - i. Access to AI inputs: the AI market is marked by significant barriers to entry, particularly because of the nature of AI's key inputs (e.g. data, compute, skills, cloud). Cloud hyperscalers often find themselves having a privileged access to such resources, either thanks to their activities in adjacent markets, or through their superior financial means and investment capacities.
 - ii. Replication of unfair practices observed in the cloud market: many competition authorities¹ have started to point out that lock-in practices previously observed in the cloud market are now replicated in the AI one. This includes : reinforcement of cloud credits programs, mechanism to prevent the migration of AI models to other CSPs once they have been trained or fine-tuned on an initial CSP. The Authority should also be vigilant on ways cloud hyperscalers may abuse their power in adjacent markets to capture AI users, with incidence on the cloud market. Example of this includes : forcing AI solutions to their customers, with such solution being deployable solely on their cloud infrastructures.
 - iii. Strategic partnerships to access AI inputs: vigilance should be high about partnerships giving a company unfair access to key AI inputs (e.g. chips, data) at the expense of other market players.
7. As AI is expected to be a key driver of the cloud market's growth in the coming years – already accounting for half of the market's growth over the last two years according to Synergy Research Group² - these dynamics present the risk to see market leaders unfairly leverage their positions in the cloud or adjacent markets to capture this growth and reinforce their positions.

¹ [European Commission, 'Competition in virtual worlds and generative AI'; French Competition Authority Avis 24-A-05 du 28 juin 2024](#)

² Synergy Research Group - Cloud Market Jumped to \$330 billion in 2024 – [GenAI is Now Driving Half of the Growth](#), 2025

II. OVHcloud’s comments on customers’ ability to switch cloud provider and multi-cloud

8. OVHcloud concurs with the Authority’s findings that cloud users’ ability to switch or multi-cloud is significantly hindered by technical (e.g. interoperability, portability restrictions) and commercial (e.g. egress fees) practices from market leaders.
9. On egress fees, OVHcloud reaffirms that these fees are artificial, with no legitimate economic or technical justification as pointed out by other competition authorities in the world³. As such and considering their dissuasive effect on users wishing to switch or multi-cloud, OVHcloud calls on the Authority to ensure their rapid abolition. Indeed, Article 29 of the EU Data Act⁴ now prohibits any switching charges on the customer for the switching process from 12 January 2027. In the meantime, the French SREN law⁵ sets that cloud providers cannot charge a fee higher than the cost incurred.
10. On technical barriers, they are often seen as the most important obstacle to switching or multi-cloud because they necessitate high resources (e.g costs, human labor cost). OVHcloud believes this calls on for further measures to promote interoperability and portability. This could include further standardization or harmonization of services widely used in the market, improved transparency and openness on specific services (e.g. through interoperability and API documentation), requirements to provide data in a standardized “pivot” format when a customer wishes to switch providers. Moreover, the Data Act provides for new obligations including the publication of interoperability and portability specifications (see articles 34 and 35).
11. **OVHcloud calls on the Authority to reconsider its analysis of the effect of cloud credits on competition dynamics.** While such credits can have a positive effect, they also present the risk to reinforce the market’s concentration around hyperscalers. Cloud credits are smaller than discounts offered through committed spend agreements, however they play a significant role in attracting early-stage startups within the services of one provider, which will eventually face strong barriers to switch, or multi-cloud as pointed out by the Authority. As also pointed out by the Authority, cloud hyperscalers are the only providers able to provide these credits in massive amounts and to numerous companies thanks to their superior financial means. This dynamics is reinforced by the update of cloud hyperscalers’ Startup Programs which now grant credits to AI startups up to \$350,000⁶ (compared to \$150,000-200,000 previously). This creates a serious risk to see the AI ecosystem be steered towards the services of certain CSPs not because they best fit their needs, but because they offer the most cloud credits. As AI will drive a significant part of the cloud market growth in the future, cloud credits could therefore lead to reinforcing negative competitive dynamics, thus calling for scrutiny from regulators.

³ Paragraph 433 of the French Competition Authority [report](#) on the cloud market, 2023

⁴ Regulation (EU) 2023/2854 of the European Parliament and of the Council of 13 December 2023

⁵ [Loi n°2024-449 du 21 mai 2024 visant à sécuriser et à réguler l’espace numérique](#)

⁶ E.g. [Google for Startups cloud Program](#); [AWS Startup Program](#); [Microsoft for Startups](#)

III. OVHcloud's comments on Committed spend agreements

12. OVHcloud commends the Authority on investigating the impact of committed spend agreements on competition dynamics within the cloud market, following Ofcom's previous work on the topic.
13. **OVHcloud would like to nuance the Authority's view that committed spend discounts do not harm competition in cloud services markets. While it is true that hyperscalers can compete among themselves in the offering of such agreements, this is not the case for alternative providers.** The superior financial means of hyperscalers, their activities in adjacent markets, enable them to offer committed spend agreements with a range of services (sometimes across all three layers of cloud services, and services from adjacent markets), and amounts of discounts other providers can simply not match. This is reinforced by the fact that leading cloud providers are often using CSAs to "overcommit" the customer above its actual needs for him to benefit from a discount (e.g. Infosys [found](#) that over half of corporate cloud spend commitments are unused, amounting to more than \$300 billion in untapped credits). The consequence is that, although there might be competition among the hyperscalers in the offering of such CSAs, this prevents alternative providers from competing for such customers.
14. These agreements have a significant adverse effect on competition in two ways:
 - a. They strongly incentivize cloud users to put all their workloads within the services of one hyperscaler: to ensure meeting the spending agreement necessary to keep the discount. With customers often being "overcommitted" by their provider – as shown by the Infosys report - this leads them to put of all their workload, including new ones, within the services of one provider not because it is the best for their needs, but because they might have to pay part of the discount to the provider as a penalty should they fail to meet this amount.
 - b. They steer the ecosystem, not customers only, towards hyperscalers: as these agreements often apply not only to the hyperscaler's direct cloud services, but also ones available on its marketplace, and with customers "overcommitted", CSAs often lead to third-party software vendors being steered to hyperscalers services. As customers are unsure they will be able to spend their commitment, they will often ask their software provider to migrate to the hyperscaler's marketplace so that its expenses to the software vendors can be included in its spending commitment to the hyperscaler. This network effect has an adverse impact on competition within the cloud, as not only does it encourage users to put all of their workloads within the services of one hyperscaler, but it also steers other ecosystem members, sometimes initially customers of other providers to such hyperscalers.
15. Taking into account these practices, **OVHcloud calls on the Authority to consider potential remedies to tackle the negative effects such agreements may have on the market.**

IV. OVHcloud's comments on CMA's Proposed remedies

16. OVHcloud welcomes CMA's independent inquiry group proposal to recommend to the CMA Board to prioritize commencing SMS investigations to consider designating the two largest providers with strategic market status (SMS). This new regime appears as a relevant vehicle to tackle the ever-evolving unfair practices implemented in the cloud market.
17. As the CMA works to finalize its decision, OVHcloud offers the following remarks to complement the proposed remedies:
 - a. Rapid action: with the cloud market's concentration increasing and the risk to see it become less and less competitive⁷, this recommendation to the CMA board should not create additional delays, including legal ones, for actions to be taken against unfair practices in the market.
 - b. Ambitious measures: in line with the objective to rapidly correct the market dynamics, the CMA's independent inquiry group should offer concrete measures to tackle the harmful practices it has observed through its investigation. These measures should include: the immediate abolition of egress fees (given their artificial nature), further interoperability and portability requirements, fair software licensing practices to prevent self-preferencing and thus ensure equal user experience regardless of the cloud provider the software is distributed on. As elaborated above, remedies should also include measures to prevent the lock-in effect of cloud credits and committed spend agreements.
 - c. Complete scope: while the provisional decision correctly identifies the current UK market leaders, the CMA's inquiry group should consider offering potential remedies to the other hyperscalers implementing unfair practices, especially the ones who hold dominant positions in markets adjacent to the cloud. As such hyperscalers try to challenge current market leaders, it has been observed that they are engaging in similar practices than market leaders, including bundling their services from adjacent markets where they hold dominant positions with cloud services. This commends CMA's vigilance and action.

V. Conclusion

18. **The CMA holds a unique opportunity to take positive actions to promote competition in the cloud market and support its overall growth.** These provisional findings evidence a good analysis of the market dynamics and a need for rapid and concrete actions to restore UK cloud users' freedom of choice.
19. OVHcloud remains at the disposal of the CMA as it works to finalize its investigation.

⁷ Paragraph 1.36 of Ofcom's [study](#) on the Cloud market, 2023