

The SMS Levy Rules

Summary of responses to the consultation

25 September 2025

© Crown copyright 2025

You may reuse this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence.

To view this licence, visit www.nationalarchives.gov.uk/doc/open-government-licence/ or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gov.uk.

Contents

| | <i>Page</i> |
|--|-------------|
| 1. Introduction | 4 |
| 2. The CMA's analysis of responses | 6 |
| 3. List of respondents..... | 16 |

1. Introduction

- 1.1 Part 1 of the Digital Markets, Competition and Consumers ('DMCC') Act 2024 (the 'Act') establishes the Digital Markets Competition Regime ('DMCR'), which applies to firms designated under the Act as having Strategic Market Status ('SMS'). Section 110 of the Act gives the CMA powers to charge a levy to designated SMS Firms (the 'SMS Levy') to recoup costs which the CMA incurs in exercising its digital markets functions.¹
- 1.2 The Act does not prescribe how the SMS Levy should be allocated between SMS Firms and, subject to the requirements of Section 110, the CMA has discretion as to the approach it can take to collection of the SMS Levy from them. Section 110 requires the CMA to consult and publish rules explaining how the SMS Levy is to be calculated (the 'SMS Levy Rules'). To this end, between 5 June 2025 and 3 July 2025, the CMA publicly consulted on its proposed approach to implement the SMS Levy and the draft SMS Levy Rules, guided by the principles of fairness and administrability. The CMA received six responses to the consultation: three from large digital firms, two from trade bodies and one anonymous contribution from an individual (a list of respondents is in section 3). The CMA also met with one of these stakeholders to further discuss their views.
- 1.3 This document summarises the responses to the consultation and sets out any changes the CMA has decided to make to the draft SMS Levy Rules as a result. This document is not intended to be a comprehensive record of, or response to, all individual views expressed by respondents. It sets out the general views received and the most pertinent points. Non-confidential versions of the complete consultation responses are available on the CMA website².
- 1.4 This document should be read together with the final SMS Levy Rules, published alongside this summary and with effect from 25 September 2025, in exercise of the powers conferred on the CMA by Section 110 of the Act.

¹The CMA's digital market functions are defined in section 118 of the Act.

² [Draft rules for digital markets competition regime levy - GOV.UK](#)

Summary of the SMS Levy

- The legislative intention, as reaffirmed by the Government alongside the CMA's consultation on draft SMS Levy Rules, is for the DMCR to be levy funded.
- The SMS Levy will be shared equally between SMS Firms, having regard to the proportion of the Chargeable Year in which firms are designated.
- The money raised through the SMS Levy does not directly benefit the CMA; it is returned to HM Treasury to offset the portion of the CMA's annual budget representing the qualifying costs of the digital markets functions.
- The CMA's annual budget continues to be set by Government and is subject to checks and controls. On financial controls, see further paragraphs 2.17 - 2.24 below.
- The CMA expects qualifying costs (those that would qualify for SMS Levy recoupment subsequent to one or more SMS designation) to be around £20 million per annum within the current Spending Review period. Only part of this is expected to be recouped via the SMS Levy in the inaugural year, given no SMS Firms have yet been designated as at the time of publication.
- The SMS Levy Rules govern the approach to the SMS Levy and are in effect from 25 September 2025. The SMS Levy will start to be charged from the point that a first firm is designated with SMS.

2. The CMA's analysis of responses

2.1 Stakeholder responses focused on the following key themes:

- The allocation methodology
- Transparency over SMS Levy costs
- Charging of the SMS Levy when a firm is appealing an SMS designation
- De-designation of SMS Firms
- Comments on specific provisions of the draft SMS Levy Rules

The allocation methodology

Summary of responses

2.2 Respondents commented on the three options considered by the CMA for how to divide the SMS Levy between SMS Firms:

- One respondent agreed that the recommended option to divide the SMS Levy equally between SMS Firms is the simplest and most predictable. Others noted an equal split of the SMS Levy may not be commensurate with the level of regulatory work each firm, particularly in the initial period, generates. Most of these respondents suggested the approach is reviewed when the DMCR is more embedded, including to consider alternative apportionment approaches.
- Some respondents agreed with the CMA's assessment of the challenges in allocating the SMS Levy based on the number of digital activities (not the preferred option) given possible differences in the grouping of activities across designations.
- Several respondents agreed with the CMA's assessment that a revenue-based approach (not the preferred option) would be less appropriate or noted challenges of calculating this, including that revenue may be generated outside the UK, from products and services outside the scope of the SMS designation, and that there may be no correlation between turnover and the level of regulatory work.

2.3 One respondent said it was unclear that any of the three proposed options are appropriate, proportionate and fair. Several respondents said it is unfair that a small number of SMS Firms, as prioritised by the CMA's discretion, will bear the full costs of the regime initially while the CMA investigates more firms for

SMS designation. Suggestions included to delay introduction of the SMS Levy by two years, reduce the proportion of the total SMS Levy that is recouped initially, and to recoup initial costs in future years when more firms have been designated. One respondent said that shares should take account of the history of regulatory evasion and harmful practices. They also noted a need to ensure costs are not passed down to businesses, users and consumers.

The CMA's views

- 2.4 The intention of Parliament for the DMCR to be levy funded was clear during the passage of the DMCC Bill.³ Alongside the CMA's consultation on draft SMS Levy Rules, the Government reaffirmed the intention for the DMCR to be levy funded and for this to be "*fair, transparent, proportionate and provide value for money for the British taxpayer*".⁴ This is consistent with the wider UK approach, where it is common that statutory functions conferred by legislation on public bodies are funded by industry rather than by the Exchequer. Government reconfirmed as part of the CMA's consultation on the SMS Levy Rules that key objectives for the funding of the DMCR are fairness, transparency, and the provision of value for money for any expenditure of public funds.
- 2.5 Having taken account of comments regarding the three options considered by the CMA for allocating the SMS Levy between SMS Firms, the CMA confirms the implementation of its proposed option to split the SMS Levy equally between designated SMS Firms. This is on the basis that this is likely to be the most fair, predictable and administrable option. The CMA carefully considered stakeholder views on an apportionment approach that is correlated with the activities that firms may generate for the CMA in exercising its digital markets functions. The CMA considers this would be difficult to administer, particularly because the CMA's work may not necessarily be directly attributable to just one firm. The CMA also expects that oversight of designations, including engagement and resource, may fluctuate over an SMS Firm's designation period. An equal split helps to balance such fluctuations and provides certainty to SMS Firms for respective SMS Levy shares.
- 2.6 The CMA notes stakeholder comments about the impact of the SMS Levy on initial SMS Firms. Recoupment of the costs of the DMCR requires there to be

³ For example 27 June 2023 Debate in the House of Commons: [Digital Markets, Competition and Consumers Bill \(Ninth - Hansard - UK Parliament\)](#).

⁴ See the CMA's consultation website: [Draft rules for digital markets competition regime levy | CMA Connect](#).

firms designated with SMS. The Act does not itself designate firms subject to the DMCR. Rather, the Act envisages that SMS Firms will be designated over time, subject to nine-month statutory investigations into undertakings, as prioritised by the CMA Board on the basis of its prioritisation principles. By design of the Act, therefore, there are likely to be fewer SMS Firms subject to the SMS Levy initially. SMS designations are for five-years and can also be revoked, so the statutory processes envisage that the number of SMS Firms may grow or contract over time.

- 2.7 Until such time that any firm is designated with SMS, the costs associated with the setup of the DMCR continue to be borne by HM Treasury from public funds. This initial approach is an exception to the general expectation that SMS Firms will bear the costs of the regime going forward.
- 2.8 Accordingly, the CMA will begin recouping the qualifying costs of the regime to the Exchequer from the point a first firm is designated with SMS. Delaying the introduction of the SMS Levy or reducing the proportion of the total SMS Levy recouped initially, would be inconsistent with Government and Parliament's intentions for the costs of the regime to be levy recovered from the outset and, the objective of providing value for money for expenditure of public funds. Whilst the CMA understands the pragmatic basis on which certain respondents suggested to back-charge initial costs of the regime at a future point in time when more firms are designated, this would not be consistent with the Act, which requires SMS Firms to pay the levy only in any such year where they have an active SMS designation, whether that designation is in place for the full year or only part of it.
- 2.9 The CMA appreciates there are concerns around the allocation of costs to SMS Firms during the initial period of the DMCR. While the CMA considers its proposed allocation approach is the most appropriate, it recognises that this may need to evolve as the regime develops. That is why the CMA expects to review the approach to the SMS Levy, and its collection, within five years. This will ensure continued appropriateness of its approach, underpinned by the principles of fairness and administrability that guided the CMA's consultation on the draft SMS Levy Rules.

Transparency over SMS Levy costs

Summary of responses

- 2.10 A majority of respondents sought greater *transparency* over costs and the make-up of the SMS Levy, including how estimates – particularly for overhead

and non-staff costs - would be calculated, how changes would be notified, as well as confirmation of estimates for the SMS Levy in the inaugural Chargeable Year.

- 2.11 Others commented on the *scope of qualifying costs*, saying clear justification should be provided for all costs passed onto SMS Firms and what is in and out of scope. One respondent set out that it is unfair to charge 100% of qualifying costs and that preparatory and management activities should be excluded. They pointed to statements made during the introduction of the DMCC Bill by the then Secretary of State that costs would be “partially recouped by levy funding.”
- 2.12 Several stakeholders sought further *controls* and audit measures to ensure cost efficiency. These included annual consultation on estimates and/or reporting on granular operating costs, capping the levy at the Digital Market Unit’s (‘DMU’) budget, and giving SMS Firms the right to appoint independent auditors. Another respondent said additional annual reporting on the effectiveness of interventions is needed to ensure transparency and demonstrate value for money of the levy.

The CMA’s views

Transparency

- 2.13 Noting requests for added transparency, the CMA has amended the SMS Levy Rules to confirm that it will break down the total SMS Levy into its three constituent parts in invoices. The CMA provides additional clarity on how these three components will be calculated below.
- **Staff costs:** This will be based on actual time that CMA staff record in timesheets against qualifying digital markets functions, capped at their monthly contracted hours, rather than estimates. This allows time staff spend on wider CMA work to be excluded. It is also the most effective approach to account appropriately for relevant time from DMU colleagues and other CMA staff who provide specialist inputs into digital markets functions work, such as legal services and the office of the chief economic adviser.
 - **Non-staff costs:** This will include the cost of procured goods and services associated with the digital markets functions for example travel costs, subscription fees, and fees for professional services such as externally

commissioned research. This cost will be calculated using completed procurement invoices / purchase orders.

- **Overhead costs:** This is calculated by applying the overhead recovery rate to total digital markets functions staff costs. Government's Managing Public Money Guidance determines that overheads include depreciation and cost of capital.⁵ As an example, the overhead recovery rate in 2024/25 was 51.32%⁶ and applying this to a hypothetical staff cost figure of £5 million would bring overhead costs to £2.6 million.

2.14 Regarding views to pre-notify changes to a firm's SMS Levy share, the CMA believes that the approach to equally divide the SMS Levy by SMS Firms provides sufficient predictability. Given the nine-month public statutory SMS investigation that the CMA must conduct before deciding to designate a firm (or revoke a designation), any existing SMS Firms will have ample advance notice of possible changes to their shares.

Scope of qualifying costs

2.15 Regarding comments on the scope of qualifying costs, the CMA confirms that litigation costs and costs outside the scope of the digital markets functions are not part of the levy. Costs the CMA incurred in the set-up of the regime and the digital markets functions are not being recouped and are borne by public funds.

2.16 The CMA does not expect to recoup 100% of qualifying costs in each chargeable year. For example, certain staff time activity has been voluntarily excluded. The CMA does not consider it appropriate to exclude management time from qualifying costs as this is critical to the efficient running of the regime. Similarly, the exclusion of preparatory work (pre-SMS designation) would be inappropriate as this is critical to building the evidentiary basis for a decision to launch an SMS investigation, as required under the Act.⁷

⁵ HM Treasury (2025), [Managing Public Money](#), paragraph 6.2.1.

⁶ Calculated as an annual rate taking the CMA's budget for corporate services – with the addition of depreciation and cost of capital (as required by Government's Managing Public Money Guidance) – as a proportion of its frontline budget. As per Part B1 in the SMS Levy Rules, the rate will be confirmed as part of invoicing.

⁷ For a list of qualifying costs, see Part B1 in the SMS Levy Rules.

Controls

- 2.17 Regarding comments on controls to ensure budget and cost-efficiency, the CMA notes that the qualifying costs the CMA incurs in scope of the SMS Levy are subject to controls and are not unfettered.
- 2.18 The CMA's budget is set by Government through a spending review and ratified annually in Parliament as part of the HM Treasury Supply Estimates. These processes set expenditure limits for the CMA. The CMA is not able to call upon further intra-year funding to fund activity not initially budgeted for without HM Treasury approval, normally requiring sign-off by the Chief Secretary to the Treasury through the Estimates process.⁸ Movements in the CMA's annual budget and the reasons for them are published in the relevant Estimates Memorandum which is publicly available.
- 2.19 Under Section 110 of the Act, the CMA cannot collect more money through the SMS Levy than the costs it incurs in exercising its digital markets functions during each Chargeable Year. The CMA cannot build up reserve funds from the SMS Levy, nor can it collect SMS Levy money and then determine what uses it should be put towards. The money raised through the SMS Levy does not directly benefit the CMA; it is returned to HM Treasury to offset the portion of its annual budget representing the qualifying costs of the DMCR.
- 2.20 This set budget and allocation across CMA work, including that of the DMCR, and how qualifying SMS Levy costs are incurred, is subject to and overseen through multiple levels of CMA Governance. The CMA Board ensures that the CMA makes appropriate use of public funds. The Executive Committee focuses on strategic issues, performance and delivery, and the Audit and Risk Assurance Committee advises on internal controls, audit and risk assurance processes. The controls on CMA budget, spend and forecasts have recently been reviewed and strengthened by the CMA's Chief Operating Officer following his appointment in 2024.
- 2.21 The CMA have assurance and quality checks in place to test its processes, to ensure there is consistency of time recording activities and to reduce risks of error and/or inefficient practices. To further enhance accuracy and transparency of time recording and qualifying cost calculations, the CMA are amending the SMS Levy Rules to allow for additional time to issue invoices. This adjustment provides additional time for data assurance, supports accurate SMS Levy calculations, and aims to reduce future amendments to

⁸ HM Treasury (2011), [Supply Estimates Guidance Manual](#), paragraphs 1.28 – 1.31.

invoices. The revised timeframe will provide certainty and fairness for all SMS Firms, by applying the same level of assurance for each invoicing period.

- 2.22 There is also independent scrutiny and oversight of the CMA's financial outturn, which it must publicly report on annually. The CMA's primary and additional accounting officers are also accountable to Parliament. The NAO annually review the CMA's resource accounts and trust statement to audit, certify and report on the financial statements in accordance with the Exchequer and Audit Department Act 1921. In doing so, the NAO will, amongst other things, review financial statement disclosures, engage with CMA governance and review internal audit reports.
- 2.23 In the round, these processes ensure value for money, cost efficiency and transparency, and will also act as important checks and controls on the quantum of the SMS Levy. To assist stakeholders in understanding that quantum, the CMA expects the qualifying costs to be around £20 million per annum within the current Spending Review period, but only part of this is expected to be recouped via the SMS Levy in the inaugural year, given no SMS Firms have yet been designated as at the time of publication. SMS Firms will only be charged proportionate to the amount of time in the year they were designated for.
- 2.24 The CMA does not consider further controls beyond those outlined in this document, including for SMS Firms to appoint a further independent auditor are necessary and, in particular, notes the further administration involved (which might in itself incur chargeable costs).

Charging of the SMS Levy when a firm is appealing an SMS designation

Summary of responses

- 2.25 One respondent said that existing SMS Firms should not bear the cost of the SMS Levy whilst another SMS Firm appeals its designation. They and another respondent suggested for SMS Levy shares to be adjusted as if the appealing firm was designated, and to issue invoices to the appealing firm, which would become payable on conclusion of the appeal process. If the appealing firm later was successful, existing firms could be issued with 'top up' invoices to account for the difference.

The CMA's views

- 2.26 In line with the CMA approach to fines and penalties revenue, and consistent with accounting standards set by IFRS15 and the Government Financial Reporting Manual (FreM), SMS Levy revenue will be recognised and invoices sent to the appealing firm, either when the timeframe for a firm to appeal the SMS designation decision has elapsed or when the appeal has been determined. Further, the concept of annuality⁹ requires all costs in a given Chargeable Year to be recognised within that year and not carried forward. These accounting standards, which are generally adopted for good financial management, have informed the CMA's decision not to adopt the alternative approach stakeholders suggest.
- 2.27 Accordingly, any firms already designated with SMS at the point of a new designation decision will continue to pay the same SMS Levy shares as before, and at least until the period to appeal the new designation has elapsed or an appeal determined. Any overpayments by firms already designated with SMS, will be recognised (backdated to when the additional designation decision was made) and credited back. The CMA has clarified in Part D6 of the SMS Levy Rules that it will offer an option to refund overpayments to firms already designated with SMS, if the invoice is still issued within the relevant Chargeable Year to allow the CMA to recognise revenue appropriately.

De-designation of SMS Firms

Summary of responses

- 2.28 Two respondents said the SMS Levy Rules should provide more detail on how the SMS Levy will work during the revoking of SMS and sought assurances that the SMS Levy would not be a factor in whether and when the CMA considers revoking a designation.

The CMA's views

- 2.29 In the event of an SMS Firm's designation being revoked, future payments for the SMS Levy will be adjusted across the remaining firms in line with the

⁹ HM Treasury (2025), [Consolidated Budgeting guidance: 2025-26](#), chapter 1.

equal apportionment approach. The SMS Levy Rules have been updated to clarify this.

- 2.30 The revoking of a firm's designation itself is guided solely by the outcome of a further SMS investigation – impact on the SMS Levy is not relevant to or considered as part of any designation decision. The approach and procedure for revoking designation are covered in the digital markets competition regime guidance.¹⁰

Comments on specific provisions of the draft SMS Levy Rules

Summary of responses

- 2.31 One respondent proposed amending Part D6 of the SMS Levy Rules for invoice payment terms to be extended from 30 days to 90 days. They said this is needed given the disproportionate burden of the SMS Levy on early SMS Firms. They also pointed to longer payment terms for CMA fines. Another respondent proposed greater powers to limit the behaviour of late-paying firms.
- 2.32 One respondent said Part D1 should be amended to charge on a pro-rata basis for the first month of designation, based on the days of the month firms are designated for or to start charging in the month following designation.
- 2.33 A respondent argued Part D6 should be amended to allow for overpayments to be refunded to firms, or otherwise to be held in an interest-bearing account.

The CMA's views

- 2.34 The CMA does not propose to make changes to payment terms as 30-day payment terms are used across other public bodies collecting levies or fees, including the ICO¹¹, FCA¹², and Ofgem.¹³ The CMA also has a mandate – alongside all of Government – to pay suppliers within thirty days¹⁴ and so

¹⁰ [Digital markets competition regime guidance](#) (CMA194), paragraph 2.113.

¹¹ ICO, 'Frequently asked questions', accessed by the CMA on 29 August 2025, [Frequently asked questions | ICO](#).

¹² FCA, 'FEES 6.7 Payment of levies', accessed by the CMA on 29 August 2025, [FEES 6.7 Payment of levies - FCA Handbook](#).

¹³ Ofgem, 'License fee cost recovery principles May 24', accessed by the CMA on 29 August 2025, [Licence fee cost recovery principles May 24](#).

¹⁴ Cabinet Office, 'Guidance: Prompt payment policy', accessed by the CMA on 29 August 2025, [Prompt payment policy - GOV.UK](#).

does not consider it appropriate to offer more advantageous payment terms whilst simultaneously endorsing prompt payments as an important part of an efficient and well-functioning UK economy. Whilst the CMA does provide a longer period for the payment of financial penalties, these are typically exceptional and often unaccounted costs on business arising from CMA enforcement decisions (rather than regulatory processes). In the event of late or non-payment, invoices are subject to interest and existing civil penalties. The Act does not provide the CMA with powers to impose bespoke penalties for non-payment of the SMS Levy.

- 2.35 The CMA considers months to be the most pragmatic denominators to use to ensure SMS Firms' SMS Levy shares are proportionate to the portion of the year they are designated for. A pro-rated approach in the first month of designation – and similarly an approach that charges new SMS Firms only in the following month if designation decisions are issued in the latter half of the prior month - would be administratively burdensome and reduce predictability for SMS Firms to anticipate their respective SMS Levy shares.
- 2.36 The CMA has clarified in Part D6 of the SMS Levy Rules that in the event of overpayments, these will be credited against the respective firms' next invoice or, if within a given financial year's audit cycle, the CMA will offer the SMS Firm the option of a refund instead.

3. List of respondents

- ACT – The App Association
- Amazon
- Anonymous individual
- Apple
- Computer & Communications Industry Association (CCIA)
- Google