

The News Media Association's Response to the Competition and Markets Authority's Consultation: "*Direct Consumer Enforcement Guidance and Rules*"

The News Media Association (the "**NMA**") is the voice of UK national, regional and local news media in all their print and digital forms - a £4 billion sector read by more than 46.2 million adults every month. Our members publish around 900 news media titles - from The Times, The Guardian, The Daily Telegraph and the Daily Mirror to the Manchester Evening News, Kent Messenger, and the Monmouthshire Beacon.

1. Response

- 1.1. As the Competition and Markets Authority ("**CMA**") is acutely aware, the advent of digital markets has altered the landscape that news media outlets operate in. As an increasing number of individuals turn to digital platforms for their news consumption, with approximately 64% using online intermediaries like Google or Facebook for access,¹ the roles of these technological giants assume an even greater significance. These platforms have positioned themselves as gatekeepers to consumers, deciding whether, and which, news items are surfaced and to whom. Understandably, any reduction in visibility for commercial publishers leads to reduced advertising revenue (a key source of vital income) and hampers the construction of sustainable businesses more broadly. Compounding this issue further, commercial publishers also rely on the advertising intermediation services of platforms, where Google holds a strong position at each stage of the intermediation chain. Advertising intermediaries, on average, siphon off at least 35% of the advertising value procured through the open display channel—precisely the type of online advertising that sustains news creators.² This dynamic contributes to why the average digital reader holds a value approximately eight times less than that of a traditional print reader.³
- 1.2. The consistent undermining of the value of premium publisher advertising, in different ways, makes innovations towards paywall models increasingly desirable for publishers. Analysis from Reuters published in 2024 shows that publishers continue to invest in subscription and membership, with a large majority of those surveyed (80%) saying it is an important future facing revenue stream, ahead of both display and native advertising.⁴ Subscription models have become increasingly used by businesses to provide consumers with convenience, consistency and choice, empowering publishers to provide a wide range of products at a lower overall cost. However, for those who have moved towards a subscription model, the Digital Markets, Competition and

¹ Pg. 12 Ofcom, "*Media Plurality and Online News*", 16 November 2022.

² Pg. 9 the CMA, "*Online Platforms and Digital Advertising*", 1 July 2020.

³ Deloitte estimated that the industry's average annual revenue per print media user was £124 in 2016, compared to £15 per digital media user: See: Pg.5 Deloitte, "*UK News Media: an engine of original news content and democracy*", December 2016; and Pg.37 Mediaticque for DCMS, "*Overview of Recent Dynamics in the UK Press Market*", April 2018.

⁴ Reuters Institute, "*Journalism, Media, And Technology Trends and Predictions 2024*", January 2024.

Consumers Act's ("DMCCA") well-intended proposed changes to tackle subscription traps would have introduced new requirements across the subscriptions market that reduced consumer choice and the feasibility of subscriptions for many businesses, especially SMEs.

- 1.3. We were pleased that the Government recognised that a balance had to be struck to protect businesses from inflexible and rigid provisions underpinning subscription contracts during the DMCCA's passage through Parliament. Therefore, we welcomed a series of Government amendments which were made to several subscription areas within the DMCCA to resolve cross-industry concerns. However, this does not negate the fact that the new subscription contract measures are still complex, novel and therefore may prove challenging to initially implement – especially for smaller publishers and SMEs more broadly.
- 1.4. Guidance on how subscription contracts can comply with the measures in the DMCCA has yet to be drawn up. As part of the package of amendments agreed with No.10 and the Department of Business and Trade under the previous Government, despatch box commitments were given that the subscription chapter of the DMCCA would come into force no earlier than Spring 2026, recognising that businesses need sufficient time to adapt their operations. We welcome that the new Government has also committed to sticking to this timeline, particularly as all businesses will need time to digest the guidance and implement solutions within their respective services to be compliant. This will take time and careful thought. The CMA must be mindful of how it approaches well-intended organisations that are grappling with the new legislation – especially in the context of a potentially tight turnaround depending on how quickly guidance and enforcement takes – and genuinely bad actors. These considerations must be baked into understanding the level of harm and culpability outlined in the CMA's guidance.
- 1.5. The CMA can also play an important role in helping subscription services to navigate these new regulations. The CMA should operate under an open-door policy, allowing those with queries on compliance and best practices to be raised. This will be particularly helpful for smaller subscription providers who are traversing the new legislative requirements and have limited resources.
- 1.6. Publishers are keen to ensure that bad actors who have manipulated subscription contracts to harm consumers are stamped out. The CMA has an important role to play in this regard, while also facilitating for subscription providers to understand the new legislative requirements. The NMA would be delighted to meet with the CMA to discuss its new consumer powers.

11 September 2024

News Media Association

