CONSULTATION RESPONSE

The SMS Levy Rules

Introduction

- Qualifying costs - the CMA should enhance transparency and provide more opportunities for engagement over the rationale for qualifying costs and how they change over time.
- Allocation methodology - the CMA should generally avoid using global turnover as a criterion.
- What happens if a firm is de-designated - the CMA should articulate how this affects other costs and avoid any perception that financial impacts might create a resistance to de-designation.

Qualifying costs

Along the lines of other levy-funded regulators (e.g. FCA), CMA should report and/or consult regularly on its levy policy. This could include:

- Qualifying costs and the resulting burden on SMS firms - this should provide a justification for the level and change of each element in qualifying costs.
- The Overhead Recovery Rate - which naturally has the greatest potential to create cross-subsidies between Digital Markets Functions and the CMA's wider work.
- Planned expenditures which might incur future costs, e.g. plans for major increases in staffing or new capital expenditure.

CMA should also report on actual costs estimated. Transparency would ensure that affected companies can understand the source of the levy; and there can be scrutiny of whether levy policy is being applied consistently and appropriately.

This would allow SMS firms and their stakeholders to understand the rationale for any changes and the connection between the levy rate and the quality of the regulatory process.

The allocation methodology

CCIA takes no position on the appropriate allocation methodology in this instance. As the CMA notes, none of the proposed approaches would ensure a full correlation between the costs incurred in regulation of a specific firm and its contribution to financing that regulatory process.

In the event that a turnover-based approach were used, however, this should not be based on global turnover. Fines or levies based on *global* turnover are inherently extraterritorial by nature and concerns have been raised recently about the role these play in fines in other jurisdictions.[1] While maximums based on global turnover might be incorporated into the

[1] U.S. Chamber of Commerce, *Arbitrary & Abusive: The Discriminatory Impact of European Fines on American Companies*, June 2025.

DMCCA, designation is linked to activities in the UK and basing actual fines or - in this case - levies on global turnover should be avoided as disproportionate and discriminatory.

There should be a timely review beyond this consultation of the operation of the levy in practice. There is significant uncertainty at this point over both future workload and number of designated services and the impact of choices over the design of the levy is not clear.

What happens if a firm is de-designated

This element (D8) in the guidance should be further developed to avoid any perception that the CMA might avoid de-designation due to the resulting financial disruption.

In the event that the final allocation approach is not based on whether a firm has any SMS designations, it should also allow for a reduction in the number of SMS designations and/or relevant turnover leading to a proportional reduction in the levy.