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

bt.com

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BT Group's response to the CMA's invitation to comment:

SMS investigations into Google and Apple's mobile ecosystems

1. BT welcomes the opportunity to comment on the CMA's SMS investigations into mobile ecosystems.

2. We recognise that Apple and Google play an important role in the mobile ecosystems value chain. Their position in the market is founded on their development of innovative products and services that the CMA recognises play a valuable role in consumers' lives.[1] We value the partnerships that we have with Apple, Google and many others in the value chain and consider that continued collaboration with our partners is essential to ensure that connectivity is available as widely as possible, so that consumers benefit from choice, quality and all-round customer experience. We hope that any action taken by the CMA facilitates a collaborative environment where mobile ecosystems providers can continue to invest and innovate alongside their partners in mobile services, technology and networks, ensuring that the end-to-end mobile ecosystems value chain functions well for the overall good of consumers and the UK.

The CMA's focus on gateway control by mobile ecosystems providers is important

3. We agree with the description of the digital activities that the CMA has identified in the Investigation Notices[2] and with the CMA's categorisation of each of operating systems, app stores and browsers as a gateway between consumers and businesses.[3]

4. We view operating systems as the key component as they give broad control over a mobile ecosystem, including:

    a. The types of services that are delivered to consumers, such as apps or hardware;

    b. How these services are delivered or packaged. As the CMA notes, the operating system can determine which apps and browsers are pre-installed on the device[4]; and

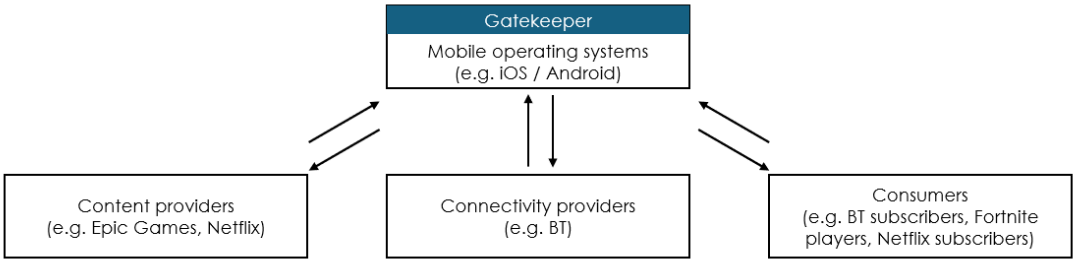
    c. The terms on which these services are available to consumers. The CMA recognises that app store providers effectively control the terms of access between consumers

[1] Invitation to comment, paragraph 24.
[2] It is not entirely clear that mobile devices fall outside scope of digital activities. We assume this is the case given the purported distinction between mobile devices and mobile operating systems in paragraph 2 of the invitation to comment and the delineation between mobile devices and operating systems in Figures 1.1 and 1.2 of the invitation to comment. Nonetheless, should the CMA designate a firm with SMS in mobile ecosystems, we recommend the designation explicitly states whether devices are in scope.
[3] Invitation to comment, paragraph 23.
[4] Invitation to comment, paragraphs 15 and 21.

and developers of native apps[5]; in addition to this, the provider of an operating system governs the commercial terms it imposes on app developers.

5. The CMA's main avenues of investigation focus on the use of these key gateways to deliver content to consumers. In our view, this is too narrow and does not identify all potential harms arising from control of these gateways. As Figure 1 below illustrates, while content providers (such as app developers or digital content providers) do deliver content to consumers via mobile operating systems and other parts of the mobile ecosystem, operating systems also mediate between (i) connectivity providers and consumers and (ii) connectivity providers and content providers at the same time, to provide the connectivity needed for content delivery.

Figure 1: Mobile operating systems are central to the value flows from/to content providers, connectivity providers and consumers



The CMA should widen the scope of its investigation to identify all prospective harms from gateway control

6. BT recommends that the CMA identifies all prospective harms that may arise from the control of these key gateways and brings them into scope of its investigation. This includes prospective harms to consumers and other end users relating to connectivity and network services.

7. As shown in Figure 1 and acknowledged by the CMA[6], an operating systems provider can control the terms on which a third-party app developer engages with an end user by acting as an interface between them. The CMA does not consider in its scope that the operating systems provider also interfaces between the connectivity provider and the end user at the same time, to provide the connectivity and network services necessary for the end user to access the app. The CMA should consider as part of its investigation whether the operating systems provider can also control the terms on which a connectivity provider engages with end users in a manner which could restrict connectivity providers' freedom to deliver services and innovate, and restrict end user choice of connectivity provider or service.

8. Such control could impact the provision of content, or any other mobile service delivered to end users or wholesale customers where that service relies on a gateway to the mobile ecosystem (such as voice, internet access or network slicing). We provide two indicative examples where such concerns could arise below, in relation to 5G slicing and disintermediation. Although these examples relate to nascent technologies, the forward-looking nature of the DMCC regime and the expected rate of growth of these technologies means that it is appropriate for the CMA to bring connectivity into scope. For example, [✂].[7]

[5] Invitation to comment, paragraphs 23(b) and 85(a).
[6] Invitation to comment, paragraph 85(c).
[7] [✂].

Bringing connectivity services into scope will help to ensure connectivity providers have continued incentives to innovate and develop the range and quality of connectivity services offered to end users, and that end users have the ability to choose between connectivity services and providers.

5G Slicing

9. Network slicing is enabled by 5G standalone radio networks, providing customers with a protected "slice" of the network for assured performance. This could include boosting connectivity speeds or lowering latency by minimising congestion and unlocking capacity. However, effective network slicing may well depend on controls and activities performed by the mobile operating system.

10. [✂].

Figure 2: [✂]

[✂]

11. [✂].

12. [✂].

13. [✂].

14. Any of these actions could limit the ability of content providers to choose freely and easily between 5G slices, and the ability of consumers to choose between connectivity services and providers. Limitations on consumer choice could reduce demand, limit the value of slicing technologies deployed by mobile operators, undermining incentives to invest in world-class connectivity, and ultimately reducing growth.

15. BT would welcome the opportunity to provide a teach-in or technical briefing to the CMA on the interaction of mobile ecosystems in 5G slicing to assist with the CMA's investigations.

Disintermediation risk

16. If the CMA finds that a mobile ecosystem provider could act as a gatekeeper to connectivity and/or control the terms on which connectivity providers can engage with end users or other third parties (such as service or content providers), connectivity providers risk being disintermediated from the mobile ecosystem value chain. For example, an additional area where operating systems providers could exercise their strong market position is with respect to e-SIMs.

17. If connectivity providers are disintermediated from the value chain, firms with SMS in mobile ecosystems will become more entrenched. SMS firms could enforce rules, policies and procedures like those profiled above which inhibit connectivity providers' ability to deal directly with consumers. This means the incentives to invest in connectivity are significantly reduced, resulting in less innovation and less growth. Moreover, it restricts the choice and quality of products and services available to consumers.

The CMA's potential interventions could address risks associated with gateway control more widely

18. The risks that could arise from the slicing and disintermediation examples given above share common features with the risks of self-preferencing and barriers to fair dealing identified by the CMA in its potential interventions. This means that if the CMA identifies any risks of ecosystem providers leveraging their market power in operating systems to connectivity, the potential interventions already identified by the CMA could be easily adapted to address those risks. For example:

    a. [✂].

    b. [✂].[8] [✂].[9]

19. Extending the scope of the CMA's potential interventions to ensure that connectivity providers can continue to deal directly with end users will reduce the risk of harm to competition and consumers, by ensuring end users are not restricted in their choice of connectivity provider or service.

Recommendation

20. We recommend the CMA ensures that the scope of its investigation is sufficiently wide in order to identify all prospective harms from gateway control, including to connectivity. If the CMA finds it necessary to intervene, it should consider whether to impose general behavioural rules that apply to business users' dealings with gatekeepers (alongside any specific rules on proscribed behaviours that the CMA deems necessary).

[8] [✂].
[9] [✂].