Response to Consultation

Steering Conduct Requirement

Summary

- The regulatory approach of a proscriptive conduct requirement (CR) is inappropriate in a sector where consumers are broadly satisfied and more flexible action to address outstanding concerns is practical (and already taking place globally). Developers already have options to steer.
- Consumers expect app stores to promote privacy, security and other ecosystem goods, taking a governance role that the CMA should not undermine.
- Utility-style price regulation is clearly inappropriate for app stores as dynamic, multi-sided market consumers and developers benefit from value that results from ongoing investment and innovation by app store operators.
- Price regulation on the terms that the CMA has outlined is likely to lead to under-investment in app store services such as trust and safety and impose disproportionate costs over time.

This submission cites consumer research by Public First and economic analysis by Schellion Horn and Jonathan Gillham at S&W. These will be attached to CCIA's submission and published separately.

Regulatory approach

Generally speaking, the CMA should expect high costs and modest to negligible benefits from proscriptive CRs in sectors where (a) consumers are broadly satisfied with the options available to them; and (b) more flexible measures provide a practical alternative.

As CCIA noted in its response to the Strategic Market Status (SMS) designation, Apple and Google's devices and app stores face competitive constraints from each other; from other devices and/or app stores; and, crucially, from the potential for other parties with strategic advantages (e.g. other OEMs, or other digital services with strong consumer relationships) to compete in the event that either ceased innovating and generally providing an attractive proposition to consumers (which includes attracting developers). This is reflected in the positive reported consumer experience and regular innovation exhibited in the sector, neither of which are common in settings where competition is absent.

When presented with a series of advantages and disadvantages with a scenario in which more purchases are completed outside app stores, consumers are more likely to emphasise concerns. For example:

- 65% reported that it was very or somewhat likely that it would become harder to know whether the product or service was genuine.
- The same percentage reported that it was very or somewhat likely that consumers would be more exposed to scams or fraudulent payment links.
- 63% reported that it would become harder to keep track of different subscriptions. 62% expected some subscriptions would become harder to cancel.

- 66% reported that fraudulent or malicious apps would become more common and 63% expected that data breaches connected to apps or app payments would become more common.
- 60% reported that consumers would become less confident about buying things through apps.

By contrast, less than half expected that consumers would have more choice over how they pay; developers would offer lower prices (existing research suggests this did not occur in response to similar restrictions in the EU); or developers would have more freedom to offer new services.

The challenges facing the EU in implementation of the Digital Markets Act (DMA) reflects its structural features. DMA articles 5-7 were supposed to be self-executing, but this has not proved the case in practice. These articles have resulted in endless regulatory dialogue, not conducive to finding solutions. Regulators become closely involved in commercial and engineering decisions that are better left to the businesses concerned. King & Spalding argue that this reflects the DMA's model of "legally imposed self-regulation", constrained by tight timelines and creating heavy procedural burdens for gatekeepers, third-party users, and the Commission itself.

The CMA should be able to avoid this kind of inflexible intervention and risks that rightly concern consumers. It can instead pursue a more flexible approach facilitated by the DMCC. International experience suggests this is possible for app stores.

- Apple has agreed new terms for Japan and Brazil that permit developers to steer users to a website to complete a transaction, but with necessary protections for children and pro-consumer disclosures to ensure the process is transparent (e.g. side-by-side pricing) and as safe as possible. This includes reduced 10-15% commissions.
- Google announced changes to the Play Store model in June 2026 which included fully decoupling billing from Pay's service fee; a 10% standard rate subscription fee for new installs (excluding billing); a 20% standard rate in-app purchase fee for new installs; incentives for quality; and a choice between a 5% fee for Google Play billing or 0% for alternative billing. It includes allowing developers to "utilise their own billing systems alongside Google Play's, or guide users to their websites for digital content purchases".

All of this suggests that an approach which does not involve the large costs and significant risks associated with utility-style price regulation is achievable. Given that consumers are broadly satisfied with the options available to them,[1] this kind of more flexible approach is clearly preferable.

Managing security, privacy and other risks

In Public First research for CCIA, consumers generally attached a high priority to security. Government policy endorses this priority which is reflected in, for example, the Home Office Fraud Strategy 2026 to 2029.

[1] According to Ofcom's own research at the designation stage.

When asked to choose three factors they valued most when paying for apps, subscriptions and other digital content, the most commonly selected factors were:

- Knowing that the payment is secure (45%)
- Protection against fraud or unauthorised payments (39%)
- Being able to cancel a subscription through an easy automatic process (31%)
- Knowing that an app has been checked for security risks or harmful behaviour (30%).

These options even scored higher than getting the lowest available price (25%).

With consumers concerned about privacy and security, there is a clear risk that without the protections provided by app stores, consumers will stick to better-known brands and avoid smaller app developers. 38% reported choosing a better-known company in the last 12 months because they felt it would be safer. 61% percent of respondents agree (of which 21% strongly agree) that greater use of external payments could make it harder for smaller developers to earn consumers' trust.

Crucially, the consequences of any problems extend beyond the individual app developer. Negative consumer experiences reduce trust not only in that app, but in the app ecosystem as a whole. When asked to imagine they had a bad experience with an external app payment, 66% reported that it would reduce their trust in the developer and 67% in the particular app, but well over half also reported that it would reduce their trust in the app store where they downloaded the app, apps and digital subscriptions more generally and even online payments overall.

In this context, allowing app stores to ensure that steered transactions are as secure and trustworthy as possible is an important means to ensure that any steering intervention is pro-competitive, reflects the stated goal of supporting "end-users' ability to make informed and effective decisions between purchasing options", and results in overall consumer benefits.

Consumers generally support app stores taking an appropriate governance role:

- 71% reported that an app store checking that an external payment website meets reasonable security standards would be acceptable.
- 71% reported that additional protections for children would be acceptable, e.g. not allowing under 16s to be redirected to external payment sites.
- 69% reported that app stores showing a simple messaging explaining who will handle an external payment and refund would be acceptable.
- 68% reported that an app store blocking a link that does not meet reasonable security standards would be acceptable.

It is important to note that app stores fulfilling this role depends both on (a) whether they are allowed to do so in terms of any regulations dictating the terms on which they permit steering; but crucially also (b) whether regulation of steering fees allows proper remuneration for ongoing investment in trust and safety and other important app store functions.

By contrast, consumers are not supportive of measures that limit their ability to choose app store services and payment options:

- 24% reported that a developer charging a higher price to consumers who pay through an app store would be acceptable.
- 26% reported that a developer removing the option to pay through the app store would be acceptable.
- 26% reported that a developer repeatedly prompting a consumer to use another payments approach after they had chosen the app-store payment would be acceptable.

Parents in particular report greater confidence in the experience for their children if transactions take place through app stores, with 65% or more reporting that, if a purchase was completed through the app store, they would have greater confidence:

- their child could not buy an unsuitable app or content;
- could not complete a purchase without their knowledge or approval;
- could not exceed spending limits they had set;
- could not bypass parental controls;
- would not be redirected to inappropriate content or websites;
- would not be able to follow links to other websites they had not approved;
- would have their personal information and payment details properly protected;
- would be notified when their child attempted or completed a purchase;
- would be able to see all of their purchases in one place;
- would be able to cancel a subscription easily;
- would be able to obtain a refund if a purchase was made without permission; and
- that the company handling the payment would take responsibility for protecting children.

In that context:

- The CMA is right to allow app stores to require that any steering links must be the developer's own website. Links out from third parties to other third parties enhance the risk that consumers are passed to a provider that they do not trust.
- The CMA is right to allow app stores to require that any steering links be for the purposes of completing steered transactions, otherwise they become functionally a new form of user-generated content, with an open-ended requirement for moderation to address any risks.
- The CMA is right to allow app stores to prohibit steering for younger users, where any risks are likely to be magnified and any competition benefits of an intervention likely to be modest.

Generally speaking, the CMA should take a flexible view of the appropriate details of the design for tools, such as interstitial screens that promote informed and trustworthy app stores. Where the CR envisages constraining the form of such warnings, it should consider whether marginal impacts on the usage of steering offer proportionate benefits to outweigh undermining the efficacy and flexibility of security warnings. Warnings designed to enhance consumer safety and security may well need to change over time in response to new threats and in the context of changes in the wider device and software. This will be more difficult if their form is regulated with highly prescriptive requirements from the CMA.

Steering fees

There are broadly three stages to the problem with the proposed approach to steering fees:

- If the CMA goes ahead with a steering CR it does not follow that it should regulate prices.
- Even if the CMA does want to maintain some form of oversight of prices, this does not mean it should set specific prices, which is generally not the approach taken by regulators in the kind of circumstances seen with app stores.
- Even if the CMA does attempt to set specific prices, it should be on the basis of a symmetric assessment of the value provided, not the unbalanced approach that might exclude many important app store functions such as trust and safety.

As Schellion Horn and Jonathan Gilham note in research commissioned by CCIA to support its response to this CR:

> *A requirement to permit Steering is a conduct obligation directed at removing restrictions on developer communication, link-out design and customer choice. Constraining the resulting fee is a more interventionist step because it requires judgments about cost recovery, common-cost allocation, intangible ecosystem investment, ecosystem-created value, developer-side benefits, user-side outcomes, surplus allocation, pass-through, incidence and future investment incentives.*

In this case, utility-style price regulation would undermine the return on app store investment, and introduce uncertainty over any investment in new operating systems and/or app stores, and is therefore likely to diminish the long-run dynamism of the sector in return for any potential short-run reduction in fees (which experience thus far suggests will not be passed onto consumers).

As the paper goes on to argue, app stores are fundamentally different to the utilities for which the kind of price regulation envisaged here has generally been applied.

> *Direct price controls are most familiar where there is a durable physical bottleneck, a tangible asset base, observable costs, stable demand and established mechanisms for protecting quality and investment. App-store ecosystems differ materially. Their value is created through common and intangible ecosystem investments — including trust, security, app review, developer tooling, discovery, payment confidence, fraud prevention and platform governance — that are difficult to allocate to a single transaction or Steering event. Utilities, telecoms, payments, financial services and FRAND licensing are useful as regulatory-design lessons; they are not templates for treating app stores as utilities.*

To the extent that the CMA does believe that pricing interventions are needed there are a broad range of options, discussed in the paper. There is a strong rationale for starting with interventions that permit flexibility and do not undermine investment and innovation, rather than leaping to direct price-setting. This would reflect norms in other settings that do not share the characteristics of fixed monopoly utilities.

> *The key implication is that the CMA should not move directly from identifying Steering restrictions to determining the Steering Fee. If the concern is that developers cannot communicate with users or present off-platform options, less intrusive tools — including conduct freedom, transparency, monitoring, non-discrimination and, where practicable, safe harbours — may address that concern without requiring the CMA to determine the fee at the outset. More prescriptive pricing intervention should be reserved for cases where evidence shows that those tools are insufficient, or that the fee itself prevents Steering from working.*

The failure to properly account for these factors is likely to lead to mounting costs to consumers and other app store stakeholders over time as the regulatory structure undermines the viability of app store functions.

> *A framework focused on today's fee level, today's developer margins and today's cost of enabling a link-out will miss the effects that matter most for long-run consumer welfare: the effect on investment in security and trust infrastructure; on the development of developer tools, quality and safety capabilities; on incentives to improve the ecosystem in ways that benefit both developers and consumers; and on the willingness of investors to fund the next generation of platform innovation.*

As the paper notes, recent literature has found that the systematically-greater cost of false positives compared to false negatives in suppressing efficient market conduct is more compelling in fast-moving technology sectors. The CMA could easily generate a "dynamic welfare loss that is diffuse, delayed and difficult to trace back to the remedy."

Finally, the paper also notes that the specific approach envisaged in the draft involves an inappropriate assumption that cost and value should converge:

> *In dynamic platform markets, value may legitimately exceed narrow incremental cost because it reflects successful innovation, accumulated ecosystem investment and the creation of trust, scale, network effects and user engagement. Conversely, some individual transactions may have low observed value but still depend on the broader ecosystem. The assessment should therefore be value-led: cost evidence should test the plausibility of the range, identify risks of over- or under-recovery, and discipline claims about investment, but it should not serve as the reference point, cap or default anchor for the Steering Fee. Treating the lower of cost and value as the effective cap would make a policy choice about surplus allocation without necessarily making that choice explicit.*

The proposed CR would also not be a symmetric assessment of platform and developer value.

> *The analysis should also consider whether the value exchange is being assessed symmetrically. A framework that focuses on the platform's costs, returns and market power, but does not examine the returns earned by developers or the value developers receive from access to the ecosystem, may provide an incomplete picture of economic fairness. If the remedy effectively takes a view on the platform's allowable return, the assessment should also consider the counterparty's contribution, monetisation opportunities, margins and benefits from access. Otherwise, there is a risk of*

regulating one side of a two-sided value exchange while treating the other side as outside the analysis. This matters because developers do not use app-store ecosystems merely as technical payment rails. They use them as routes to market, discovery channels, trust environments, distribution infrastructure and monetisation platforms.

Overall the likely result is that important functions of the app store may not be remunerated properly. Trust and safety functions, could be challenged as not incurred "to a material and direct extent" in "facilitating or supporting a Steered Transaction" as required under the cost-based principle in the conduct requirement. If this is not changed and the CMA expects the value- and cost-based principles to align, it will mean that there is no route to capture the broader value provided by app stores and therefore these services are likely to be under-provided over time.

To the extent this point is unclear and open to interpretation, that is a problem in itself as the regulatory uncertainty created will undermine investment. Many vital app store functions, including trust and safety, create not just static costs. but a dynamic need over time to invest in improvements in security; abilities to respond to new and evolving threats; and providing new features. This supports a trusted environment with direct value to consumers and developers by encouraging direct consumer participation. Utility-style price controls of the sort envisaged in the draft CR are almost certain to undermine these services, which consumers clearly value (in turn creating the environment in which a diverse range of developers can thrive).