

# **CMA designation investigation into Google's and Apple's mobile ecosystems: invitation to comment**

## **Response from DMG Media**

1. DMG Media is the publisher of the Daily Mail, Mail on Sunday, Metro and i newspapers; MailOnline, metro.co.uk and inews.co.uk websites; and New Scientist magazine. We have a keen interest in the CMA's work in the digital sector and in the success of the new Digital Markets, Competition and Consumers (DMCC) Act. We are therefore pleased to offer our response to the CMA's invitation to comment (ITC) on its designation investigations under the DMCC Act into Apple's and Google's mobile ecosystems, which was published on 23 January 2025.
2. The CMA's 2022 market study into mobile ecosystems was an excellent piece of work, and we believe its findings hold equally true today. Building on that detailed and recent work, we consider there continues to be overwhelming evidence to support the designation of both Google's and Apple's operating systems, app stores and browsers at the end of this investigation (either by designating the three activities separately, or as a group). We have seen no evidence that their market power will diminish within the five-year designation period.
3. We fully support the overall approach that the CMA proposes to take to its investigation and believe the ITC sets out all the main issues that the CMA should investigate when designating Google and Apple as having Strategic Market Status for their mobile ecosystems. We believe that the areas of investigation set out in paragraphs 70-72 of the ITC are appropriate.
4. However, we do not believe that the potential interventions listed in the ITC are complete. This is because no mention is made of Apple's App Tracking Transparency (ATT) framework, which is a very important issue that the CMA rightly highlighted in its 2022 market study report.

### **ATT**

5. As the CMA knows, news publishers such as DMG Media cannot access a significant proportion of their audiences without dealing with Google and Apple (and also Meta, which is not the subject of the current investigation). These gatekeepers therefore hold substantial bargaining power and can unilaterally impose commercial terms on news publishers without variation.

6. DMG Media’s websites do not charge the majority of users for their online content, though there is a paywall for some premium content. The costs of employing reporters, editors, photographers, video journalists, and running the website are paid for by selling advertising space alongside news articles. Yet, while online advertising continues to grow as news consumption has shifted from print to digital, news publishers have struggled to match the dramatic decline in revenue from their newspaper operations.
7. Apple and Google control access to readers on mobile devices through their ownership of the operating systems, app stores and browsers, while they also compete in the downstream activity of news publishing with Apple News, Apple News+, and Google News Showcase. Apple News and Apple News+ is a particularly important case study for Apple’s use of ‘privacy washing’, in combination with other tactics such as the pre-installation of its own apps, to hand itself advantages in adjacent markets.
8. On the subject of ATT, the CMA’s 2022 market study came to the correct conclusions (see Summary, page 17):

*“We are also concerned that privacy, security and safety decisions could be skewed by the interests of Apple and Google, which in essence often act as quasi-regulators in their roles as ecosystem stewards. Both companies have made important positive changes for consumers in this regard, and this is something we support. But in some cases, we have found that Apple and Google are making decisions that could benefit their own services over others and mean that users may not make effective choices.*

*We have engaged closely with the Information Commissioner’s Office (ICO) – the UK’s authority responsible for upholding data privacy – in considering privacy issues alongside competition. We support market developments that promote greater control and choice for consumers while also ensuring these are ‘competition neutral’, ie do not favour some companies over others. It is important that Apple and Google apply the same standards to themselves as to others.*


*We are concerned that this is not the case in relation to Apple’s App Tracking Transparency (ATT) framework. ATT requires apps to show a specific prompt to request users’ permission for the app to ‘track’ them. It is clear there are significant privacy benefits from this. However, Apple has implemented different choice architecture design and language in this prompt to the ones it uses for its own apps, even though they serve similar purposes. The way this has been implemented may also distort user choice, potentially tilting the*

*playing field in Apple's favour and impacting the ability for developers to attract users and monetise their apps."*

9. In the news publishing industry, ad-funded publishers are being disadvantaged by ATT. It is very important that the CMA addresses this issue in Apple's first set of conduct requirements. We are concerned at the lack of any mention of ATT in the ITC and hope that the CMA has not decided to park that issue for another day. We believe measures to address the ATT issue do fit within the categories of intervention set out in the ITC, for example where the CMA discusses the SMS firms' ability to "set the rules of the game" and dictate the functionality that apps are allowed to have (paragraph 85).
10. The current ATT prompt does not allow users to make well-informed decisions, and developers should be able to share with their users the value of their data, by for example offering incentives to users that opt into the ATT prompt. Apple currently takes a stance that scares users into a decision, rather than helping them to understand that efficient advertising pays for the production of news, without which the quality of the journalism would drop and/or news services would have to charge readers directly. The implementation of the ATT prompt has caused a significant reduction in the availability of the Identifier For Advertisers ID (IDFA). When ATT was rolled out, we saw an immediate drop from 70% availability to 30% availability in IDFA. The situation has not improved in the years since the rollout, and today we remain below 30% availability. The IDFA is an important ID that advertisers use to value our advertising space. This area requires granular oversight by the CMA.
11. **SkAdNetwork and AdAttributionKit.** The functionality of the measurement and attribution systems, known as SkAdNetwork and AdAttributionKit, are not sufficient to replace the functionality enabled via IDFA. iOS app yields and revenues remain significantly depressed versus the performance pre-ATT (when IDFA was opt-out). Apple's attempts to offer attribution and measurement frameworks post-ATT with various versions of SKAdNetwork have not replaced the functionality of IDFA. AdAttributionKit, which was introduced as an attribution and measurement framework for third party app stores (third party app stores are currently only available in EU), now looks set to replace SKAdNetwork across both the Apple app store apps globally, and third-party app store apps in EU. AdAttributionKit is functionally similar to SKAdNetwork and does not replace the functionality and value that was available via IDFA.
12. **Browser engine choice.** We believe it is still the case that outside the EU all browsers on iOS must run Apple's WebKit browser engine. This means that third party browsers (like Chrome or Mozilla) are limited to the functionality available in Apple's Webkit browser engine. One limitation is that WebKit has implemented the Intelligent Tracking Prevention (ITP) feature which limits access to third-party

cookies. This results in lower advertising yields and revenues for publishers across iOS, regardless of the user's browser choice (due to the lack of availability of third-party cookies forced via ITP in Webkit). Under the EU's DMA, Apple must allow third party browsers to choose which browser engine they wish to use.

13. **Browser choice screen.** Apple and Google should also be made to give users fair choice for the default browser via a browser choice screen. We believe that iOS user browser choice coupled with browser engine choice could lead to a higher percentage of our iOS traffic generated on browsers that do not run ITP, so we would generate higher ad yields.
14. **Alternative payment systems.** Outside the EU Apple enforces use of its own payment system for apps on iOS, meaning that any in-app purchases for digital goods and services, such as subscriptions must be paid through Apple's system. Apple sets high commissions up to 30%, and can also favour its own payment method, Apple Pay. Apple should be made to allow alternative payment systems and methods.

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16. We would welcome the opportunity to engage further with the CMA on these issues.

### **Conduct requirements**

17. Businesses which rely on the two mobile ecosystems to reach their customers have waited a long time for the new DMCC regime to come into force. The issues they face are significant and ongoing. We are therefore encouraged to learn that the CMA plans to consider the first set of conduct requirements at the same time as making its designation decisions.
18. We encourage the CMA to impose as many measures as it can through carefully crafted and sufficiently detailed conduct requirements rather than pro-competitive interventions. This is because the conduct requirements will come into force earlier and do not require a separate process, imposing more burdens on businesses to engage and respond.
19. We support measures that increase the competition faced by Apple and Google, such as measures that enable competing app stores and payments providers to thrive, and measures that improve user choice. However, simply removing the rules that reserve certain activities to Apple and Google may not be sufficient to kick-start competition. The DMU will need to be intimately involved in the choice architecture

of the remedies, and Apple and Google may need to actively help competitors interoperate with their ecosystems.

20. We support measures that would eliminate Apple and Google's ability to provide their own apps with a competitive advantage through pre-installation and being set as the default option. The pre-installation of Apple News is particularly distortive to competition and requires special treatment. Apple News is integrated into the iOS operating system and can be accessed without clicking from the home screen because users just need to swipe right to access it. Users are not asked what news service they would prefer to access in this way. Readers of (e.g.) MailOnline or The Guardian might like their preferred news app to be accessed in this way rather than Apple News with its frequent nudges to upgrade to the premium Apple News+ subscription service (which is currently £12.99 per month). Another aspect of Apple News is the notifications of news stories by default. Again, users should be asked what news notifications they want.
21. We support measures that would allow alternative app stores and sideloading as they will generally reduce the SMS firms' vice-like grips on their ecosystems. The CMA will certainly need to include additional measures to help these alternative routes build trust and usage among consumers.
22. We agree that the SMS firms should not be allowed to share their data across their various owned and operated services. It should be required to seek separate user consent for each distinct service.
23. We support measures that reduce the SMS firms' ability to exploit their market power through capricious app review processes, and changes to their algorithms with no notice to the businesses that will be harmed. These processes need transparency and effective appeal processes.
24. Finally, we would support a requirement for Apple to provide equivalent attribution and measurement capabilities to third parties as it offers to users of its own advertising services, in order to level the playing field between Apple's and third parties' advertising services. As the CMA knows, attribution and measurement are important features of advertising. There is no obvious harm to users in making sure Apple's competitors can compete on a level playing field in this area. This is not mentioned explicitly in the ITC, but it was considered during the market study, and we believe it should be considered by the CMA again now.

## **Conclusion**

25. We very much welcome the DMCC regime. The potential interventions listed in the ITC are proportionate and necessary, although they need additional interventions to deal with ATT. Now is the time for the CMA to step up and support UK businesses

and publishers beholden to the two mobile ecosystems. We hope and expect that the CMA will look to act as fast as possible within the confines of the Act, taking into account that businesses and consumers are suffering harm now, and have been for many years. A thorough and comprehensive set of conduct requirements, put in place and enforced as speedily as possible, is a pro-UK business and investment approach that directly aligns with the CMA's pro-growth mandate.

26. We look forward to engaging on these issues in more detail as the CMA's investigations progress.

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