# The SMS Levy Rules

25 September 2025

Competition & Markets Authority

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# Rules made by the Competition and Markets Authority under section 110 of the Digital Markets, Competition and Consumers Act 2024 (‘the Rules’)

The Competition and Markets Authority (CMA), in exercise of the powers conferred on it by section 110 of the Digital Markets Competition and Consumers Act 2024 (DMCC Act), hereby makes the following Rules to calculate the amount of the levy (the ‘SMS Levy’) that an undertaking designated with strategic market status under Chapter 2 of Part 1 of the DMCC Act will be required to pay in respect of a chargeable year during the whole or part of which it is designated.

The SMS Levy Rules will apply to the chargeable year starting on 1 April 2025 and ending on 31 March 2026, and any subsequent chargeable years, unless they are amended or replaced by the CMA under section 110(3) DMCC Act.

# THE SMS LEVY RULES

## Part A - How to interpret the SMS Levy Rules

### A1. Definitions used in the SMS Levy Rules

1. In these Rules, the following expressions have the meanings shown next to them or, as the case may be, provided by the provision referred to:

   a) **Chargeable Year**: a period of 12 months ending with 31 March.[1]

   b) **Conduct Requirements:** requirements imposed by the CMA on SMS Firms under Chapter 3 of Part 1 of the DMCC Act.

   c) **The DMCC Act:** The Digital Markets, Competition and Consumers Act 2024.

   d) **Digital Markets Functions**: the functions specified in section 118 of the DMCC Act, namely:

      i. the functions the CMA has under Part 1 of the DMCC Act; and

      ii. the CMA's power to do anything that is calculated to facilitate, or is conducive or incidental to, the performance of those functions (see paragraph 20 of Schedule 4 to the Enterprise and Regulatory Reform Act 2013 (additional powers)).

   e) **Overhead Recovery Rate**: For a given Chargeable Year, a pre-determined rate taking the CMA's budget for corporate and support services (back-office) and dividing it by its frontline budget to calculate the overhead charge to be recovered by the SMS Levy.

   f) **PCI:** a pro-competition intervention in relation to an SMS Firm under Chapter 4 of Part 1 of the DMCC Act

   g) **Qualifying Costs:** Costs which the CMA incurs in exercising its Digital Markets Functions during a Chargeable Year and which can be recouped through the SMS Levy under Section 110(4)(a) of the DMCC Act.

   h) **SMS:** Strategic Market Status.

   i) **SMS Firms:** Undertakings designated as having SMS in relation to one or more digital activities under Chapter 2 of Part 1 of the DMCC Act.

   j) **SMS Investigation:** An initial or further investigation conducted by the CMA under Chapter 2 of Part 1 of the DMCC Act to decide whether to designate an undertaking as having SMS in relation to a given digital activity.

   k) **SMS Levy:** The levy that the CMA may require SMS Firms to pay under Section 110 of the DMCC Act in respect of a Chargeable Year.

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[1] Section 110(13)(a) of the DMCC Act.

l) **SMS Levy Share:** The share of the SMS Levy that the CMA may require an SMS Firm to pay under Section 110 of the DMCC Act in respect of a Chargeable Year.

m) **SMS Reporting Requirement:** The requirement on SMS Firms to submit a report regarding certain merger activity under Chapter 5 of Part 1 of the DMCC Act.

### A2. General Interpretation

2. The following general interpretation rules will apply to these Rules:

a) All references to dates and times in these Rules relate to Greenwich Mean Time or, at the times when it is in force, British Summer Time.

b) Unless the context otherwise requires, terms used in these Rules bear the same meaning as in the DMCC Act.

c) Headings are not part of the SMS Levy Rules and are only for ease of reference and shall not be used in its construction and interpretation.

d) References to any gender include all genders.

e) References to the singular include the plural and vice versa unless the context suggests otherwise.

f) A reference to any statutory provision includes a reference to any amendment, consolidation or re-enactment of the provision from time to time in force and all secondary legislation made under it.

g) The term “calculate” and associated terms shall in any relevant case include “re-calculate” and its associated terms.

h) In determining whether it is satisfied as to any matter set out in these Rules, the CMA shall take such steps as it thinks fit and may (but shall not be obliged to) seek further information from any party.

i) References to any English legal term, concept, requirement or provision shall, in respect of any jurisdiction other than England, be deemed to include what most closely approximates in that jurisdiction to the English legal term, concept, requirement or provision.

j) The capitalised terms used in these Rules shall, unless specifically stated to the contrary, have the meanings set out in Part A1 of these Rules.

k) Unless specifically stated to the contrary, references to any documents or information published on the CMA’s website are to those documents as updated from time to time.

## Part B – Determining the SMS Levy

3. Section 110 of the DMCC Act allows the CMA to require SMS Firms to pay it a levy to recoup its Qualifying Costs.

## B1. Identifying Qualifying Costs

4. The Qualifying Costs for a given Chargeable Year will be accurately identified and recorded in line with the CMA's wider approach to financial management.
5. The Qualifying Costs are the costs which the CMA incurs in exercising its Digital Markets Functions during a Chargeable Year. There are three categories of Qualifying Costs that will be recovered via the SMS Levy: staff costs, non-staff costs, and overhead costs.[2]
   a) **Staff costs** – the SMS Levy will recover the costs of staff time associated with the exercise of the Digital Markets Functions, based on time recording data.[3]
   b) **Non-staff costs** – the SMS Levy will recover the costs of procured goods and services associated with the exercise of the Digital Markets Functions. Such costs could include, for example, travel costs, subscription fees, or fees for professional services.
   c) **Overhead costs** – the SMS Levy will recover an appropriate share of the CMA's fixed overhead costs (for example, accommodation) reflecting the approximate size of the Digital Markets Functions as a proportion of the CMA's overall activity. This will be calculated by applying the Overhead Recovery Rate to total staff costs. The Overhead Recovery Rate will be set at the beginning of the Chargeable Year and confirmed as part of invoicing.
6. As required by section 110(13)(b) of the DMCC Act, costs incurred by the CMA for the purposes of litigation will be excluded from the Qualifying Costs, even where they relate to a Digital Markets Function.
7. Accordingly, the Qualifying Costs will include, but will not be limited to, costs the CMA incurs associated with:
   a) Its power to designate undertakings as having SMS, including SMS investigations;
   b) Its power to impose Conduct Requirements;
   c) Its power to make PCIs, including PCI investigations;
   d) The administration of the SMS Merger Reporting Requirement;
   e) The use of the investigatory powers under Part 1 of the DMCC Act;[4]
   f) Monitoring compliance with obligations imposed on parties under Part 1 of the DMCC Act;

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[2] See Parts D4 and D5 for how the CMA calculates the SMS Levy Share payable by a firm.
[3] These costs will comprise the time cost of CMA staff engaged in any matters relating to the exercise of the CMA's Digital Markets Functions (excluding matters undertaken for the purposes of litigation, pursuant to section 110(13)(b)).
[4] For the avoidance of doubt, this does not include costs for which an SMS Firm is directly liable pursuant to a notice issued to it by the CMA under sections 79(3) and (4) of the Act, requiring it to remunerate and expense a skilled person for the preparation of a report.

g) Enforcement of breaches of obligations imposed on parties under Part 1 of the DMCC Act, including the imposition of penalties; and

h) Preparatory work, management, decision-making, administration and any other activities that are calculated to facilitate, or are conducive or incidental to, any of the Digital Markets Functions.

### B2. Setting the SMS Levy

8. The annual SMS Levy will be the sum of all Qualifying Costs in a Chargeable Year. The aggregate amount payable by SMS Firms via the SMS Levy will not exceed the Qualifying Costs in a given Chargeable Year.

9. The SMS Levy will be allocated to SMS Firms in accordance with the methodology set out in Part C. An SMS Firm's SMS Levy Share will be calculated and recovered in accordance with the methodology set out in Part D.

## Part C – Allocating the SMS Levy to SMS Firms

### C1. The allocation methodology the CMA will use for dividing the SMS Levy among SMS Firms

10. In each Chargeable Year, the sum or total value of the SMS Levy identified at Part B will be divided among SMS Firms according to the CMA's allocation methodology. The allocation methodology is that the SMS Levy will be **divided equally** between SMS Firms, having regard to the proportion of the relevant Chargeable Year for which each firm was designated.[5]

11. This approach applies to SMS Firms, regardless of the number of designations each holds.

### C2. How the CMA calculates the SMS Levy Share owed by each firm

12. The total SMS Levy in a given Chargeable Year will be calculated in two parts, a first invoice covering the first six months of the Chargeable Year as set out at Part D4, and finalised in a second invoice as set out at Part D5. The total SMS Levy in a given Chargeable Year will be apportioned to SMS Firms on a monthly basis, in line with the allocation methodology set out at Part C1.

13. Consequently, the CMA will calculate the SMS Levy Share for a particular SMS Firm as follows:

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[5] In the inaugural Chargeable Year (2025-26), a firm will not be liable to pay their share of the average monthly SMS Levy in a month in which they were designated with SMS but that predates the coming into effect of these SMS Levy Rules.

a) The total SMS Levy for the relevant Chargeable Year is divided by 12 to identify an average monthly SMS Levy;

b) SMS Firms that are liable to pay the SMS Levy (subject to Part D1) in each month of the Chargeable Year will be identified;

c) The average monthly SMS Levy will be divided equally between SMS Firms identified as liable to pay the levy in each given month, in accordance with the allocation methodology set out at Part C1.

14. An SMS Firm's overall SMS Levy Share for a given Chargeable Year will be the sum of its share for each month for which it is designated. This approach will ensure that, where a firm is designated with SMS for only part of a Chargeable Year, its SMS Levy Share and invoice will be proportionate to the amount of time it is designated, as required by the DMCC Act.

15. The exceptional invoicing arrangements for the inaugural Chargeable Year 2025-26 are set out at Part D3.

# Part D - Invoicing and Recovery of the SMS Levy

## D1. When the SMS Levy Shares will become collectible

16. SMS Firms are subject to the levy from the first calendar month they are designated, being liable for its full share of the average monthly SMS Levy for that month, irrespective of when in that month they are designated.

17. As noted above, if a firm is designated for only part of a Chargeable Year, it will only pay the levy in respect of the months in which it is designated.

18. The CMA will not seek collection from an SMS Firm until the timeframe to appeal the CMA's decision to designate that firm for the first time as having SMS has elapsed, or any appeal to that decision has been finally determined. The timeframes for appeals are set out in the Competition Appeal Tribunal Rules 2015.[6]

19. Following conclusion of any appeals, or once the appeal period has elapsed, the SMS Levy will become collectible. The invoice for the new SMS Firm will be backdated to the date of the CMA's decision to designate the firm with SMS. Where this occurs, and in line with Part D6, invoices issued to any prior or existing SMS Firms will be adjusted in the following Chargeable Year to reflect the effect on their SMS Levy Share that results from such backdating.

[6] The Competition Appeal Tribunal Rules 2015 (as amended by The Competition Appeal Tribunal (Amendment) Rules 2024).

## D2. The invoicing timetable

20. Subject to Part D3, in each Chargeable Year in which there is one or more SMS Firms, the CMA will invoice SMS Firms in two tranches.
21. The first invoice will typically be issued by the end of November and will cover the SMS Firm's SMS Levy Share for the first six months of the Chargeable Year (i.e. April to September, inclusive). The first invoice will be based on the calculations under Part D4 below.
22. The second invoice will typically be sent by the end of May of the following Chargeable Year. This second invoice will require payment of the balance of the SMS Firm's SMS Levy Share for the whole Chargeable Year less any amount already paid in respect of the first invoice. The second invoice will be based on the calculations under Part D5 below.
23. SMS Firms that are designated after the first invoice has been issued will receive only the second invoice and thus be invoiced only once.

## D3. Exceptional invoicing arrangements for the inaugural Chargeable Year (2025-26)

24. Exceptionally, for the inaugural Chargeable Year, to the extent that these SMS Levy Rules come into effect part way through a Chargeable Year, the CMA will invoice SMS Firms only once, by the end of May of the following Chargeable Year. This invoice will be based on actual Qualifying Costs for the year (described at Part D5).

## D4. Calculating the SMS Levy for the purposes of the first invoice

25. For the purposes of the first invoice, the CMA will calculate the SMS Levy for the relevant Chargeable Year based on actual Qualifying Costs incurred to September. To calculate the SMS Levy for the first invoice, the CMA will take the following approach:
    a) The costs of staff constituting Qualifying Costs ('staff costs') (see Part B) will be based on time recording data.
    b) The costs of procured goods and services constituting Qualifying Costs ('non-staff costs') (see Part B) will be based on recorded procurement documentation.
    c) Overhead costs constituting Qualifying Costs (see Part B), will be calculated by applying the CMA's Overhead Recovery Rate to staff costs.
26. The first invoice will also confirm the total SMS Levy for the first six months of the Chargeable Year and the sub-totals for each category of Qualifying Cost (that is, staff costs, non-staff costs and overhead costs).

## D5. Calculating the SMS Levy for the purposes of the second invoice

27. For the purposes of the second invoice, the CMA will calculate the total SMS Levy based on actual Qualifying Costs incurred in a Chargeable Year.[7] To reach this calculation, the CMA will take the following approach:

    a) The costs of staff constituting Qualifying Costs (see Part B) will be based on time recording data.

    b) The costs of procured goods and services constituting Qualifying Costs (see Part B) will be based on recorded procurement documentation.

    c) Overhead costs constituting Qualifying Costs (see Part B), will be calculated by applying the CMA's Overhead Recovery Rate to staff costs.

28. The SMS Levy Share that an SMS Firm will be required to pay as part of its second invoice, will be less the amount already paid by the SMS Firm following the first invoice in respect of that Chargeable Year.

29. The second invoice will also confirm the total SMS Levy for the Chargeable Year and the sub-totals for each category of Qualifying Cost (that is, staff costs, non-staff costs and overhead costs).

## D6. Overpayments and underpayments

30. In the event of any surplus or deficits arising after the end of a Chargeable Year, the levy invoices will be adjusted in the Chargeable Year following which the surplus or deficit arose, either in the form of a credit note or a debit note included in the next relevant invoice. If a surplus arises within the accounting period for the relevant Chargeable Year, the CMA will offer the SMS Firm an option of a credit note or refund. Surpluses outside the accounting period will be corrected with a credit note.

31. The above adjustments will ensure that the levy amounts received by the CMA in respect of a Chargeable Year do not exceed the Qualifying Costs in that given year. They also will ensure that any crediting or payment made in respect of a Chargeable Year is in proportion to the amount paid by an SMS Firm in respect of that year.

[7] As noted at paragraph 24 above, this approach will also apply for the purposes of the single invoice issued in the inaugural Chargeable Year.

## D7. How a designated firm will pay the SMS Levy

32. The invoice issued by the CMA to an SMS Firm will specify the CMA bank account, the accepted payment methods, and the deadline for making a payment. Payment will be due within 30 days of each invoice being issued.

33. Late payments may be subject to interest at the rate specified for the time being in section 17 of the Judgments Act 1838.The CMA will pay any late payment interest received into the Consolidated Fund. Enforcement action may be taken to recover the outstanding amount due.

## D8. What happens if a firm is de-designated

34. If the CMA revokes a firm's SMS designation,[8] and the firm has no other designations in force, the firm will be liable for the full levy charge (calculated according to the approach set out at Part C2) for the months in the Chargeable Year up to and including that in which its last remaining designation ends, irrespective of when in the month such revocation occurs.

35. Thereafter, the SMS Levy will be re-divided between any remaining SMS Firms in line with the apportionment approach at Part C1.

[8] Or is treated as having taken a decision to revoke such a designation, pursuant to section 14(6)(b) of the DMCC Act. See Chapter 2 in Digital Markets Regime Guidance for the CMA's approach to further SMS investigations.