radiocentre

RADIOCENTRE RESPONSE TO CMA PROPOSED DECISION IN ITS DESIGNATION INVESTIGATIONS INTO APPLE AND GOOGLE'S MOBILE PLATFOMS

Introduction and summary

1. Radiocentre welcomes the CMA's proposed designation of Apple and Google with Strategic Market Status (**SMS**) in relation to their mobile platforms. Our key points in respect of the proposed designation decisions are as follows:

    - Voice Assistants (**VAs**) should be included – in their totality[1] – in the designated digital activity. We consider they are a component of the mobile operating system. To use the CMA's terminology, they are 'an intermediary between hardware and software',[2] because: (a) they act at a device level, not just an app level – i.e. you can command a VA without even having an app open or the phone unlocked; (b) they act across multiple apps, which is indicative of an operating system level feature; and (c) they are integrated within the operating system – neither Apple nor Google allow full integration of alternative VAs for mobile devices.

    - If the CMA does not include VAs in the designated digital activity in their totality, it is missing a vital opportunity to make its designation decision future proof, ensuring businesses and consumers are protected from unfair and harmful practices. As the CMA has recognised, the future of operating mobile devices is likely to be via a combination of VAs and AI Assistants, which are likely to continue to be deeply integrated into mobile operating systems and, for example, could replace browsers altogether.

    - Even if the CMA does not agree that VAs – in their entirety – fall into the relevant digital activity, the CMA can and should still implement Conduct Requirements (**CRs**) in respect of VAs via the leveraging out principle. Apple and Google use their SMS in mobile platforms to preference their own VAs (through, for example, restricting interoperability, default-setting and pre-installation) and also, through their VAs, their own audio-based services and radio-like products (for example Apple Music, Apple Music Radio and YouTube Music).

2. In respect of the Roadmaps and potential remedies, we urge the CMA to do the following.

    - **Confidential commercial information:** expand the proposed Category 1 CR that systems are in place to prevent the use of app developers' non-public information for first-party app development to include not only data obtained during the app review process, but also data obtained elsewhere in the operation of Apple's and Google's mobile platforms;

    - **Provision of reasonable data to businesses:** include a CR requiring Apple and Google to provide businesses with reasonable data on their users and commercial performance (including data collected by VAs), where Apple and Google have collected

[1] The CMA is currently only proposing to include 'supporting functionalities' to VAs, such as (for example) SiriKit, which enable interoperability for apps with VAs.

[2] This is how the CMA defines operating systems – see, for example [1.14] of the Google Proposed Decision.

that data through the operation of their mobile platform (we note that, despite Ministerial remarks in Parliament stating such a remedy would be appropriately addressed under the DMCCA,[3] the CMA did not cover this remedy at all in its Roadmaps.)

- **Fair ranking and transparency:** clarify that the proposed Category 1 CR, that requires (a) fair ranking of business' content and (b) algorithmic transparency will not only cover ranking in app stores, but also ranking more generally on Apple's and Google's mobile platforms, including ranking of content surfaced by VAs.

- **Interoperability:** ensure the proposed pro-interoperability measures apply to both Apple and Google (currently under the Roadmap they only apply to Apple) and ensure this covers interoperability of (a) alternative VAs with Android and iOS; (b) radio services with VAs; and (c) connected devices with Android and iOS. The CMA should also bring these substantive interoperability measures forward to Category 1 (currently only measures concerning requests for interoperability are in Category 1).

- **Protecting business' direct relationships with end users**: include a CR preventing Apple and Google from restricting businesses' relationships with their end users (currently this is not covered at all in the Roadmap).

- **Choice architecture:** ensure any choice architecture CR applies to the pre-installation and default-setting of VAs by Apple and Google. The CMA should also bring these measures forward to Category 1.

Reflections on the Proposed Designation Decisions

VAs are part of the digital activity

3. We are disappointed VAs have not been provisionally included in the CMA's designation as a component of Apple's and Google's mobile operating systems. While the CMA has included the underlying 'supporting functionalities', i.e. functionalities which enable other apps to connect with VAs, within the designation (and we support this), this does not go far enough and VAs in their entirety should be included in the designation.

4. VAs are software that respond to natural language commands from users on consumers' hardware devices, such as smartphones and tablets. VAs are provided by Google (via Google Assistant) and Apple (via Siri) on Android and iOS smartphones and tablets.

5. VAs require system-level access to device hardware and operate across third-party apps. For example, users can ask Siri or Google Assistant to 'send a message on WhatsApp to John', 'play Absolute Radio on Rayo' or 'play Capital on Global Player'. These commands do not require the VA's app, or even the target app, to be open, or for the phone to be unlocked; they are processed at the device level. They can also control certain hardware features, such as volume levels.

6. On iOS, Siri is fully integrated as the default VA on smartphones and tablets and cannot be removed or replaced. While third-party VAs may be downloaded from the App Store, they must be operated within their own apps and cannot be accessed system-wide by voice. Android allows users to

[3] See paragraph [24] of this submission for more information.

change their default VA, and alternative assistants may come pre-installed on some devices and access some hardware features. However, even on Android, non-Google VAs face significant limitations in accessing system-level functions.[4]

7. The CMA has defined operating systems as an 'intermediary between hardware and software.' We consider that VAs squarely fall into that definition: they operate above the app layer, across apps, and are accessible at the system level, via command to the device, without requiring any individual app to be launched or even for the phone or tablet be unlocked. The CMA's statement that these VAs function 'primarily as native apps' is misguided and unexplained: as above, they function by voice command to the hardware without the app being open. Their integration into the operating system is also evidenced by the fact that Siri is irremovable and fully embedded on iOS, and even on Android, non-Google VAs cannot achieve equivalent access to device capabilities.

8. The fact that the CMA has included the VA functionalities which allow VA interactions with other apps, for example Sirikit and Gemini Extensions, is not logically coherent. The CMA states this is because these developer frameworks 'provide access to device data and other applications or functionalities'.[5] It is clear the VA in its entirety, including the main VA interface, provides access to device data and other applications and functionalities – whether third- or first-party apps – and not just the developer framework. In addition, if the CMA considers that VAs are truly separate from the operating system, then it is unclear why developer access to VAs (via Sirikit etc) would be in scope. The fact it is included indicates the CMA considers developer access to Sirikit etc amounts to access to an element of the operating system itself.

9. There are also strong strategic reasons for including VAs in scope: namely, that they are likely to become an increasingly important and embedded part of operating systems as a result of developments in AI.[6] Google and Apple have started to incorporate AI into their virtual assistants, integrating advanced large language models into Google Assistant and Siri. These upgrades aim to make VAs more conversational, responsive, and context-aware – for example, enabling cumulative conversational interactions, and better understanding of complex commands. This evolution is expected to increase user engagement, drive broader usage in home, outdoor, in car and work environments, and further embed VAs within each company's digital ecosystem.

10. The CMA recognised the importance of these developments in its Invitation to Comment, where it stated it would seek to understand '*technological developments which could change the way that mobile devices are used and how mobile ecosystems deliver content and services to users, such as: … how AI assistants may integrate with mobile operating systems*.'[7]

11. We expect the future is for Apple and Google (a) to combine VAs with AI Assistants, such that these AI-VAs can be used to perform multiple operations across apps and devices; (b) for this to vastly increase use of VAs; and (c) for VAs to consequently become an even more essential part of the user experience on mobile devices and tablets. We have already seen this: Apple has been

[4] For example, we understand: (a) they cannot access some system-level features (like controlling Do Not Disturb); and (b) may not be able to use the wake phrase (for example, "Hey Alexa") unless the phone is unlocked and the app is active.

[5] [4.30(b)] in the Google Proposed Decision and [4.32] in the Apple Proposed Decision.

[6] VAs from Apple and Google are also increasingly incorporated into vehicle entertainment systems and can control basic functionality. VAs in-car are likely to be prioritised by manufacturers due as they reduce driver distraction and allow drivers to keep their eyes on the road rather than look down at a screen.

[7] [71(b)].

integrating ChatGPT with Siri since December 2024[8] and Google has announced it is phasing out Google Assistant on mobile devices in favour of Gemini.[9] If the CMA does not include these in scope now (even if it does not want to yet consult on Conduct Requirements) this may mean its designation is not sufficiently future proof. It will be more straightforward for the CMA to include VAs at this stage than to go through a standalone designation investigation for VAs in the next few years. VAs are also explicitly included in the Digital Markets Act list of core platform services, which indicates they are considered to be an important gateway between businesses and users.[10]

The leveraging out principle

12. As above, our view is that it is more straightforward and logical that Apple's and Google's entire VAs should be viewed as a part of iOS and Android, and therefore fall into scope of the designated activity. However, even if the CMA does not agree, the CMA can and should in any case implement CRs connected with VAs through the leveraging out principle. Such CRs would fall squarely into the permitted types of CR in Section 20 (in particular, limbs 20(3)(b), (d), (e) and (h)), which concern anti-leveraging controls. It is clear that Google and Apple leverage their power in mobile ecosystems to favour their own VAs by:
    - restricting interoperability of the operating systems with alternative VAs;
    - pre-installing their own VAs on their devices, setting them as defaults; and
    - cross-leveraging data from their mobile operating system to their VAs.

13. Apple and Google also leverage their market power in mobile ecosystems and VAs to favour their own audio-based and radio-like services. For example, they do so by using Radiocentre members' data to support their downstream own and competing audio-based and radio-like services and preferencing their own audio-based and radio-like services in VA responses. More information is provided on this, and other CRs we support, below.

About Radiocentre

Radiocentre is the industry body for commercial radio. We work on behalf of more than 50 stakeholders who represent over 90% of commercial radio in both listening and revenue.

www.radiocentre.org

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[8] See The Verge article, here.

[9] See The Verge article, here. See also Google's blog on Gemini for cars, link here. We have also already seen the integration of AI into VAs in the car infotainment space. See Apple's YouTube video on the new features of iOS Apple CarPlay (which integrates Chat GOT). link here and Google's blog on Gemini for cars, link here.

[10] Article 2(2) Digital Markets Act.