1 August 2025

Feedback of

ACT | The App Association

to the

United Kingdom's Competition and Markets Authority

regarding its

Changes to Mergers Guidance and Mergers Notice Template

Introduction and statement of interest

ACT | The App Association is a trade association representing small business technology companies from across the United Kingdom (UK) and around the globe. Our members are entrepreneurs, innovators, and independent developers within the global app ecosystem that engage with verticals across every industry. We work with and for our members to promote a policy environment that rewards and inspires innovation while providing resources that help them raise capital, create jobs, and continue to build incredible technology.

The small and medium-sized enterprise (SME) community of innovators that the App Association represents are a key driver of the UK technology economy. The UK has one of the largest tech sectors in the world, with a huge amount of economic activity involving apps. A few examples include shopping, booking travel, gaming, banking, watching media, working, communicating, teaching kids in school, monitoring our health, learning new languages, etc. The list goes on and on. Apps are also used to control our homes, cars, factories, and medical devices, plus countless more activities, via the internet of things (IoT). These activities don't just generate money, they increase sustainability, boost productivity, and provide genuine support to people with specific health needs.

The term for this broad ecosystem of economic benefit is 'the app economy', and it is a significant contributor to the UK's economy writ large. The direct revenues of the UK app economy in 2021 amounted to £33 billion. Including direct and indirect contributions, the app economy generated £74.8 billion in revenue throughout all sectors of the UK's economy in 2021, creating more than 400,000 jobs in the process.[1]

The App Association appreciates this opportunity to provide feedback to the CMA on its draft updated mergers guidance documents.

App Association position on the CMA's draft updated merger guidance documents

Success for a startup or small business can take a variety of forms and be accomplished through different means, including but not limited to being acquired by a larger company with the resources and knowledge to improve the product and/or streamline market entry or an initial public offering (IPO) all to the benefit of end-consumers. Acquisition is often the best of these options for the business owner(s) and consumers, as IPOs are expensive and fraught with risk and thus reduces likelihood of consumer benefit. App Association members often start their businesses with the understanding that once they have brought their idea to fruition, their business may be acquired, allowing them to move on to develop new businesses. The UK economy and consumers have benefitted immensely from the freedom to combine the novel products App Association members create with the resources, technical knowledge, and commercial knowledge of businesses that later acquire their innovations. A merger that helps deliver better products or services for consumers is often the desired outcome and is desirable from a competition policy standpoint. Any changes to the merger guidelines likely will significantly have long-term, negative effects on App Association members' ability to innovate and compete, affecting their ability to fully realise success.

In this regard, we urge the CMA to ensure that its updated guidance and mergers notice template recognise that mergers and acquisitions are a natural and desirable outcome for many SMEs.

[1] Deloitte Finance, The App Economy in Europe – A Review of the Mobile App Market and Its Contribution to the European Economy 1 (Aug. 2022), https://actonline.org/wp-content/uploads/220912_ACT-App-EU-Report.pdf.

Any modifications should maintain a deference to thorough economic analysis as a foundation of any merger review or enforcement. Diminishing the role of, or eliminating, economic analysis from the merger guidelines will produce uncertainty for App Association members and harm their ability to achieve success through procompetitive mergers. In updating the merger guidelines, it is crucial that the CMA base any changes in settled law and experiences and effects that are well-demonstrated. The merger guidelines should avoid making policy-level decisions based on edge cases or hypotheticals that do not reflect the reality of the business environment.

Building on the above, we have significant concerns with CMA's proposed changes to its mergers guidance and mergers notice template. In general, we support the CMA's efforts to make improvements based on the '4Ps:' pace, predictability, proportionality, and engagement throughout the process. Unfortunately, not all of CMA's proposed changes will further these goals. The revised mergers notice template requires what will likely be excessive documentation, asking for documents relating to 'forward-looking assessments', 'pipeline products', and internal strategy. These documents could be particularly challenging to produce for small and medium-sized technology companies due to their limited resources. Because the internet allows even the smallest entities to do business around the world, such companies may find it difficult to differentiate between UK-specific information and information relating to their operations in other jurisdictions. In addition, we emphasise that the pre-notification process should be as informal as possible, and that CMA should not require onerous production of documentation as a pre-condition to engagement.

For global mergers, we support CMA's recognition that some mergers may not warrant UK-specific intervention. However, in keeping with the desire to improve predictability, we encourage CMA to provide clearer guidance on when the Authority will defer to the competition regulators of other jurisdictions and to create an informal process through which companies can work with CMA to determine whether activities in other jurisdictions could address the Authority's concerns.

Conclusion

In conclusion, while we support the CMA's commitment to promoting competition, we urge caution in the implementation of these new guidelines. The focus should remain on ensuring that interventions are evidence-based and proportionate to the actual risks posed by a merger. For small businesses, which drive much of the innovation in the UK's digital economy, maintaining the flexibility to engage in mergers and acquisitions without unnecessary regulatory burdens is essential. We encourage CMA to continue refining its guidance with the goal of fostering, rather than stifling, entrepreneurial activity.

The App Association remains at your disposal to provide further input and would welcome the opportunity to contribute to developing practices and solutions that address competition issues in ways that benefit all market participants, especially innovative UK SMEs.

Sincerely,

Mike Sax
Founder and Chairperson

Stephen Tulip
UK Country Manager

ACT | The App Association