

# AMNESTY INTERNATIONAL SUBMISSION

COMPETITION & MARKETS AUTHORITY

STRATEGIC MARKET STATUS INVESTIGATION INTO MICROSOFT'S  
BUSINESS SOFTWARE ECOSYSTEM

# INTRODUCTION

Amnesty International welcomes the opportunity to provide comments to inform the Competition & Markets Authority (CMA)'s Strategic Market Status (SMS) investigation into Microsoft's business software ecosystem. This submission is based on Amnesty International's 2025 briefing "Breaking Up With Big Tech: A Human Rights-Based Argument for Tackling Big Tech's Market Power"<sup>1</sup> (hereinafter, 'Amnesty International briefing'), which examines how a small group of dominant tech companies –including Microsoft– have accumulated market power across digital markets, and the human rights harms linked to that dominance.<sup>2</sup>

Amnesty International is a global human rights organisation. We approach this consultation from the perspective that competition law, applied with a human rights lens, is a powerful but underutilised tool for states to meet their human rights obligations under international law,<sup>3</sup> including as articulated for the business context in the UN Guiding Principles on Business and Human Rights.<sup>4</sup> Concentrations of market power in digital markets have direct consequences for privacy, freedom of expression, access to information, and the ability of users and customers to make meaningful choices about digital services they rely on.<sup>5</sup>

In preparing the underlying briefing, Amnesty International wrote to Microsoft on 12 August 2025 with a summary of the relevant findings and offered the company a right to reply. Microsoft responded in writing on 25 August 2025, and its response is reproduced in full in the annex to the briefing.<sup>6</sup> Where Microsoft's response engages directly with points raised in this submission, we reflect its position below.

This submission focuses on Questions 3, 4 and 5, where our briefing's research on Microsoft is most directly relevant, with a shorter response to Question 1.

# RESPONSES

## QUESTION 1: PLEASE GIVE YOUR VIEWS ON THE PROPOSED SCOPE OF OUR INVESTIGATION AND CANDIDATE DESCRIPTIONS OF MICROSOFT'S BUSINESS SOFTWARE ECOSYSTEM.

Amnesty International supports the CMA's proposed treatment of Microsoft's Productivity Software Suite, PC Operating System, Server Operating System, Relational Database Management System and Security Software as a single grouped digital activity. Our briefing describes Microsoft as having integrated artificial intelligence, cloud computing, and communication tools such as Microsoft Teams into a "tightly coupled ecosystem", with the bundling of services creating high costs for users to switch, reinforcing dependency on Microsoft's suite of products.<sup>7</sup> In its right-to-reply response, Microsoft stated that: "Microsoft Windows and Azure are both open platforms that enable customers to use them as interoperable tools" and that "Many independent software vendors have successful businesses on our platforms empowering them to achieve their unique goals. For example, Windows allows applications to be installed from any source, without the need to get Microsoft's permission or any fee from Microsoft...Microsoft Edge's share of global browser usage on desktop devices is less than 12 percent, meaning well over 80 percent of all browser time on a desktop/laptop device is done in a non-Microsoft browser. Azure is similarly open, supporting customers' desire to use multiple clouds as well as thousands of available third-party apps and services. As is the case with Windows, customers decide what apps and services they want to use and pick and choose what best serves their needs."<sup>8</sup>

This integration has itself been the subject of European Commission scrutiny: the Commission opened a formal investigation in July 2023, sent a Statement of Objections in June 2024 preliminarily finding that Microsoft had abused

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<sup>1</sup> Amnesty International, *Breaking Up with Big Tech: A Human Rights-Based Argument for Tackling Big Tech's Market Power* (Index: POL 30/0226/2025), 28 August 2025. <https://www.amnesty.org/en/documents/pol30/0226/2025/en/>

<sup>2</sup> Amnesty International, *Breaking Up with Big Tech*, (previously cited), pp. 4-5.

<sup>3</sup> Amnesty International, *Breaking Up with Big Tech*, (previously cited), pp. 5, 33-34.

<sup>4</sup> UN, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, HR/PUB/11/04, 2011.

<sup>5</sup> Amnesty International, *Breaking Up with Big Tech*, (previously cited), pp. 4-5, 33-34.

<sup>6</sup> Amnesty International, *Breaking Up with Big Tech*, (previously cited), pp. 37-40.

<sup>7</sup> Amnesty International, *Breaking Up with Big Tech*, (previously cited), p. 9.

<sup>8</sup> Amnesty International, *Breaking Up with Big Tech*, (previously cited), p. 39.

its dominant position by tying Teams to its productivity applications,<sup>9</sup> and in September 2025 accepted binding commitments from Microsoft to resolve those concerns.<sup>10</sup>

The question for the CMA, consistent with the avenues of investigation it has identified,<sup>11</sup> is not whether Microsoft's platforms are technically open in the abstract, but whether the cumulative effect of technical integration, default settings, commercial bundling and contractual terms across the grouped activity leaves UK organisations with a meaningful ability to combine Microsoft products with rival products in practice.<sup>12</sup> That is a question the CMA's evidence gathering is well placed to address.

We support the inclusion of Microsoft's AI products within the scope of the digital activities. As set out in response to Question 3 below, AI assistant features are being embedded directly across the products under investigation, in ways that risk further entrenching Microsoft's existing position.<sup>13</sup>

### **QUESTION 3: WHAT ARE YOUR VIEWS ON HOW BUSINESS SOFTWARE MAY EVOLVE IN FUTURE, INCLUDING AS A RESULT OF AI AND INCREASED CLOUD ADOPTION, AND HOW MICROSOFT'S BUSINESS SOFTWARE ECOSYSTEM MIGHT BE AFFECTED BY THESE CHANGES?**

**Generative AI is being absorbed into the existing Big Tech ecosystem rather than disrupting it.** The next phase of Big Tech's consolidation of power is unfolding through the rapid expansion of generative artificial intelligence. As our briefing observes, although the emergence of generative AI might have initially suggested an opportunity for new entrants to challenge Big Tech, the reality is that the same dominant actors –including Microsoft– are now exerting control over this growing market.<sup>14</sup> Big Tech is developing its own generative AI models and is also deeply entwined with emerging AI companies, with Microsoft backing OpenAI.<sup>15</sup> Despite high valuations, these smaller AI firms “operate at significant losses...making them dependent on continued investment from the very corporations they might otherwise compete with”.<sup>16</sup>

**Microsoft is exerting control over the generative AI market.** Microsoft's early and substantial investment in generative AI, including its partnership with OpenAI (initially USD 10 billion and subsequently larger), positions the company to potentially dominate this next wave of technological development.<sup>17</sup> By embedding AI capabilities into its cloud and productivity tools, Microsoft is also shaping the infrastructure on which future digital services will depend.<sup>18</sup>

**Cloud infrastructure dominance compounds the AI advantage.** While generative AI applications dominate headlines, much of the profit lies in the cloud infrastructure that powers them. Generative AI systems require immense computational power, which in turn depends on vast cloud infrastructure.<sup>19</sup> Microsoft, Amazon, and Google collectively control over 60% of the global cloud market.<sup>20</sup> As our briefing puts it, these companies are “not just AI developers – they are landlords of the digital infrastructure on which all generative AI, and therefore AI developers – depend. This positions them to extract value from the entire ecosystem, regardless of which AI applications succeed or fail”.<sup>21</sup> A forward-looking assessment that treats the business software, cloud, and AI layers in isolation will underestimate the entrenchment risk - and what the magnitude of that 'digital infrastructure' could look like in the future if the current entanglement of generative AI and cloud dominated by Big Tech players continues to deepen.

**Microsoft's data holdings provide a competitive advantage in AI.** Generative AI models are trained on vast datasets, and privileged access to large, ecosystem-wide data holdings is itself a source of structural advantage in the AI layer, a point we develop in response to Question 4.<sup>22</sup> The CMA should treat Microsoft's exclusive access to data generated by UK

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<sup>9</sup> European Commission, “Antitrust: Commission opens investigation into possible anticompetitive practices by Microsoft regarding Teams”, 27 July 2023 [https://ec.europa.eu/commission/presscorner/api/files/document/print/en/ip\\_23\\_3991/IP\\_23\\_3991\\_EN.pdf](https://ec.europa.eu/commission/presscorner/api/files/document/print/en/ip_23_3991/IP_23_3991_EN.pdf) and European Commission, “Commission sends Statement of Objections to Microsoft over possibly abusive tying practices regarding Teams”, 25 June 2024, [IP\\_24\\_3446\\_EN.pdf](https://ec.europa.eu/commission/presscorner/api/files/document/print/en/ip_24_3446/IP_24_3446_EN.pdf).

<sup>10</sup> Final Report of the Hearing Officer – Cases AT.40721 – Microsoft Teams and AT.40873 – Microsoft Teams II, C/2025/6031, [EUR-Lex - 52025AT40721\(01\) - EN - EUR-Lex](https://eur-lex.europa.eu/eli/reg/2025/6031/oj)

<sup>11</sup> Competition & Markets Authority, Invitation to comment, para 24 (b)-(c).

<sup>12</sup> Competition & Markets Authority, Invitation to comment, para 45.

<sup>13</sup> Amnesty International, *Breaking Up with Big Tech*, (previously cited), pp. 30-32.

<sup>14</sup> Amnesty International, *Breaking Up with Big Tech*, (previously cited), p. 30.

<sup>15</sup> Amnesty International, *Breaking Up with Big Tech*, (previously cited), p. 30.

<sup>16</sup> Amnesty International, *Breaking Up with Big Tech*, (previously cited), p. 30.

<sup>17</sup> Bloomberg via Yahoo Finance, “Microsoft invests \$10 Billion in ChatGPT maker OpenAI”, 23 January 2023, as cited in Amnesty International, *Breaking Up with Big Tech*, (previously cited), p.9.

<sup>18</sup> Amnesty International, *Breaking Up with Big Tech*, (previously cited), p. 9; see also pp. 30-32.

<sup>19</sup> Amnesty International, *Breaking Up with Big Tech*, (previously cited), p. 32.

<sup>20</sup> Statista, “Amazon and Microsoft stay ahead in global cloud market”, 27 February 2025, <https://www.statista.com/chart/18819/worldwide-market-share-of-leading-cloud-infrastructure-service-providers>, as cited in Amnesty International, *Breaking Up with Big Tech* (previously cited), pp. 31-32.

<sup>21</sup> Amnesty International, *Breaking Up with Big Tech*, (previously cited), p. 32.

<sup>22</sup> See also Amnesty International, *Unlawful by Design: Exposing the Human Rights Costs of Generative AI* (Index: POL 40/0996/2026), May 2026, which argues that the reliance on mass-scale web scraping as the dominant method for building generative AI training data reflects a design choice made by major AI companies rather than a technical necessity, and one that structurally advantages incumbents with pre-existing large-scale data holdings over new entrants.

organisations across the ecosystem as a structural advantage in the AI layer that rivals cannot replicate by investment alone.

**Regulators internationally are already scrutinising Microsoft-OpenAI.** In the United States, the Federal Trade Commission and Department of Justice have launched antitrust investigations into Microsoft, OpenAI, and Nvidia, looking at whether their partnerships and market behaviour are stifling competition in the AI sector.<sup>23</sup> Microsoft's USD 13 billion investment in OpenAI has drawn scrutiny because it may give Microsoft significant influence over a key player in the generative AI market.<sup>24</sup> In the EU, regulators are examining exclusivity clauses in the Microsoft-OpenAI agreements which may limit competition by locking OpenAI into Microsoft's Azure cloud infrastructure.<sup>25</sup> The CMA's SMS investigation provides a natural framework to consider whether and how this partnership entrenches Microsoft's UK position in the business software ecosystem.

**QUESTION 4: PLEASE GIVE YOUR VIEWS ON WHETHER THE ISSUES OUTLINED IN THIS SECTION ARE THE RIGHT ONES FOR THE CMA TO FOCUS ON, OR WHETHER THERE ARE OTHERS WE SHOULD CONSIDER.**

Amnesty International agrees that the four issues identified by the CMA are appropriate priorities. We offer the following points.

**Data aggregation is a source of entrenched advantage and warrants standalone attention.** Our briefing's analysis of Google and Meta documents how dominant technology firms' market power becomes intrinsically linked to data, with the value of personal and behavioural data increasing as more is collected and combined.<sup>26</sup> The briefing identifies a general dynamic in which aggregation of data across products allows firms to "integrate and cross-reference user data from multiple sources, deepening their individual profiling capabilities and reinforcing their market power".<sup>27</sup> The Amnesty International briefing notes that the size of data holdings accumulated by Google and Meta puts them in a strong position to dominate the current generative AI market.<sup>28</sup> The CMA's own investigation has identified that the same logic may apply to Microsoft: Satya Nadella has stated on Microsoft's earnings call that "the most important database underneath for any company that uses Microsoft today is the data underneath Microsoft 365" and that "Microsoft 365 Copilot's accuracy and latency powered by Work IQ is unmatched".<sup>29</sup>

In its response to Amnesty International, Microsoft emphasised that privacy and data security are central to its approach, that they are "deeply committed to protecting users' privacy rights, giving people robust controls over their personal data and advocating for strong global privacy laws" and that it builds its products and cloud services "with strict privacy safeguards and transparency, so customers and individuals can trust that their information is handled responsibly and in line with our privacy commitments".<sup>30</sup> Regarding the development of new technologies, Microsoft stated that they "prioritize ethical and inclusive design to ensure they uphold human rights", that it was one of the first companies "to establish comprehensive AI Principles –fairness, reliability & safety, privacy & security, inclusiveness, transparency, and accountability" to guide how they build and deploy AI, and that they have operationalised these principles through a company-wide Responsible AI Standard overseen by an Office of Responsible AI and reported on through an annual Responsible AI Transparency Report.<sup>31</sup>

The competition question raised by the SMS investigation, however, is distinct from the question of how individual data flows are governed: it concerns whether Microsoft's privileged access to data generated across its ecosystem operates as a structural advantage in adjacent activities, including AI, that rivals cannot replicate by investment alone. The CMA should examine the evidence available to it as to whether Microsoft's ability to aggregate data across its ecosystem and use that combined dataset to power Copilot and other services functions as a similar feedback loop driving entrenchment. Interoperability and conduct remedies that do not address this data-aggregation advantage risk leaving the underlying engine of entrenchment intact.

**Bundling can exclude rivals and impose terms customers would not otherwise accept.** The Amnesty International briefing documents both how Microsoft's bundling sustain its market position and creates switching costs,<sup>32</sup> and, separately, how

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<sup>23</sup> CNBC, "U.S. regulators to open antitrust probes into Nvidia, Microsoft and OpenAI," 6 June 2024, <https://www.cnbc.com/2024/06/06/us-regulators-to-open-antitrust-probes-into-nvidia-microsoft-and-openai.html>

<sup>24</sup> Amnesty International, *Breaking Up with Big Tech*, (previously cited), p.32.

<sup>25</sup> Global Competition Review, "AI partnerships: Microsoft/OpenAI avoids EU merger probe, exclusivity clauses draw scrutiny", 28 June 2024, <https://globalcompetitionreview.com/article/ai-partnerships-microsoftopenai-avoids-eu-merger-probe-exclusivity-clauses-draw-scrutiny>, as cited in Amnesty International, *Breaking Up with Big Tech* (previously cited), p.32.

<sup>26</sup> Amnesty International, *Breaking Up with Big Tech*, (previously cited), p. 8.

<sup>27</sup> Amnesty International, *Breaking Up with Big Tech*, (previously cited), p. 8.

<sup>28</sup> Amnesty International, *Breaking Up with Big Tech*, (previously cited), pp. 30-31.

<sup>29</sup> Competition & Markets Authority, Microsoft Investigation Notice, para. 27.

<sup>30</sup> Amnesty International, *Breaking Up with Big Tech*, (previously cited), p. 39.

<sup>31</sup> Amnesty International, *Breaking Up with Big Tech*, (previously cited), annex, pp. 38-39.

<sup>32</sup> Amnesty International, *Breaking Up with Big Tech*, (previously cited), p. 9.

dominant platforms use their market power to impose terms that customers would not accept in a competitive market.<sup>33</sup> Our briefing also documents that this kind of imposition of terms disproportionately affects users in jurisdictions with weaker regulatory protections.<sup>34</sup> The CMA should examine bundling as both a pricing or exclusion issue and as a mechanism through which terms are imposed on UK customers.

**QUESTION 5: PLEASE GIVE YOUR VIEWS ON WHETHER THERE ARE POTENTIAL INTERVENTIONS THAT ARE LIKELY TO BE NECESSARY AND WHICH MAY BE EFFECTIVE, PROPORTIONATE AND HAVE BENEFITS FOR UK USERS AND CONSUMERS.**

Amnesty International's briefing sets out recommendations on competition interventions that Amnesty International believes are necessary where dominant firms are found to be abusing their market power. The following observations draw directly from those recommendations:

- **Voluntary commitments should not be accepted as a substitute for binding conduct requirements where conduct has already been shown to be harmful.** Our briefing documents a recurring pattern in which fines on dominant technology firms are “frequently absorbed as a cost of doing business” and have done little to curb the underlying conduct.<sup>35</sup> Fines imposed under the EU’s GDPR, running into billions of euros across the largest tech firms, represent a small fraction of their annual revenues and have done little to curb systemic harmful practices.<sup>36</sup> Where the CMA has clear evidence of harm, binding conduct requirements are likely to be more effective than voluntary alternatives.
- **Structural and behavioural remedies should be considered together.** Where market power is found to be causing harm, regulators should pursue “behavioural and structural remedies, including the break-up of dominant companies”, prevent re-consolidation through stringent merger control, and ensure that proposed remedies are fully rights-respecting, including by conducting a human rights impact assessment of how the remedies will affect human rights.<sup>37</sup>
- **Mandatory interoperability and data portability should be central to any package.** Our briefing’s recommendations include requiring dominant digital platforms to “support systems interoperability, meaning their products and services can work seamlessly with those of other providers...so that users have more choice” and to “support data portability so users can switch services without losing their networks or content”.<sup>38 38</sup>
- **Restrictions on self-preferencing, particularly in cloud and AI.** In the generative AI context, Amnesty International recommends “rules against self-preferencing by cloud providers and AI development companies, that is, prevent companies from favouring their own services over third-party services”.<sup>39</sup> This is directly relevant to the CMA’s first identified issue (leveraging into adjacent activities such as cloud) and to the design of conduct requirements on AI defaults and prominence. Our briefing emphasises that Big Tech’s existing advantages in data access and political influence “threaten to further entrench their dominance in the next frontier of technical development”.<sup>40</sup> Conduct requirements drafted now should therefore anticipate the next generation of generative AI products –not only those currently in the market– since integrations set today will shape which AI services UK users will encounter at scale tomorrow.
- **Stringent scrutiny of mergers, acquisitions and partnerships, including Microsoft-OpenAI.** Regulators should conduct ex ante reviews of Big Tech partnerships with AI companies,<sup>41</sup> enact and enforce stringent merger controls to prevent re-consolidation,<sup>42</sup> and pursue structural and behavioural remedies (including divestment from AI companies as well as breaking up dominant companies where appropriate).<sup>43</sup> Given the international scrutiny of the Microsoft-OpenAI relationship,<sup>44</sup> the CMA should examine this partnership as part of its assessment of whether Microsoft’s position is entrenched.
- **Coordination between regulators is essential, and existing UK arrangements need to be deepened.** Our briefing emphasises that “competition authorities should also work closely with other state authorities such as data protection authorities and human rights bodies to ensure they have a holistic understanding of the human rights

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<sup>33</sup> Amnesty International, *Breaking Up with Big Tech*, (previously cited), pp. 15-18.

<sup>34</sup> Amnesty International, *Breaking Up with Big Tech*, (previously cited), p.17-18.

<sup>35</sup> Amnesty International, *Breaking Up with Big Tech*, (previously cited), p. 16.

<sup>36</sup> Amnesty International, *Breaking Up with Big Tech*, (previously cited), p.16, citing GDPR Local, GDPR Enforcement Tracker, <https://gdprlocal.com/gdpr-enforcement-tracker>

<sup>37</sup> Amnesty International, *Breaking Up with Big Tech*, (previously cited), p. 35.

<sup>38</sup> Amnesty International, *Breaking Up with Big Tech*, (previously cited), p. 36.

<sup>39</sup> Amnesty International, *Breaking Up with Big Tech*, (previously cited), p. 36.

<sup>40</sup> Amnesty International, *Breaking Up with Big Tech*, (previously cited), p. 4.

<sup>41</sup> Amnesty International, *Breaking Up with Big Tech*, (previously cited), p. 35.

<sup>42</sup> Amnesty International, *Breaking Up with Big Tech*, (previously cited), p. 35.

<sup>43</sup> Amnesty International, *Breaking Up with Big Tech*, (previously cited), p. 35.

<sup>44</sup> Amnesty International, *Breaking Up with Big Tech*, (previously cited), p. 32.

implications of competition decisions”.<sup>45</sup> The UK was an early mover in this respect through the establishment of the Digital Regulation Cooperation Forum (DRCF) in 2020, which brings together the CMA, the Information Commissioner’s Office (ICO), Ofcom and Financial Conduct Authority (FCA). Independent assessments have raised concerns that the DRCF’s impact has not matched the ambition of its founding model, particularly in producing joint enforcement outcomes rather than coordinated thinking.<sup>46</sup> The Microsoft SMS investigation offers an opportunity to demonstrate what deeper coordination looks like in practice. For example, the CMA could work with the ICO under DRCF auspices to develop joint positions on the data, AI training, and customer-consent dimensions of any conduct requirements, with explicit reference to how those positions will be enforced jointly in practice. Our briefing points to the Nigerian Federal Competition and Consumer Protection Commission’s joint investigation with the Nigeria Data Protection Commission as an example of how collaboration between competition and data protection authorities can produce more nuanced findings on the relationship between market power and harm to users.<sup>47</sup>

- **Human-rights impact assessment of proposed interventions.** Any remedial actions proposed by the CMA should be subjected to a human rights impact assessment<sup>48</sup> before adoption to confirm that any package will reduce harms to UK users and customers rather than displace or inadvertently exacerbate them.

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<sup>45</sup> Amnesty International, *Breaking Up with Big Tech*, (previously cited), p. 34.

<sup>46</sup> See Kretschmer and Schlesinger, New Working Paper – Studying the Digital Regulation Cooperation Forum, CREATE, 2 May 2025 [New Working Paper – Studying the Digital Regulation Cooperation Forum \(DRCF\) – CREATE](#); and Diker Vanberg, Aysem (2023) Coordinating Digital Regulation in the UK: Is the Digital Regulation Cooperation Forum (DRCF) up to the task? *International Review of Law, Computers & Technology*, 37 (2). pp. 128-146. ISSN 1360-0869. [Coordinating Digital Regulation in the UK: Is the Digital Regulation Cooperation Forum \(DRCF\) up to the task?](#)

<sup>47</sup> Amnesty International, *Breaking Up with Big Tech*, (previously cited), p.34, citing FCCPC, “Executive Summary: Investigation into WhatsApp’s Updated Privacy Policy and Consumer Rights Violations”, 13 November 2023.

<sup>48</sup> Amnesty International, *Breaking Up with Big Tech*, (previously cited), p. 35.