[CONFIDENTIAL] response to the CMA's proposed Conduct Requirements

1. [CONFIDENTIAL]

2. [CONFIDENTIAL] appreciates the opportunity to respond to the CMA's consultation on Conduct Requirements (**CRs**) for steering. [CONFIDENTIAL]'s response covers both the Apple and Google consultations and is [CONFIDENTIAL].

3. [CONFIDENTIAL] is extremely supportive of a remedy facilitating steering. [CONFIDENTIAL].

4. These payments are subject to Apple and Google's excessive commission fees, which are 30% in the first year and 15% in subsequent years both in the UK and also in the EU, where [CONFIDENTIAL] also provides [CONFIDENTIAL].. This has a significant impact on [CONFIDENTIAL]'s ability to generate revenue in relation to those premium products and re-invest profits into further content and product innovation. Users can also subscribe via the web; if they do so, the transaction cost to [CONFIDENTIAL] is 2-5% (compared to 30% if they subscribe via app). This difference serves to demonstrate Apple and Google's market power.

5. [CONFIDENTIAL] is therefore greatly supportive of the CMA's requirement that Apple and Google allow developers to "steer" users out of the app to pay on their own websites and avoid Apple and Google's commissions. In terms of the detail designing the steering CR, [CONFIDENTIAL] has four principal observations. First, steering should not be subject to any fee – when a user pays on a website Apple and Google are not providing any service. Secondly, if the CMA nevertheless permits a fee, it should be subject to strict safeguards. Thirdly, Apple and Google should not be permitted to impose unnecessary friction on steering, such as scare screens or restrictions on WebViews. Finally, the CMA should view steering as an important first step rather than a complete solution and should continue to pursue complementary remedies that address the underlying sources of Apple and Google's market power.

The cost of steering for developers should be zero

6. [CONFIDENTIAL] understands that the proposed CR allows Apple and Google to charge a fee when [CONFIDENTIAL] opts to steer users to pay off the platform (paragraph 9 of the CR). This fee is to be set by Apple and Google – but must be in line with principles such as cost, value and administrative simplicity (paragraph 10 of the CR).

7. [CONFIDENTIAL] does not support that approach. Steering should be free. Not even Google Search charges websites whose users click through to them from the organic search results. Allowing Apple and Google to set any fee at all risks making steering commercially unattractive in practice. The EU experience demonstrates the risk. Despite the Digital Markets Act reforms, which were intended to open up competition, developers have made very limited use of steering because high fees, combined with the friction imposed by Apple and Google, have left it commercially unattractive. If the CMA adopts its current proposal, it should explain why it expects a different outcome in the UK.

8. A zero fee is the only fair outcome for several reasons. First, no service is being used. When steering happens, [CONFIDENTIAL] would be actively directing a user away from the relevant app store. If a customer pays on [CONFIDENTIAL]'s website, Apple and Google provide no payment processing, checkout or billing service for that transaction - [CONFIDENTIAL] will pay for that separately with a third party provider. There is therefore no service for which a fee can reasonably be charged.

9. In addition, developers selling physical goods or services, such as through grocery or taxi apps, or digital apps that qualify for the “reader app” exception, are free to steer users to their own payment systems without paying commission. Apple and Google should be required to treat developers equally.

10. Finally, Apple and Google do not play a significant role in customer acquisition: [CONFIDENTIAL] has invested heavily over many years in building trusted brands and high-quality content. [CONFIDENTIAL] download and subscribe to [CONFIDENTIAL]'s apps because of the strength of its brands and content. Apple and Google are also already compensated for app discovery through sponsored placements.

Any fee should be kept in strict bounds

11. [CONFIDENTIAL]'s view is that no steering fee should be permitted. However, if the CMA concludes that some fee is unavoidable, it should be subject to clear safeguards to prevent Apple and Google from undermining the remedy. In particular:

    a. **Restricted to costs:** Any fee should be limited to the direct costs of facilitating steering. It should not include any element based on the "value" Apple or Google claim to provide. A cost-based approach is more objective, easier to verify and less open to manipulation.

b. **Flat fee rather than a percentage:** any fee should be a fixed amount rather than a percentage of [CONFIDENTIAL]'s revenue. The cost of providing a link to an external payment page does not increase because a developer charges a higher subscription price. A percentage fee would simply recreate the existing commission model under a different name.

c. **No ongoing fee:** Any charge should be a one-off fee linked to the initial referral only. It should not continue to apply every time a subscription renews. A recurring commission bears no relationship to the original steering event and would amount to an ongoing tax on [CONFIDENTIAL]'s revenues.

12. Finally, the CMA should not allow Apple and Google to introduce their own steering fees while their lawfulness is assessed. Any proposed fee should require CMA approval before it can take effect. Until then, the default fee should be zero. This protects against Apple and Google pricing steering out of existence while the CMA undertakes what could otherwise be a lengthy compliance assessment.

Restriction on how developers steer

13. The CMA's current proposal would allow Apple and Google to require interstitial ("scare") screens (paragraph 7 of the CR) and prohibit the use of WebViews when developers steer users to alternative payment methods (see paragraph 4.67 of the consultation).

14. [CONFIDENTIAL] does not support these restrictions. Apple and Google already allow apps selling physical goods and services to direct users to external payment methods without warning screens or prohibitions on WebViews, and there is no principled reason to treat digital goods differently.

15. Apple and Google's arguments related to the value provided by their security and privacy are unsubstantiated. This is proven by the fact platforms already permit unrestricted steering, including link-out to external websites, for apps offering physical goods and services. In addition, developers do not have Apple and Google safeguarding their websites' security and privacy and yet do not have systemic privacy or security issues when consumers complete transactions through web.

16. The CR should therefore prohibit Apple and Google from imposing these forms of friction, which serve only to make steering less effective and less convenient for consumers.

Further areas for CMA focus

17. An effective steering remedy should increase competitive pressure on Apple and Google to reduce their commissions. However, steering alone is unlikely to address the underlying competition concerns. Consumers will often continue to prefer the convenience of paying within an app, meaning Apple and Google will retain significant market power even where steering is available. The CMA should therefore also consider complementary interventions, including:

    a. direct intervention to reduce or cap the level of app store commissions;

    b. requiring Apple and Google to permit alternative in-app payment systems, allowing developers to offer consumers the convenience of in-app payments while introducing effective competition in payment processing. The CMA has already identified this as a potential intervention in its Roadmap and committed to keeping the measure under review; and

    c. requiring Apple and Google to permit alternative app stores and sideloading, thereby addressing the lack of upstream competitive constraints that enables them to maintain excessive commissions. The CMA has likewise identified this in its Roadmap as a potential intervention which would increase competitive pressure on the app stores.