BBC response to CMA Invitation to comment on Apple & Google's mobile ecosystems

Introduction

1. The BBC welcomes the opportunity to respond to the CMA's invitation to comment. We agree with its scope, in particular the including of voice or AI assistants and connected devices, and the descriptions of Apple's and Google's mobile ecosystems. This response builds on the BBC comments on the CMA's statement of scope regarding its mobile ecosystems market study.

2. The BBC is a public service media (PSM) organisation that forms an essential part of the UK's democracy, creative economy and society. Our mission is to inform, educate and entertain all audiences. We aim to be universally relevant, accessible and used; delivering public benefit for everyone.

3. Mobile devices are a vital route to audiences. We agree with the CMA's assessment that Apple and Google exert considerable influence over their mobile ecosystems. The bargaining imbalance between these gatekeeper companies and the BBC makes it harder for us to serve our audiences and fulfil our public service goals.

4. To deliver against our mission and public purposes, BBC content and services need to be widely available and easily discoverable. Crucially, we also need to secure the value of audience consumption of our content and services to benefit the public, rather than it flowing to gatekeepers. As a public service entity not driven by commercial imperatives, the factors that determine the value we can secure from our content include access to data about how our content is found and used and control over curation and how it is presented to our audiences.

5. Moreover, if audiences derive value from our content and services (through consumption) but attribute that value to gatekeepers instead of the BBC, then that undermines the perceived value of the BBC and weakens the relationship between us and the public who pay for us. Over time, this undermines our ability to invest in content and services that deliver against our public service mission; which ultimately harms audiences and society more broadly. Brand attribution and credit is particularly critical to the BBC given our unique funding model which relies on a willingness to pay for a television licence; which in turn depends on our audience having full visibility and appreciation of the value of what we deliver.

How mobile ecosystems affect the availability, discoverability and value of BBC content and services

Availability of BBC content and services

6. We consider that making BBC content and services available on mobile devices is necessary to fulfilling our mission and promoting our public purposes. Indeed, the BBC operates under a legal duty set by our Framework Agreement with the Secretary of State[1] to ensure that our audience can access our content and services in a range of convenient and cost-effective ways. We do not charge platforms and other

---

[1] Broadcasting: An Agreement Between Her Majesty's Secretary of State for Culture, Media and Sport and the British Broadcasting Corporation, December 2016: https://downloads.bbc.co.uk/bbctrust/assets/files/pdf/about/how_we_govern/2016/agreement.pdf

distribution partners for our services but this wide distribution has to be achieved via commercial negotiations with those controlling the routes to our audience.

7. To make our content and services available on mobile devices, the BBC (alongside other providers) must accept the standard terms and conditions set by Apple and Google in their respective mobile ecosystems. ███████████████████████████ ██████████████████ This is true at the point of publishing apps or providing our content to Apple/Google's aggregator apps, and also in-life as and when Apple/Google update their terms.

8. Further, where we publish an app to an app store, we have no influence over which devices that app is available on. If the app store is available on a device, then our app will appear in it whether we want it to or not. ███████████████████████████ █████████████████████████████████. For example, in the increasingly important in-car infotainment sector, if we publish an automotive app in the Google app store, it will appear in any car where the manufacturer has a deal with Google. ██████████ ██ where we might be able to secure terms of access that are more beneficial to our audiences in terms of getting full value from our services and content.

9. In relation to Apple, we have a number of specific observations on the challenges of interacting with their app store:

   • Apple's process for getting an app release completed is lengthy and lacks transparency. The practical impact for the BBC is that we have had to design entire workflows and processes to accommodate for the inconsistency of Apple's review process (both in terms of time and criteria), which adds cost and complexity – there is therefore an opportunity cost to the BBC both in terms of expenditure and time.

   • Apple's certification and provisioning process for running test builds on iOS devices also creates significant overhead. Validation and provisioning test devices is complex and the overhead of managing a separate Enterprise account and signing process is costly. TestFlight build tracks are only available when using Apple's own Xcode Cloud continuous integration system, which has the result of tying the BBC into using Apple's own commercial build tooling.

   • Apple's app management does not easily allow the BBC to support older devices. Where Apple adopts new software development kits and features, this is done in a way that cuts off users of older mobile devices. This impedes the BBC's ability to deliver its PSB content via its apps as widely as possible in line with our legal duty referenced above at Paragraph 6.

10. Neither Apple or Google allow standard single sign on (SSO) integration for their tools and services. The impact for the BBC is that we have to manage elements of our account management such as access lists and operations for joiners, movers and leavers separately from our regular account management, causing further additional expenditure and time.

Discoverability of BBC content and services

11. Even where BBC services are available, self-preferencing, paid-for promotions, disaggregation, and algorithmically or AI driven discovery can make them difficult to find. In mobile ecosystems, discoverability is important both at the operating system (OS) layer, in app stores, and within aggregator apps. Given that Apple/Google's business models rely in part on taking a share of revenue from app and content providers (e.g. via advertising, or in-app purchases), they have very limited incentive to make BBC content and apps, which are free, prominent.

OS discoverability

12. App pre-installation and default services set by the OS provider undermine consumer choice and enable Apple/Google to leverage their market power in mobile ecosystems to give them a competitive advantage in other markets e.g. apps and connected devices.

13. Apple and Google pre-install their own apps on mobile devices and set default services at the OS level. These could be single-service apps that compete directly with the BBC (e.g. Apple TV, weather apps) or aggregation services (e.g. news or podcast aggregator apps). This enables Apple/Google to retain users within their walled gardens by creating switching barriers for consumers. ██████████████████ ██ ██ thereby sacrificing potential benefit to our audiences.

14. The information asymmetry between the BBC and Apple/Google also weakens our negotiating position, as without access to transparent and relevant data we cannot determine the value that our content and services deliver to these mobile ecosystems.

15. Inclusion of our content in these aggregator services then further weakens any negotiating position for inclusion of our UK-specific services (e.g. BBC Sounds) within other parts of the Apple/Google ecosystem such as voice assistants, which undermines our fulfilment of our duty to provide our content and services to audiences in a range of convenient and cost-effective ways.

16. Default services not only affect mobile devices but through Apple/Google's operation of cross-device voice assistants (Siri/Google Assistant) they also affect devices such as smart speakers, connected cars, and TVs. These connected devices come pre-set with Apple/Google's preferred defaults for playout ███████████ ████████████████████████████████████ which are difficult for users to change.

17. App publishers/content providers have no visibility of or ability to influence the factors that affect discoverability in OS search results. Similarly, discoverability of our content and services via voice assistants is also opaque and difficult to negotiate: for example with respect to the invocations that direct users to BBC content and the level of user specificity required. Even where we do have agreements in place these are difficult to monitor or enforce. Whilst the Media Act 2024 will in due course protect access to live linear radio via voice activated devices such as smart speakers,

much of our content (such as podcasts) will remain without any protections in the absence of the CMA taking action. Moreover, even with those services that benefit from the prominence provisions of the Media Act 2024, there will still be limitations to the extent to which the unfair competitive advantages of Apple and Google will be mitigated (for example, in relation to data, see further below). We would encourage the CMA to coordinate closely with Ofcom regarding any areas where the new Media Act provisions will and will not have effect, so as to ensure that no regulatory gaps inadvertently remain which could be unfairly exploited by Google or Apple.

App and app store discoverability

18. There is little transparency over how apps are made visible or prominent in the app store. While some prominence appears to be driven by popularity, paid-for promotion and self-preferencing are clearly factors. This is also true of content within Apple/Google's aggregator apps.

Value of consumption of BBC content and services

19. There are a range of other ways in which the public value of BBC services and content is being eroded or redirected in mobile ecosystems.

20. Data is a key determinant of value. App publishers do not have access to comprehensive data about the user journeys to their apps and content which could enable them to improve their services. For example, developers do not have access to search data at the OS level. This data is valuable as it allows developers such as the BBC to better understand consumer needs and behaviours and shape content and features accordingly. Conversely, OS providers do have access to this data not only for their own apps but for third-party apps providing them with a competitive advantage in developing their content and products in response this consumer data.

21. In aggregator apps, in addition to not having influence over curation and discoverability of our content in these services, the value of consumption of BBC content within them is eroded. Our research shows that people are significantly less likely to credit the BBC for content consumed inside a third-party service, which (as set out above in Paragraph 5) weakens our relationship with the public and unique licence fee model. At worst, the use of our content can actively damage our reputation as a trusted source.

22. As content providers/app publishers are effectively forced to accept Apple/Google's standard terms and conditions to reach audiences, Apple/Google have considerable control via those terms. For example, inclusion of content in Apple Podcasts requires publishers to enable Apple to create podcast transcripts. These transcripts are Apple's intellectual property rather than the podcast creator's, enabling Apple to make use of it for its own content creation.

23.Other concerns

24. Apple/Google use app publisher brands and/or content in their beta testing at the OS level without meaningful permission from those publishers. For example, Apple AI summaries included BBC News content without our express permission, which

generated incorrect headlines attributed to the BBC for beta users.[2] This has serious implications for society as it undermines trust in news and damages the BBC brand which may affect public attitudes towards BBC funding and/or individual willingness to pay the licence fee.

How we expect things to change over the next 5 years

25. The rise in use of generative AI driven discovery will exacerbate all of our current concerns, particularly at the OS layer of mobile ecosystems, as well as connected devices such as smart speakers, connected cars, and TVs. AI driven discovery accelerates disintermediation which means that content brands like the BBC are no longer visible or valuable. There is a risk that Apple/Google use content from well-known and trusted publishers like the BBC (with or without our permission) to provide competing services via AI voice or text driven discovery. These changes could be embedded at operating system level. This will affect our ability to retain control over the accuracy and curation of our content, and the flow of value of any consumption of that content back to the BBC, ultimately undermining both trust in our content where accuracy is compromised and our ability to further innovate and invest in fulfilment of our public mission.[3]

Potential remedies

26. Given the substantial and entrenched power that Apple and Google have in their respective mobile ecosystems, we believe that significant intervention is needed to level the playing field for app publishers and content providers. In addition, we would ask the CMA to have regard to the wider harm that flows from the impact of Apple/Google on the role given to the BBC as a PSM entity; the fulfilment of which relies on access to audiences via these gatekeepers. Diminished access to BBC output reduces consumer choice but also impairs the public value (such as trusted, impartial news) which the investment of public funds in the BBC is designed to deliver. Given the unique role of PSM in the UK market, it is important that the CMA consider how remedies can enable PSM organisations to fulfil their intended roles in the UK media ecosystem.

27. Interventions at the app and app store level to address BBC concerns:

- App publishers/content providers should have a meaningful right to alter the terms and conditions for the availability of content in Apple/Google's aggregator apps and apps in the app store, both at the point of publishing and in-life. Any remedy here would need to go beyond the right to negotiate bilaterally given the imbalance of power between Apple/Google and app publishers. Apple/Google should not be able to effectively operate "click-through agreements".

- Apple/Google should be required to have transparent app review processes and timelines for making apps available on mobile devices. These processes should

---

[2] Apple Intelligence: iPhone AI news alerts halted after errors - BBC News
The BBC has recently published research on the challenges posed to accurate news by AI assistants: https://www.bbc.co.uk/aboutthebbc/documents/bbc-research-into-ai-assistants.pdf.

  not tie app developers unnecessarily into using proprietary tools to ensure compliance.

- Apple/Google should allow standard integrations for their tools and services (e.g. with respect to SSO) to reduce unnecessary overheads for app publishers.

- There should be controls on Apple/Google's ability to foreclose app developers' ability to strike bilateral distribution deals in horizontal markets, such as in-car infotainment systems, by leveraging the market power of their app stores. This could be achievable through an opt in/out mechanism.

- There needs to be transparency over the factors that determine how content is promoted within aggregator apps, how apps are promoted within the app store, and how content is surfaced via voice and AI assistants, including on connected devices. This should not be driven solely by paid-for promotion, and there should be a level playing field for publisher apps compared to apps operated by Apple/Google. PSM content and services should be supported in achieving enhanced prominence, building on the interventions in the Media Act 2024, to ensure that PSM organisations can fulfil their public duties and deliver the full value of investment and innovation to audiences.

- We would like to see more consideration from Apple to allow apps to diverge for older devices, which is especially important for the BBC given our legal duty to distribute our content in a range of convenient and cost-effective ways.

28. Interventions at the OS level to address BBC concerns:

- Measures should be in place to prevent data to which only Apple/Google as the OS provider have access being used for their own advantage in the development of their first-party apps. This should cover app developers' non-public information submitted as part of the app review process, and OS level user journey data such as search data.

- App publishers should be given access to any data that records how users access their apps e.g. OS level user journey data. Such remedies should extend to voice or AI assistants.

- OS operator or device manufacturer apps should not be pre-installed on devices or otherwise advantaged in the device/OS choice architecture (e.g. through enhanced prominence during device set up). PSM apps should be guaranteed enhanced prominence such as pre-installation, to ensure that PSM organisations can fulfil their public duties and consumers can readily benefit from the full value of investment and innovation in public service apps.

- App publishers should have visibility over how any disaggregated discoverability at the OS level works e.g. search hierarchies. Such remedies should extend to the discoverability of our services via voice or AI. PSM apps should be given enhanced prominence to enable PSMs to fulfil their public duties.

29. Other interventions to address BBC concerns:

- Explicit permission should be sought if Apple/Google wish to use publishers' content or brands in beta testing features with protection against less favourable treatment or other sanctions in the event of refusal.

- Explicit permission should be sought if Apple/Google wish to use publishers' content or data to train AI models or for retrieval-augmented generation such as using BBC news content to create a news summary. This should also extend to cover related outputs such as transcripts generated by Apple/Google from content created by the BBC.

- For users, AI features should be an opt-in feature within a mobile operating system and on an app by app basis, not switched on by default with an opt-out.

30. We would be happy to discuss the shaping of remedies with the CMA in greater detail and particular what scope there is to protect the value of the investment made by the BBC in its apps on behalf of the public.