CMA SMS Investigation Into Apple's Mobile Platform

Apple's Response to CMA Consultation on Proposed Steering Conduct Requirements

28 July 2026

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I. Introduction and summary

(1) Apple's platform has been an astounding engine for the growth of the UK economy.[1] Apple created an App Store business model that enables UK app developers to build incredible apps and services for users in the UK and abroad, and enjoy unparalleled commercial success. The App Store facilitated over £46.5 billion in UK billings and sales in 2025 alone,[2] and Apple's commission represented less than 3.5% of those billings. The remainder—more than 96.5%—of billings and sales accrued to developers and not to Apple.[3]

(2) Against this backdrop, it is disappointing that the CMA's 79-page consultation document ("**Steering Consultation**") never once mentions that Apple charges a commission as compensation for the immense value it provides to developers via its IP-protected platform tools, technologies, and services, App Store services, and commerce and payments features. Apple's commission supports its incentives to invest in ground-breaking, innovative tools, technologies, and services for UK developers, which by their nature do not have a guaranteed return. The Steering Consultation would however require Apple to allow "*link-outs*"[4] under a byzantine "*principle-based*" framework, the effect of which would be to redistribute the less than 3.5% of billings and sales that Apple earns to a handful of well-funded, global developers on the apparent presumption that Apple's App Store business model is unfair.

(3) The Steering Consultation claims that it believes in market outcomes and wants to promote growth and investment.[5] Yet its approach effectively abandons market solutions in favour of central planning that maintains a highly intrusive ongoing role for the CMA in managing Apple's business, while allowing competitors to continue operating without onerous restrictions, providing them with a significant competitive advantage. Samsung, the second most popular smartphone brand in the UK, markets devices that serve as a platform for its software, services, and peripheral devices, and it preinstalls the Samsung Galaxy Store on its devices, taking a fixed commission rate comparable to the App Store's commission.[6] Yet it remains free of any UK regulatory restrictions. Samsung and others are at liberty to reap profits and re-invest into their businesses to boost their competitiveness.

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1 Between 2019–2024, Apple invested more than £18 billion into the UK economy and its UK engineering teams have doubled in that time, with Apple supporting 550,000 jobs in the country. *See* Apple Newsroom, Apple expands U.K. investment and doubles local engineering teams (11 December 2024).

2 $61.1 billion, converted to GBP using the HMRC foreign currency exchange average rate ($1.3126/£1) for the period between 1 January 2025 and 31 December 2025.

3 Apple, Global App Store helps developers reach new heights, supporting $1.3 trillion in billings and sales in 2024 (5 June 2025).

4 Link-outs are actionable links that take users outside the app to complete transactions. Apple understands the CMA to be considering a steering intervention in the form of link-outs.

5 Steering Consultation, ¶¶1.10(a), 2.6(c), 2.12(a), 2.12(d), 5.40, and 5.42(a).

6 *See* **Section II.B.1** below.

(4) Today, competitive market forces dictate the commission that compensates Apple for the value generated by its IP-protected platform tools, technologies, and services, App Store services, and investments. Under the Steering Consultation's proposed conduct requirement ("**Proposed CR**"), the CMA would not only regulate Apple's prices, but also restrict the products and services for which Apple can charge a commission.

(5) Apple understands that the CMA's ultimate objective is to facilitate competition for app distribution.[7] This objective is misguided.[8] If the Steering Consultation was truly concerned about competition, it would acknowledge the competitive pressure exerted upon the App Store by a wide range of alternative channels via which developers and users transact.

(6) The Steering Consultation has also failed to engage meaningfully with the numerous means that Apple's current policies provide developers to sell digital goods and services to UK users without paying Apple any commission. The Reader Rule allows users to access and enjoy magazines, newspapers, books, audio, music, and video content purchased outside a developer's app, and the Multiplatform Rule allows users to consume any digital content acquired outside an app that is also available for purchase within the app. Apple earns no commission on such content, despite developers receiving immense value from Apple's IP-protected platform tools, technologies, and services. Developers also: (i) use email or other contact information obtained via the app to communicate with users directly; (ii) advertise offers and purchasing methods to users outside of their App Store apps; and (iii) transact with users via their website or other channels outside of the app. Developers have capitalised on these opportunities to great effect. Spotify, for example, reaped more than $19 billion in 2025 revenue, yet paid Apple $0 commission. Other developers have followed Spotify's lead, as transactions via web stores have increased rapidly.[9]

(7) The Proposed CR does not take account of this healthy competition and effectively sanctions free-riding on the value that Apple creates. The Steering Consultation rationalises this by treating the iPhone as if it were a public utility.[10] This bears no resemblance to reality. Apple earns a return on its platform because it continuously creates, develops, builds, and innovates for the benefit of developers and users. There is no basis to regulate Apple's commission rate using frameworks reserved for public utilities. In fact, the Furman Report—widely considered the genesis of the UK digital markets regime—explicitly rejected traditional utility-style regulation in digital markets, recommending instead that "*pro-competition*" policy tools should be used.[11]

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7 Steering Consultation, ¶¶1.13, 1.17, 2.8, and 4.112.

8 *See further* discussion in **Section II.D.1**.

9 *See* Revenue Cat, State of Subscription Apps (2026), p. 26.

10 Steering Consultation, ¶4.106.

11 Digital Competition Expert Panel, Unlocking Digital Competition (13 March 2019), ¶¶2.12–2.15.

(8) The Steering Consultation claims that the Proposed CR would support "*improved customer experience, including in relation to billing, refunds, and support*".[12] There is no evidence for this—if anything, the opposite is true. The Steering Consultation ignores the importance of user trust to a high-quality experience, and the well-evidenced risks that link-outs pose to it. When transacting within an app, our users believe that they are transacting with Apple, and that their transactions are safe and secure as a result. By contrast, users directed outside the app may still believe that they are transacting in the same trusted and secure manner when the opposite may in fact be the case as they are exposed to heightened risks of scams and fraud. Users are also often stripped of centralised refund and subscription management. The Steering Consultation inadequately addresses the privacy, security, and safety risks implicated by the Proposed CR.

(9) In imposing link-outs on Apple under such strict conditions, the Proposed CR would make the UK an international outlier and discourage innovation and investment in the UK.[13] Apple has engaged on steering with regulators all over the world—including in the EU, Japan, and Brazil. While Apple disagrees with many aspects of the regulations Apple is subject to in those jurisdictions, they have at least avoided predicating the App Store's compensation model on the costs it incurs in operating the platform or likening the App Store to a utility.[14] And rightly so: a regime that focuses on costs impedes a fair return on the value generated by a platform's tools, technologies, and services (and underlying intellectual property rights ("**IPR**s")) undermines the incentive to invest, invites free-riding, and stands in direct tension with fundamental property rights and the UK's Trade-Related Aspects of Intellectual Property Rights ("**TRIPS**") obligations. Apple's response demonstrates that the following fundamental flaws undermine the Steering Consultation's case for intervention:

- **The Steering Consultation fails to establish a proper basis for intervention (Section II)**. It does not properly assess the need for intervention from the baseline of Apple's existing model and policies, which already give developers the freedom to direct users off-platform at no or reduced cost. Instead, it relies on the positions of a small number of well-funded developers and findings from overseas proceedings. As a result, it overstates the benefits of intervention while ignoring well-evidenced costs, and therefore fails to establish that any intervention is necessary or proportionate.

- **A cost-based approach to fees would amount to disproportionate price regulation (Section III)**. The Proposed CR's cost-based approach to

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12 Steering Consultation, ¶2.12(c).

13 In this respect, the Steering Consultation does not appear to follow the CMA's commitment to carry out its new digital markets functions in a "*proportionate, targeted, [and] evidence-led*" manner, consistent with the Government's strategic steer. *See* CMA, Delivering the 4Ps under the digital markets competition regime (30 April 2025); UK Government, Strategic steer to the Competition and Markets Authority (15 May 2025).

14 Steering Consultation, ¶4.106 (which states that "*[U]tility-like services [...] offer relevant parallels*"). *See also* discussion in **Section III.A.1**.

regulating Apple's fees applicable to link-outs makes no economic sense for innovative digital platforms. A cost-based approach would require Apple to make unreliable assumptions based on an artificial allocation of costs. It would also strip out the value of Apple's platform investments and the IP they generate. A value-based approach—which both the CMA and Ofcom have endorsed—is the only proper framework. Any legitimate value-based framework must however recognise Apple's broader contribution to platform surplus and developer success, including via the full range of IP-protected proprietary tools, technologies, and services provided to all developers, irrespective of whether they link-out.

- **The proposed user disclosure requirements are unduly onerous (Section IV).** Despite accepting in principle that Apple can surface user disclosures when developers use link-outs, the Steering Consultation takes a restrictive approach to acceptable user disclosures that indicates the Proposed CR's intention of undermining Apple's ability to make design choices that protect users from significant privacy, security, and safety risks.

- **The CMA has not demonstrated that it has considered less onerous alternatives (Section V)**. The Steering Consultation appears to have not assessed any alternatives that may serve as a more effective vehicle to achieve the CMA's goals.

- **The proposed implementation requirements would be novel, complex, and disproportionate (Section VI)**. The accounting and reporting obligations are operationally infeasible and unduly burdensome, and the implementation timetable is markedly shorter than the CMA has allowed for comparable CRs.

(10) The Proposed CR does not meet the strict legal test the Digital Markets, Competition and Consumer Act 2024 (the "**DMCCA**") imposes. Apple trusts that the points raised in this response will assist the CMA in its further consideration of this matter.

II. The Steering Consultation fails to demonstrate a sufficient basis for intervention in Apple's existing steering policies and commission model

(11) The DMCCA imposes on the CMA a strict legal framework that it must apply—and support with sufficient evidence—before it imposes a conduct requirement ("**CR**") (*see* **Section II.A**). The Steering Consultation fails to apply this legal framework to Apple's existing steering policies and commission model and provide evidence showing why they are insufficient to support developers' freedom to complete transactions outside Apple's platform (*see* **Section II.B**).

(12) In place of its own evidence-led investigation, the Steering Consultation appears to rely erroneously on the views of a minority of well-funded global developers and findings in other proceedings (*see* **Section II.C**). It also mirrors a conceptually flawed framework from an academic paper published by Spotify's paid economic advisers. As a result, the Steering Consultation advances purported benefits of intervention that lack support from empirical evidence and are unrepresentative of developer and user demand (*see* **Section II.D**). At the same time, the Steering Consultation

inappropriately ignores or discounts well-evidenced costs, risks, and the unintended consequences the Proposed CR would give rise to (*see* **Section II.E**).

A. The DMCCA requires the CMA to undertake a strict proportionality assessment supported by evidence

(13) Under the DMCCA, the CMA may only impose a CR where it can establish—and support with sufficient evidence[15]—that a potential intervention is proportionate for achieving one of the three statutory objectives (fair dealing, trust, and transparency, and open choices).[16] This is a stringent legal test. Following the approach set out in the CMA's Digital Markets Competition Regime Guidance ("**DMCR Guidance**"), the proportionality test will only be met where the CMA establishes, after sufficient investigation, that a proposed intervention:[17]

- **Is effective in achieving a legitimate aim**. In making this assessment, the CMA must consider whether the Proposed CR is properly justified by one of the specified statutory objectives in the DMCCA.[18] Each objective must fit within the overall purpose of the DMCCA (*i.e.*, "*the regulation of competition in digital markets*").[19] The Proposed CR goes beyond what is permitted by the DMCCA and is not adequately justified (*see* **Section II.B**).

- **Is no more onerous than necessary to achieve the CMA's aim**.[20] In making this assessment, the CMA must properly consider whether an intervention is needed in the first place.[21] The UK Competition Appeal Tribunal ("**CAT**") has confirmed that the more intrusive the intervention, the more compelling and rigorous the assessment of proportionality must be, taking into account the available evidence both for and against intervention.[22] The CMA has not

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15 *See*, *e.g.*, *Tesco Plc v Competition Commission*, [2009] CAT 6, ¶139, where the CAT stated that a "*more detailed*" and "*deeper*" investigation is required where an intervention would be "*intrusive, uncertain in its effect or wide-reaching*," as the Proposed CR suggests would be the case here. *See also* DMCR Guidance, ¶3.35 ("*The CMA will not typically seek to quantify these effects precisely, but will consider their magnitude in the round, having regard, as relevant and appropriate in each case, to the quantitative and/or qualitative evidence available*").

16 DMCCA, s. 19(5).

17 DMCCA, s. 19(5); DMCR Guidance, ¶3.33; *BAA Ltd v Competition Commission* [2012] CAT 3, ¶20.

18 DMCCA, ss. 1 and 19(5).

19 DMCCA, s. 19(5).

20 DMCR Guidance, ¶3.33(b).

21 *Tesco Plc v Competition Commission* [2009] CAT 6, ¶130–131, and 137; *Barclays Bank plc v Competition Commission* [2009] CAT 27, ¶¶138–141, 166, and 180(iii); *R (Law Society) v Lord Chancellor* [2018] EWHC 2094, ¶98; *Secretary of State for Education and Science v Tameside Metropolitan Borough Council* [1977] AC 1014, ¶1065.

22 *See*, *e.g.*, *BAA Ltd v Competition Commission* [2012] CAT 3, ¶20.

appropriately identified and substantiated a legitimate basis for intervention (*see* **Section III**).

- **Is the least onerous of equally effective options**. The CMA must do what is necessary to identify and assess plausible alternative options to achieve its objectives, and consider the effectiveness and proportionality of those options, before settling on the proposed approach.[23] The Steering Consultation does not undertake a genuine analysis of less onerous and equally effective options (*see* **Section V**).

- **Does not produce disadvantages that are disproportionate to its aim**. The DMCCA requires the CMA to weigh the positive and negative effects of any potential intervention on all relevant market participants, including benefits, costs, inefficiencies, and risks of market distortions or unintended consequences.[24] The DMCCA also requires the CMA to assess and substantiate these effects.[25] The CMA must also adopt an even-handed and robust approach to measuring costs and benefits, as otherwise it would not be possible to assess appropriately whether a CR is any more onerous than necessary.[26] The Steering Consultation simultaneously fails to substantiate the benefits of intervention (*see* **Section II.D**) and understates the well-evidenced costs, risks, and unintended consequences of the Proposed CR (*see* **Section II.E**).

(14) In applying this strict legal test, the CMA is required to put in place the appropriate "*building blocks*" to support its position, as an administrative act (such as a CR) will be unlawful where there is a "*demonstrable flaw in the reasoning that led to it*".[27] This means that the CMA should not place significant reliance on irrelevant considerations, and cannot discount relevant considerations. There must also be sufficient evidence to support each "*important step*" in the reasoning underlying the Proposed CR, and the analytical approach adopted should not involve a "*serious logical or methodological erro*r."[28]

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23 *See*, *e.g.*, *Tesco Plc v Competition Commission*, [2009] CAT 6, ¶139, where the CAT stated that the Competition Commission "*must do what is necessary to put itself into a position properly to decide the statutory questions*". *See also JD Sports Fashion plc v Competition and Markets Authority* [2020] CAT 24, ¶139; *Tobii AB v CMA* [2020] CAT 1, ¶442. In the merger context, for example, the CAT has repeatedly confirmed that the CMA must take reasonable steps to consider plausible alternative remedies before rejecting them. *See Ryanair Holdings PLC v CMA* [2015] CAT 14,¶57; *Ecolab Inc v CMA* [2020] CAT 12, ¶75.

24 DMCR Guidance, ¶3.34.

25 DMCR Guidance, ¶3.35: the CMA is required to take into account the likelihood and magnitude of each stated benefit by reference to the available quantitative and qualitative evidence and assess them accordingly.

26 DMCR Guidance, ¶3.34. *See also Tesco Plc v Competition Commission* [2009] CAT 6, ¶139; *BAA Ltd v Competition Commission* [2012] CAT 3.

27 *R (Law Society) v Lord Chancellor* [2018] EWHC 2094, ¶98.

28 Ibid.

(15) This strict legal framework provides the proper metric through which to assess the evidence that the Steering Consultation puts forward to support the Proposed CR.

B. The Steering Consultation fails to demonstrate why Apple's current commission model and policies are inadequate

(16) The specified statutory objectives in the DMCCA do not appear to justify the Proposed CR. The Proposed CR's aim appears to be ensuring that developers have the "*ability to use steering in practice*".[29] This goes beyond the permitted statutory objectives of fair dealing and open choices as the CMA conflates the means (steering) with the statutory objective (fair dealing and open choices).

(17) Even if the CMA could identify a legitimate statutory basis for intervention, the CMA must assess whether Apple's current policies already effectively achieve the relevant statutory objective, making any intervention unnecessary. In doing so, the CMA is required to assess and "*credit*" the benefits to developers and users of Apple's existing measures, and consider whether these benefits could be lost (or significantly reduced) as part of determining whether any intervention is warranted.[30] The Steering Consultation concludes that Apple's current App Store policies impose contractual and technical restrictions that limit "*effective*" steering.[31] This assessment fails to appreciate the flexibility of Apple's current policies, which already permit many forms of steering, or to explain sufficiently why they are inadequate.

1. Apple's current commission model

(18) Apple has charged a commission on the sale of paid apps since 2008 and, since 2009, on in-app purchase sales of digital goods and services, to compensate it for the value it provides to developers. Apple's proprietary tools, technologies, and services result from extensive R&D investment,[32] and are protected by a broad portfolio of valuable IP rights, including copyrights, trademarks, patents, designs, trade secrets, and database rights. They include:[33]

- **Platform tools, technologies, and services**, including the iOS software development kit ("**SDK**"), over 250 frameworks (such as the Foundation Models framework, ARKit, Core Motion, GameKit, HomeKit, and HealthKit), over 250,000 application programming interfaces ("**APIs**"), development tools (such as Xcode and TestFlight), graphics and audio-visual capabilities

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29 Steering Consultation, ¶2.4(a); Proposed CR, ¶10(c)(i) ("*[...] developers' ability to steer End-users in practice*").

30 DMCR Guidance, ¶3.34(c); *Tesco Plc v Competition Commission*, [2009] CAT 6, ¶130.

31 Steering Consultation, ¶¶2.5(b) and 2.8(a).

32 Based on Apple's 10-K forms, Apple's global R&D expenditure steadily increased from $6 billion in 2014 to $31 billion in 2024.

33 Apple's IP rights also underlie Apple's hardware (*e.g.*, proprietary Apple chipsets and products such as iPhone) and software (*e.g.*, Apple's operating systems including iOS), as well as innovative systems and methods of utilising such hardware and software to create new functionalities.

(such as 2D Graphics, 3D Graphics, Core Video, and Haptics), developer education and technical support, and security, privacy, and platform integrity safeguards (such as Sandboxing and iCloud Keychain).

- **App Store services**, including discovery features, distribution services, security, privacy, and anti-fraud features, developer marketing, and analytics.

- **IAP**, a payment processing and commerce system that enables developers to sell digital goods and services within their apps, and offers developers (among other things) global payment processing, tax services, refunds, fraud, and customer support services.

(19) Over 80% of developers pay no commission to Apple at all in the UK: developers that do not charge their users for their apps, do not sell digital content within their app (*e.g.,* because they sell physical goods or operate an ad-funded business model), or generate revenue outside the app, do not pay commission to Apple. Apple has, moreover, never increased its commission rate. For many apps, Apple has decreased or removed the applicable commission rate. Most developers that sell digital goods and services in their apps pay a reduced commission by utilising various programmes and commission reductions Apple has introduced.[34] As discussed further in **Section II.B.2**, certain developers pay no commission on out-of-app transactions through the Reader Rule,[35] Multiplatform Rule,[36] and other methods available to communicate external offers.

(20) Apple's commission on eligible transactions ensures it receives a fair share of the joint value created by Apple and developers. For Apple's commission-based business model to function, Apple must implement a mechanism to ensure developers do not circumvent the commission. The mechanism Apple implemented is to require developers that engage in IAP transactions to refrain from steering users outside their app to complete transactions.[37] Without an effective anti-steering rule, developers would be able to free-ride on Apple's investments. There would be no limiting principle on the amount of steering, and Apple could be left with zero compensation for the enormous value afforded by its platform, thus undermining Apple's incentives to continue to invest and innovate.

(21) The commission rates Apple charges in the UK also reflect a competitive market. Apple's headline commission is comparable to—or below—those charged by app

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34 Apple's programmes that benefit from a 15% reduced commission include: Apple Video Partner Program (2016), App Store Small Business Program (2021), Mini Apps Partner Program (2025), News Partner Program (2021), and a 15% reduced commission on auto-renewals and auto-renewable subscriptions. Apple also provides existing developer choice to offer digital goods and services through a number of business models—such as Apple's free, freemium, IAP consumable, subscription (including auto-renewable subscriptions and non-renewing subscriptions), paid, and paymium business models. *See* Apple, Choosing a business model.

35 Apple, App Review Guidelines, ¶3.1.3(a).

36 Apple, App Review Guidelines, ¶3.1.3(b).

37 *See* Apple, App Review Guidelines, ¶3.1.3.

marketplaces and digital platforms including Google Play, Samsung Galaxy Store, Amazon Appstore, and Huawei App Gallery, and sits within the 15–30% range applied across adjacent digital platforms (consoles, PC storefronts, and B2B marketplaces).

(22) The Steering Consultation erroneously dismisses the relevance of these benchmarks, even though they satisfy the test that the Steering Consultation sets out for identifying appropriate comparators:[38] (i) they relate to similar platform and distribution services (app marketplaces and digital platforms); (ii) they operate in demonstrably competitive environments (most notably smaller Android app marketplaces such as Oppo App Market, Vivo App Store, and Xiaomi GetApps);[39] and (iii) they reflect a clear two-way value exchange between platforms and developers. The Steering Consultation fails to provide any justification for its conclusion that its test is not satisfied,[40] and it has not evaluated whether Apple's existing commission terms are in fact unfair.

2. Developers' existing ability to sell digital goods and services to UK users without paying commission

(23) Apple's current model provides developers with an effective means to sell digital goods and services to UK users without paying Apple any commission, despite receiving immense value from Apple's IP-protected platform tools, technologies, and services, and App Store services—for example, using the Reader Rule,[41] and the Multiplatform Rule.[42] Developers can also: (i) advertise offers and purchasing methods to end users outside of their App Store apps (*e.g.*, on traditional media, other third-party channels, the developer's own website, and social media); (ii) send communications to end users (*e.g.*, via email, text, or other channels, and utilise user information obtained via account registration in the app for these communications); and (iii) conclude digital goods or services transactions with end users via multiple channels outside of the app (*e.g.*, developers' website).

(24) These methods already achieve the aims set out in the Steering Consultation by allowing developers: (i) to make informed choices about what to sell, what pricing structure they use, and how to distribute goods and services; and (ii) to have the

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38 Steering Consultation, ¶4.128.

39 *See*, *e.g.*, Reuters, Exclusive: China's mobile giants to take on Google's Play store (7 February 2020).

40 Steering Consultation, ¶4.128.

41 Apple, App Review Guidelines, ¶3.1.3(a). Apple permits "*reader*" apps to let users access and enjoy with their apps a broad range of externally purchased digital content—magazines, newspapers, books, audio, music, and video—without requiring an in-app payment mechanism. Apple earns 0% commission on such content. Reader apps can also include an account creation and management link, directing the user to the developer's website.

42 Apple, App Review Guidelines, ¶3.1.3(b). Apple allows users to access within an iOS app digital content (including consumables) purchased outside the App Store, without paying a commission on such content, provided the content is also available for purchase within the app.

ability to interact directly with customers. There is extensive evidence of developers using these methods:

- **Subscription services requiring users to subscribe externally, instead of using IAP**. Prominent developers like Spotify direct users to subscribe to their services externally and do not use IAP, while continuing to benefit from Apple's IP-protected tools, technologies, and services. Since switching off IAP in 2016 and thereby paying $0 commission on new subscriptions to Apple, Spotify has continued to benefit from a variety of Apple's tools and technologies, and App Store services (*e.g.*, TestFlight (for almost 500 versions of its app),[43] and App Review (for 421 versions of its app), as well as access to Apple's approximately 250,000 APIs, and use of at least 60 of the available frameworks).[44] Spotify has migrated all of its paid subscribers on Apple platforms off of IAP and has not paid any commission at all since 2024.

- **Gaming developers transacting with users in web stores**. In addition, gaming developer web stores use the Multiplatform Rule to transact with users off-platform in web stores in large volumes, enabling those users to use the content in the developers' iOS and iPadOS apps (provided they make that content available for sale in the app). Developers experienced exponential growth in web store revenue in 2025, with reports indicating that 41% of top-performing apps now generate web revenue.[45] This includes developers providing some of the most popular games on the App Store: Stillfront (Big Farm), Modern Times Group (Warhammer 40k, Tacticus), and Playtika (Slotomania, Bingo Blitz, June's Journey, SuperPlay). As at Q4 2025, these three developers had shifted approximately 45%, 32%, and 36.8% of their business, respectively, across platforms, away from the App Store, usually toward direct channels like the web or through use of PCs.[46]

(25) The Steering Consultation's apparent failure to evaluate this evidence—or to explain or substantiate why these existing freedoms to transact outside the App Store are ineffective and inadequate—undermines its proportionality assessment.

C. The Steering Consultation erroneously relies on biased, unreliable third-party evidence and separate proceedings to fill evidentiary gaps in its analysis

(26) The Steering Consultation unduly relies on the views of third parties with known vested interests and inapposite international proceedings to fill analytical and

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43 TestFlight is an app development tool which enables developers to build and test apps to ensure compatibility and proper functioning with iOS and iPadOS. *See* Apple, Beta testing made simple with TestFlight (describing TestFlight as a tool that "*makes it easy for testers to give feedback on [developer] apps, games, and App Clips*").

44 *See, e.g.*, Apple Newsroom, The App Store, Spotify, and Europe's thriving digital music market (4 March 2024).

45 *See*, *e.g.*, Revenue Cat, State of Subscription Apps 2026, pp. 26 and 28.

46 *See*, *e.g.*, Stillfront, Year-end Report for 2025; Modern Times Group, All time high revenues and adjusted EBITDA underscore strong finish to the year with 8% organic growth for Q4 and 9% for 2025; Playtika, Playtika Holding Corp. Reports Q4 and 2025 Financial Results.

evidential gaps in its analysis. Apple identifies two principal examples in this connection.

1. Undue reliance on the views of a small minority of well-funded global developers and their lobby groups

(27) The Steering Consultation cites to unsubstantiated accounts from a small, unrepresentative set of self-interested third parties and their paid lobby groups (*e.g.,* Epic,[47] Spotify,[48] Coalition of App Fairness,[49] Match Group,[50] and European Publishers Council).[51] The Proposed CR also appears to derive key aspects of its framework from a paper published by economic advisers to Spotify. The similarities are so striking that one of these advisers asked "*am I reading my own paper?*" when reviewing the Proposed CR. These parties have well-known, vested interests in not paying for Apple's IP-protected tools, technologies, and services. The Steering Consultation fails to take account of or address these third parties' commercial incentives,[52] and in so doing attaches undue weight to their views.

2. Undue reliance on findings in other proceedings

(28) The Steering Consultation inappropriately relies on inapposite international proceedings (some of which are ongoing) to bypass evidential gaps in its own case. In particular, it seems to rely on findings of the United States District Court, Northern District of California in its 30 April 2025 Judgment ("**US Epic v Apple Judgment**"),[53] and the European Commission's ("**EC**") decision on 23 April 2025,[54] regarding its

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47 Steering Consultation, fn. 21.

48 Steering Consultation, fn. 14–16, 18, 21–22.

49 Steering Consultation, fn. 14, 16.

50 Steering Consultation, fn. 18.

51 Steering Consultation, fn. 14–15.

52 *See, e.g.*, *Hitachi Rail / Thales GTS* Final Report (October 2023), ¶8.445 (where the CMA gave "*limited weight*" to certain third-party evidence given it "*might have been affected by respondents' own incentives regarding the Merger*"); *Cellnex / CK Hutchison* Final Report (March 2022), ¶¶8.70 and 8.81 (where the CMA placed only "*limited weight*" on the concerns raised by third-party competitors (WIPs), noting that "*commercial incentives may impact WIPs' views on the Merger*"). *See also Cérélia Group Holding SAS and Cérélia UK Limited v CMA* (2023) CAT 54, ¶160 ("*[T]he CMA is entitled to take into account the commercial motivation of competing suppliers when addressing their submissions on SLC concerns*"); CMA, Mergers: Guidance on the CMA's jurisdiction and procedure (CMA2), ¶9.16.

53 Case 4:20-cv-05640-YGR. The United States Supreme Court has granted certiorari in these proceedings on 30 June 2026. Apple has moved to stay the ongoing remand proceedings.

54 Case DMA.100109.

Article 5(4) non-compliance proceedings (the "**EC Steering Decision**").[55] For example, the Steering Consultation cites to appeal proceedings in Epic before the United States Court of Appeals for the Ninth Circuit in support of a statement that incremental costs for allowing steered transactions may be limited to the provision of technology that allows a developer to offer external links.[56] The Steering Consultation provides no other evidence to support its inclusion of this aspect of a cost-based approach.

(29) The Steering Consultation's extensive reliance on CAT findings made in *Dr Rachel Kent v Apple Inc. and Apple Distribution International Ltd* [2025] CAT 67 ("**Kent v Apple**") is particularly concerning.[57] The Steering Consultation acknowledges in multiple places that Kent v Apple is subject to an ongoing appeal.[58] Nevertheless, the Steering Consultation proceeds to rely (in some instances seemingly wholly) on findings from the CAT's judgment as evidence for its conclusions.[59] In doing so, the Steering Consultation anchors its analysis on findings that an appellate court may well overturn. In any case, while the CMA is entitled to use evidence (but not findings) from other proceedings, it must evaluate that evidence independently before seeking to rely on it in any material way. Apple sees no evidence of the CMA having done so.

D. The Proposed CR's benefits are unsubstantiated and unrepresentative of developer and user demand

(30) The Steering Consultation erroneously assumes that a steering intervention would improve competition by "*exerting downward pressure on wider App Store commission fees through enabling end-users' access to other, lower cost distribution channels.*"[60]

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55 Steering Consultation, fn. 58 (where the Steering Consultation cites the court's questioning of the necessity and proportionality of these restrictions in the US Epic v Apple Judgment, and then goes on to rely on the rejection in EC Steering Decision of Apple's argument that preventing the inclusion of additional URL data was necessary to protect user privacy and security).

56 Steering Consultation, fn. 129: the only other evidence that the CMA cites relate to cost-based approaches in the airports, telecoms, and rail industries, which the CMA admits are "*used in other contexts, including for more utility-like services*".

57 *See*, *e.g.*, Steering Consultation, ¶¶4.111 (fn. 134), 4.116 (fn. 136), 4.129 (fn. 150–152), 4.154(d), and 5.30(c) (fn. 191).

58 Steering Consultation, ¶¶4.129, 4.154(d), and 4.111; fn. 136.

59 Reliance on real-world evidence in the US and EU regarding the uptake of steering is distinct from relying on the findings of the courts in those jurisdictions. The CMA should conduct its own assessment of real-world evidence as opposed to filling gaps in its analysis with findings from other courts.

60 Steering Consultation, ¶¶2.6(c)(iii) and 5.29(a).

(31) The other claimed benefits, of expanding developers' choice of business model,[61] improving developers' relationship with users,[62] improving competitiveness between Apple and third-party payment processors,[63] and "*[tens of] millions of pounds*" in savings for UK consumers. These claims lack empirical support and are not representative of developer and user demand.

1. Intervention would not enhance competition in app distribution

(32) Introducing link-outs to the UK would not—and could not—achieve the Steering Consultation's claimed benefit of enhancing competition in app distribution.[64] By definition, enabling link-outs does not involve competition for app distribution or platform services, as the app must remain on the App Store to reach UK users (*i.e.*, introducing link-outs has no effect on the distribution channels used by developers and end-users). It is therefore not possible for the Proposed CR to "*exert downward pressure*" on App Store commission fees (which are also already significantly constrained by other transaction channels, including web stores).[65] Instead, any downward pressure on Apple's headline commission rate would only result from the CMA regulating link-out fees to an unreasonable extent, which would not provide fair and reasonable compensation to Apple. This approach would also be inconsistent with the CMA's stated position that it does not intend to "*directly constrain[] Apple's commission fees*".[66]

(33) The Steering Consultation for some reason does not engage with this reality—therefore, it can be assumed to allude to purported benefits that do not exist.

(34) Developers using link-outs rely on the same platform value as non-steered transactions, including, for example, Apple's IP-protected tools, technologies, and services, distribute their apps through the App Store, and still benefit from the value that Apple provides, regardless of whether they use IAP or third-party payment processors on the web. Any potential competitive effects of enabling link-outs would be limited to the execution of the payment.

2. Overstated developer demand for link-outs

(35) The Steering Consultation asserts that the benefits of link-outs (discussed in **Section II.D**) apply to all UK App Store users, who generate £[0-5] billion in total billings every year.[67] This wrongly assumes that the entirety of Apple's UK App Store customer billings are exposed to the Proposed CR.

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61 Steering Consultation, ¶2.6(a).

62 Steering Consultation, ¶2.6(b).

63 Steering Consultation, ¶2.6(c)(ii)

64 Steering Consultation, ¶¶1.17, 2.6, and 4.112.

65 Steering Consultation, ¶1.13.

66 Steering Consultation, ¶1.19.

67 Steering Consultation, ¶5.42.

- First, as explained at paragraph 19 above, only a small minority of developers pay Apple any commission today. Over 80% of UK-based developers in the UK iOS App Store, and over 85% of UK-based developers in the iPadOS App Store, paid no commission to Apple on the total UK billings and sales in 2025. The Proposed CR yields no benefits to developers not paying commission today.

- Second, of the developers that would potentially use link-outs, only a small fraction of them would do so in practice. Actual link-out adoption in certain jurisdictions where link-outs are permitted demonstrates that demand is limited, for example in the EU (which has a complex pricing structure that is difficult for developers to navigate).[68]

- Third, as explained above, today, developers have existing freedoms to transact outside the App Store and complete a significant volume of transactions via existing steering methods available to them under Apple's existing model (*see* **Section II.B**).[69] The Steering Consultation proffers no contrary evidence suggesting these channels are insufficient to meet developer needs.

(36) The correct addressable base for calculating the magnitude of likely benefits arising from intervention is a small subset of transactions that: (i) relate to digital goods and services; (ii) occur on apps developed by developers that actually adopt link-outs, and shift from IAP to a steered channel; and (iii) net of any offsetting effects. The potential savings for developers would therefore be significantly smaller than the CMA estimates.

3. Erroneous assumptions about lower prices for UK consumers

(37) The Steering Consultation erroneously assumes that a steering intervention would result in developers passing the platform revenue that the Proposed CR forcibly transfers from Apple through to consumers, resulting in lower prices.[70] It does not cite any empirical evidence to support or quantify its claim beyond a select few third-party submissions.[71]

(38) This claimed benefit hinges on a chain of unevidenced and improbable steps, all of which must hold for such benefits to materialise: (i) developers adopting link-outs based on the CMA's framework at a meaningful scale; (ii) users actually switching from IAP to steered channels; and (iii) any resulting transfer of platform surplus being

68 The Steering Consultation recognised this at ¶4.100.

69 Apple, Global App Store helps developers reach new heights, supporting $1.3 trillion in billings and sales in 2024 (5 June 2025).

70 Steering Consultation, ¶¶1.10(c), 1.13(a), 4.144, 5.36–5.37, 5.42(a)(iii).

71 Steering Consultation, ¶5.37(a)–(b), fn. 21, and fn. 198.

passed through to end-users,[72] rather than being retained by developers or offset by lower conversion or implementation costs.

(39) The Steering Consultation assumes that each of these steps would eventuate, without providing evidence beyond what effectively amounts to speculation in support of the assumptions, relying instead on what appears to be only the views expressed by self-interested third-party developers.[73] By contrast, real-world circumstances contradict the Steering Consultation's assumptions. For example, real-world evidence contradicts that developers would pass on any redistributed revenues resulting from a link-out intervention to consumers.[74] In particular, empirical evidence in the EU and US shows that developers have not, in practice, passed on any incremental surplus to consumers when Apple reduced commissions.[75] The Steering Consultation fails to weigh such evidence properly.

4. New opportunities for innovation are speculative and overstated

(40) In stating that the Proposed CR would "*unlock*" new opportunities for innovation,[76] the Steering Consultation relies entirely on unsubstantiated third-party evidence that developers would be able to increase investment in innovation through paying lower commissions.[77] The only specific testimony that the Steering Consultation identifies is a blanket, uncorroborated assertion by Y Combinator that Apple's commission has hindered startup growth.[78] The Steering Consultation cites no development timescales, innovation take-up rates, or empirical data. It likewise fails to account for the low uptake of link-outs in other jurisdictions, and the lack of evidence that developers would reinvest the resulting surplus transfer into innovation. Even assuming the resulting surplus transfer would be a legitimate transfer to interested parties, the Steering Consultation's evidence base does not support the claimed innovation benefits.

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72 Steering Consultation, ¶¶1.10(c) and 5.40.

73 Steering Consultation, ¶¶1.13(a), 5.37(a).

74 *See* Analysis Group, What happens to app prices when developers pay lower commission fees (November 2025) (which provides evidence from the EU showing no price change for steered developers).

75 Following the introduction of lower commission rates in the EU, developers kept prices the same or increased them for 91% of products, while 86% of the commission savings flowed exclusively to developers outside the region. In the US, Apple has also observed developers take advantage of link-outs by continuing to charge the same price as IAP (with no price change). *See* Analysis Group, What happens to app prices when developers pay lower commission fees (November 2025). Even if developers had incentives to promote link-outs over IAP transactions, then a small price difference would be sufficient to incentivise consumers to use link-outs. Therefore, the pass-through to consumers would be limited.

76 Steering Consultation, ¶¶1.8(a), 1.10(a), 1.13(b)–(c), 2.6(a), 2.12(a), 5.42(a)(iii). Purported innovation opportunities include: investment in new products, new entry, new opportunities to offer more seamless services, expanding developers' choice about pricing structures they use.

77 Steering Consultation, ¶1.13(b), fn. 22.

78 Steering Consultation, ¶5.36, fn. 195.

5. *Greater user choice and flexibility, and enhanced user experience, are overstated*

(41) The Steering Consultation claims the Proposed CR would benefit users by providing "*greater flexibility and choice in how [users] make purchases, including access to alternative payment methods and transaction channels*".[79] Yet the Steering Consultation does not address both the: (i) existing flexibility already available to developers to direct users to complete transactions outside the App Store (discussed in **Section II.B**); and (ii) existing developer choice to offer digital goods and services through a number of business models (*see* **Section II.B.1**).[80] The reality is that developers already take advantage of these existing options to a significant degree.[81]

(42) The Steering Consultation also makes the unsubstantiated assertion that the Proposed CR would assist "*improved customer experience, including in relation to billing, refunds and support.*"[82] There is simply no evidence this would be the case. In fact, quite the contrary. The Steering Consultation ignores the importance of user trust to ensuring a high-quality user experience, and the risks to user trust posed by link-outs. Apple has submitted substantial evidence that: (i) link-outs produce a less trustworthy experience, as developers often do not inform users of where and with whom they are transacting; and (ii) link-outs increase the risk of scams and fraud, and users lose access to centralised refund and subscription management, which degrades, not improves, the customer experience, including documented risks of subscription traps, drip pricing, and misleading or incorrect pricing. These are risks inherent with link-outs that the Steering Consultation appears to accept, recognising that "*steering users to third party websites or content introduces an additional party to the user journey, which can introduce additional risks to end-users,*"[83] but then fails to credit sufficiently.

E. The Steering Consultation understates the well-evidenced costs, risks, and unintended consequences the Proposed CR would raise

(43) The Steering Consultation fails to take account of a number of significant drawbacks of the Proposed CR, which are relevant to its proportionality analysis.

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79 Steering Consultation, ¶¶2.12(a), 5.38, fn. 200.

80 Apple, Choosing a business model.

81 *See* discussion in **Section II.B** on uptake of existing methods to direct users to complete transactions outside the App Store. *See also* the discussion in **Section I**, which shows that only a small proportion of UK billings (3.5%) represent commissions, with more than 96.5% accruing to developers with no commission owed to Apple. This demonstrates that developers elect business models that do not involve paying Apple a commission in high volumes.

82 Steering Consultation, ¶¶2.12(b), 5.38, fn. 200.

83 Steering Consultation, ¶¶4.32–4.33; Proposed CR Interpretative Notes, ¶3.

1. Impact on Apple's innovation and investment incentives

(44) As explained in **Section III** below, the Steering Consultation's approach to link-out fees, which purports to "*ensure that Apple's incentives to invest and innovate in its app store are adequately protected, and that it receives fair remuneration for the services it provides*,"[84] would in fact constitute disproportionate price regulation. In reality, the Steering Consultation fails to adequately consider the long-term costs of Apple's weakened incentives to invest and innovate on its platform including its IP-protected tools, technologies, and services that its commissions support.

(45) This failure is exacerbated by the apparent intended broad territorial scope of the Proposed CR, which would extend to all developers making apps available to, or accessed by, end-users in the UK via the UK App Store, including developers operating on a global level.[85] The CMA is keenly aware of the need to protect the investment incentives of SMS firms.[86] And yet the Steering Consultation does not address the long-run damage that a loss of revenue would have on the incentives of Apple (and others in similar positions) to invest in the UK.

2. User privacy, security, and safety risks

(46) The Steering Consultation somewhat self-servingly characterises security, privacy, fraud, and child-safety risks arising from the use of link-outs as "*very small*".[87] In doing so it fails to account properly for the significant body of evidence relating to security, privacy, and safety risks Apple has put to the CMA during the course of its in-depth engagement on these issues. This is despite the UK Government, the CMA itself, other regulatory bodies, and consumer groups recognising the materially higher fraud, security, and privacy risks inherent in digital transactions on the web.[88]

(47) When developers use link-outs, their users lose access to IAP's strong protections against scams, dark patterns, and fraud, as well as centralised refund and subscription management. Link-outs also present serious privacy risks, as, for example, developers can exploit link parameters to pass users' personal information to malicious actors on the open web. The risks of link-outs are particularly pronounced for children. Children are less equipped to distinguish legitimate from deceptive interfaces, may not fully understand the implications of sharing payment

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84 Steering Consultation, ¶¶2.4(b), 2.5(d), 4.83(b).

85 Steering Consultation, ¶4.10.

86 *See*, *e.g.*, CMA, Response to the science, innovation and technology select committee inquiry: innovation, growth and regions (24 January 2025), ¶¶6–7.

87 Steering Consultation, ¶5.30.

88 *See*, *e.g.*, UK Government, Fraud Strategy 2026–2029 (March 2026); National Crime Agency (the "**NCA**"), Shopping and paying safely online (2025); NCA, The threat from fraud; UK Government, "Stop! Think Fraud" campaign (2024); CMA and Ofcom, Online safety and competition in digital markets: a joint statement between the CMA and Ofcom (14 July 2022); and Financial Conduct Authority, Protect yourself from scams; Financial Conduct Authority, Reducing and preventing financial crime.

information, and are more easily influenced by manipulative designs or persuasive prompts.

(48) The Steering Consultation relies on an irrelevant analogy to physical goods, stating that Apple does not require IAP for the sale of physical goods and services, redirecting "*such apps to use alternative payment methods, including steering, without use of any interstitial screens*".[89] It uses this analogy to reach the conclusion that the Proposed CR would bring about no material increase in privacy or security risks.[90] However, this is not akin to link-outs because, as the Steering Consultation notes,[91] Apple does not offer IAP for the sale of physical goods and services. This analogy also does not call the evidence of harm from link-outs relating to digital content transactions into question. End users have settled expectations—built over more than 15 years of using the App Store—concerning their interactions with digital goods, and the role Apple plays in protecting them from potential harms. No equivalent consumer expectations exist in relation to physical retail.[92]

(49) The Steering Consultation relies on the alleged absence of evidence (*i.e.*, the CMA has "*not seen*" evidence of increased privacy or security issues where steering for physical goods and services is allowed), as evidence that there are no material privacy or security risks for digital sales. This holds Apple to an impossible bar of proving a negative, despite Apple's previous explanation—which the Steering Consultation embraces—that it has "*no way to monitor or verify the security of steered transactions*" for physical or digital goods.[93]

(50) Apple supports the Proposed CR's inclusion of a carveout for measures to prevent malware, fraud, unlawful content, or content harmful to children.[94] However, as scoped, the carveout limits measures to those that are "*strictly necessary*". This wording should be struck. It is unduly burdensome and would afford Apple only the narrowest possible margin to protect its users and manage risks—risks that it is best placed to assess based on over 15 years' experience as a platform operator. The significant risks of harm that link-outs create for users mean that Apple must, under any intervention, retain a measure of discretion to allow it to remain vigilant as to how best to protect users, based on its decades of experience mitigating risks users face from the open web (which is a significant differentiating factor for Apple's business).

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89 Steering Consultation, ¶4.64.

90 Steering Consultation, ¶¶4.20, 4.38–4.47, 4.64, 5.23, and 5.30(e).

91 Steering Consultation, ¶4.64.

92 For example: (i) defrauded physical purchases leave a tangible trail (*e.g.*, no delivery), whereas (ii) digital fraud can often be intangible and irreversible (*e.g.*, scams, harvested credentials that cannot be uncompromised), and triggers digital-specific harms (including subscription traps, bait-and-switch, and credential harvesting).

93 Steering Consultation, ¶5.19.

94 Steering Consultation, Proposed CR, ¶3(b).

3. *Disproportionately advantaging larger developers*

(51) Real-world evidence in the US, which Apple has provided to the CMA, shows that link-outs that do not enable Apple to charge appropriate fees disproportionately benefit large developers, and lead to worse outcomes for small developers. The Steering Consultation ignores this evidence.

(52) Link-outs would therefore risk distorting competition in favour of incumbents, as larger developers wielding market power in their own markets (the very incumbents pushing for link-outs, like Match Group, Spotify, and Epic), would use the forced revenue transfer from link-outs to entrench their market power, thereby disadvantaging smaller rivals. This would undermine level playing field that currently exists that enables smaller developers to challenge larger incumbents. Steering requirements may also disproportionately impact smaller developers that "*may be less willing or able to absorb additional operational complexity*", as acknowledged in the Steering Consultation.[95] This outcome is also at odds with the CMA's aim to create opportunities for all participants in the UK app economy "*large and small, to invest, innovate and grow.*"[96]

III. The Proposed CR's approach to link-out fees would constitute disproportionate price regulation

(53) Even if a steering intervention were justified, the DMCCA requires the CMA to establish that any such intervention is no more onerous than necessary to achieve a statutory objective, and should not produce disadvantages that are disproportionate to its aim.[97]

(54) The Proposed CR in fact would produce significant disadvantages that are disproportionate to any legitimate aim. In particular, it would introduce a framework so vague and ambiguous that it would be unworkable and disproportionate. Indeed, key concepts remain unspecified to an extent that deprives Apple and other stakeholders of the legal certainty and regulatory stability necessary to facilitate functioning markets and promote investment.[98]

(55) The Proposed CR also fails to reflect a proper assessment of the drawbacks of cost-based price regulation. In doing so, it fails to appreciate that a value-based approach is the only appropriate means of assessing the fairness and reasonableness of pricing in the context of mobile platforms and link-outs in particular (*see* **Section**

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95 Steering Consultation, ¶4.98(a).

96 CMA, Roadmap of Possible Measures to Improve Competition in Mobile Ecosystems (23 July 2025), ¶1.2.

97 DMCCA, s. 19(5).

98 A significant number of the operative elements of the Proposed CR remain uncertain, including for example: (i) the parameters of what constitutes a "*fair and reasonable*" fee; (ii) the scope of cognisable costs and value under the respective cost- and value-based approach; (iii) the process for resolving contradictions between the cost, value, and simplicity principles; and (iv) the scope of information that is permitted on the interstitial screen ("*strictly necessary*" information, "*purpose or effect or discouraging*").

III.A). However, any value-based approach must take into account Apple's broader contribution to developer monetisation, including the full value of the range of IP-protected tools, technologies, and services provided to all developers (regardless of whether they link-out) (*see* **Section III.B**).

A. A cost-based approach would constitute utility-style price regulation which has no place in innovative and dynamic digital markets

(56) The Steering Consultation proposes that Apple's link-out fees should be based at least in part on Apple's costs of providing its valuable IP-protected tools, technologies, and services to developers that use them.

(57) Cost-based price regulation is, however, a hallmark of traditional utility regulation, not digital products subject to intense innovation cycles in the face of uncertain customer demand. It is entirely inappropriate to use cost-based price regulation in the context of link-outs. Not only does the Proposed CR endorse it, however, it does so in a way that would risk excluding a range of legitimate costs that Apple incurs to provide valuable services to developers, including those that use link-outs. And while the Proposed CR accepts that a value-based approach can be used *alongside* a cost-based approach, it seeks to impose—via Interpretative Notes—a "*cross-check*" against a cost-based approach, risking a race to the bottom.

1. Cost-based price regulation is suitable for public utilities, not a highly innovative company like Apple

(58) The Proposed CR's cost-based approach is suitable only for stable, non-innovative industries such as public utilities where demand is predictable and it is readily possible to identify and attribute costs. Apple does not, however, sell commodity products, like electricity, water, or heating oil. It has built an extraordinarily innovative platform that has enabled developers to enjoy enormous success and high growth, far beyond even its closest, most successful rival.[99]

(59) To sustain its platform growth and success, Apple must continue to innovate and partner with developers to deliver valuable experiences for users. The following factors clearly distinguish Apple from public utilities for which cost-based price regulation might be appropriate:

- Apple's R&D expenditure reached c. 8% of revenue in 2025—far in excess of regulated utilities (c. 0–2%)—and grew by over 420% between 2014 and 2024.[100] Apple's R&D expenditure illustrates the scale of investment and innovation required to compete through mobile platform innovation, which is an order of magnitude above regulated utility sectors. It is disappointing in

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99 *See*, *e.g.*, Sensor Tower, Digital Market Index Q1 2025 (May 2025), p. 10 (showing that Apple generates significantly greater revenues for developers despite accounting for fewer downloads than Google Play (which represented approximately 75% of total downloads in Q1 2025), producing more than six times the revenue per download). Industry data also shows that, on Apple's platform, developers convert materially more downloads into paying customers: RevenueCat, State of Subscription Apps Report (2026), p. 149.

100 Apple, Form 10-K (2025), pp. 23-24.

these circumstances that the CMA seeks to treat Apple effectively as a regulated utility by imposing cost-based regulation.

- Apple's platforms and technologies are subject to highly uncertain developer and user demand, requiring it to commit large investments upfront before it knows whether a given innovation will scale from near-zero to mass-market adoption. These uncertain market dynamics affect both the nature and distribution of apps. For example, downloads of AI chatbot apps continue to increase at pace, growing by c. 229% in the two years between 2024H1 to 2026H1 despite the category having barely existed before 2023.[101] There has also been a sharp acceleration in new subscription app launches on iOS since the beginning of 2025, driven in large part by the rise of AI-assisted development tools.[102] A cost-based approach would fail to accommodate the platform investments consumers ultimately expect.

- The Proposed CR emphasises the importance of cost accounting to its approach[103] However, common costs and complementarities across Apple's hardware, OSs, App Store services, and developer tools mean that any cost allocation would be inherently arbitrary, especially in light of the fact that Apple does not maintain fully burdened product-level P&Ls.[104] Even the CMA has acknowledged that "*the presence of common costs complicates the assessment [of Apple's profitability] and allocation methods can be arbitrary.*"[105]

(60) Imposing cost-based price regulation in this setting would inevitably distort investment and innovation incentives, produce inefficient outcomes, and reduce consumer welfare. Tellingly, the March 2019 report of the UK government's digital competition expert panel[106]—widely considered to be the genesis of the UK digital markets regime—explicitly rejected traditional utility-style regulation. And yet the Steering Consultation reaches for it without considering less onerous alternatives.

2. Only a value-based approach is appropriate under a link-out CR

(61) As explained above, Apple provides extraordinary value to developers through IP-protected tools, technologies, and services, at both an App Store and platform level.

101 Sensor Tower, State of AI Report (2026), *see* Yearly Download and IAP Revenue Trends for Generative AI Apps.

102 *See* RevenueCat, State of Subscription Apps Report (2026), p. 11 ("*The steepest iOS acceleration begins in early 2025, coinciding with the rise of AI-assisted development tools*").

103 Steering Consultation, Proposed CR, ¶12(d).

104 *See Kent v Apple*, ¶¶564-566, citing witness evidence of Apple Chief Financial Officer, Kevan Parekh.

105 CMA, Mobile ecosystems market study, Appendix C: financial analysis of Apple's and Google's mobile ecosystems (10 June 2022), ¶29.

106 Digital Competition Expert Panel, Unlocking Digital Competition (13 March 2019), ¶¶2.12–2.15.

Developers that use link-outs continue to benefit from this value, with the exception of IAP. Accordingly, if the CMA imposes a link-out intervention on Apple, a value-based approach to determining appropriate fees applicable to link-outs is the only proportionate option.

(62) The CMA and Ofcom have both endorsed a value-based approach in relation to digital platforms,[107] consistent with economic literature,[108] as well as broader established principles of UK competition law.[109] In fact, the CMA and Ofcom's 2021 advice to the UK government on a code of conduct for news publishers focuses on value-based approaches and refers to cost-based approaches being typically limited to use in relation to regulated utilities (as well as being "*potentially very information and resource intensive*").[110] Cost-based regulation of link-out transactions would defeat Apple's legitimate right to earn compensation for the value its platform delivers to developers.[111] It would sever Apple's remuneration from the value developers actually receive, which creates a structural incentive for those developers to free-ride on Apple's investments when applied selectively to link-outs. It would create an unearned windfall for dominant developers (including Spotify, the largest music streaming app in the world, and Match Group, the world's leading provider of dating services) and smaller developers alike,[112] and fail to conduct any accounting of whether developer investments in the platform warrant such a windfall.

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107 *See* CMA and Ofcom, Platforms and content providers, including news publishers (2021), ¶5.34. *See also* ¶¶5.20 and 5.39. The CMA and Ofcom recognised that industries such as digital platforms are characterised by the creation of "*joint value*" from the contributions of both platform owner and content provider, and there should be a "*fair and reasonable share of the joint value*" between them.

108 Economic literature, in the context of two-sided platforms, has established that a value-based approach can achieve a balance between platform commitment and producer innovation incentives, improve efficiency, and increase participation on both sides, potentially generating welfare gains for all participants. *See* Hagiu, A., Two-sided platforms: Product variety and pricing structures (2009), Journal of Economics & Management Strategy, 18(4), 1011–1043; Wang, Z., & Wright, J., Ad valorem platform fees, indirect taxes, and efficient price discrimination (2017), The RAND Journal of Economics, 48(2), 467-484; Hagiu, A., & Wright, J., The optimality of ad valorem contracts, Management Science (2019), 65(11), 5219–5233; De Cornière, A., Mantovani, A., & Shekhar, S., Third-degree price discrimination in two-sided markets (2025), Management Science, 71(4), 3340-3356.

109 The Proposed CR states that CMA, when pursuing interventions under the DMCCA, is not "*bound by the legal tests and principles applicable under different legal regimes, including ex post competition law*" (Steering Consultation, ¶4.82). Whether or not the CMA is "bound" by these principles, they are nevertheless relevant considerations. In this regard, it is a settled principle of UK competition law that pricing can only be unfair where it has no reasonable relation to the economic value of the product supplied, and that "*economic value*" should not be considered too narrowly. *See*, *e.g.*, *Pfizer and Flynn v CMA* [2026] EWCA Civ 765, ¶56, citing Judgment of 14 February 1978, *United Brands v Commission*, Case 27/76, ECLI:EU:C:1978:22, ¶250; *Attheraces v BHB* [2007] EWCA Civ 38, ¶218).

110 *See* CMA and Ofcom, Platforms and content providers, including news publishers (2021), Appendix D, Table D.1.

111 Steering Consultation, ¶2.4(b).

112 Apple Newsroom, The App Store, Spotify, and Europe's thriving digital music market (4 March 2024); Match Group, News Details (19 June 2017).

(63) The Proposed CR seeks to "*soften*" its proposed cost-based framing by signalling—via non-binding Interpretative Notes—that Apple could use the cost-based principle as a "*cross-check*" against the value-based principle.[113] The statement lacks detail on how this process would operate in practice. In light of the Proposed CR's disproportionate approach to link-outs generally, Apple can only be led to assume the CMA intends to impose a "lowest common denominator" approach whereby link-out fees cannot meaningfully exceed a cost-based benchmark.[114] This carries the risk of creating a race to the bottom on price and undermining Apple's ability to earn compensation for the value it creates for developers.

B. The Proposed CR takes an unduly narrow approach to cognisable costs and value in its approach to regulating link-out fees

(64) Even if it was proportionate to require Apple to implement link-outs in the UK, the CMA must take a proportionate approach to regulating the fees Apple is able to charge to developers that make use of them to complete transactions. As explained above, developers that link-out continue to benefit from a range of valuable IP-protected tools, technologies, and services that Apple provides. By linking out, they avoid only IAP. By narrowing the range of costs and value Apple can seek to recover under its framework, the Proposed CR would act disproportionately by depriving Apple of its ability to recover its costs of developing—and earning a return on the value provided by—a range of IP-protected technologies.

1. Disproportionately narrow assessment of cognisable costs

(65) Even assuming the CMA could lawfully assess Apple's fees based on Apple's costs, the CMA should clarify the Proposed CR's treatment of what costs could or could not be included in such an assessment:

- For the recovery of long-run incremental costs, the Proposed CR provides only that Apple may recover costs it incurs in providing services used by developers to a "*material and direct extent*" in facilitating or supporting steered transactions.[115] The narrow scope of costs recoverable may exclude relevant costs relating to the full range of Apple's platform-wide investments (tools, technologies, services, and underlying IPRs) from being recovered. Any cost-based approach that fails to include the full range of Apple's platform-wide investments—which developers rely on regardless of whether they link-out (*see* **Section II.B.1**)—would produce the free-riding and underinvestment outcomes that **Section II.E.1** identifies.
- On investment returns to which a reasonable rate of return is applied, the Proposed CR would require that the relevant asset base is "*to a material and direct extent, causally attributable to providing Native App Distribution*

[113] Steering Consultation, ¶4.140, Proposed CR Interpretive Notes, ¶9.

[114] Steering Consultation, Proposed CR, ¶10.

[115] Steering Consultation, Proposed CR, ¶12(a)(i).

services," used by developers that link-out.[116] This is inconsistent with the CMA's Final Designation Decision, which finds that the "*component digital activities of Apple's Mobile Platform*" together facilitate developer and user interactions and engagement, and that these components "*form an integrated package of complementary services*".[117] The CMA cannot have it both ways. If the CMA considers Apple to be an integrated platform then it should treat Apple as such for the purpose of identifying the cognisable costs under the Proposed CR's cost-based principle.

- An approach anchored to assets on Apple's balance sheet would fail to capture the value of the IP and other intangible assets reflected in the technology Apple provides to developers. Balance sheets do not generally record internally developed intangible assets—including proprietary technologies, software, know-how, brand, and customer relationships. These intangible assets therefore do not form part of the capital base on which a return is earned. In any form of cost-based pricing, the CMA would have to include these intangible assets and capture the full cost of Apple's platform-wide contribution to developer monetisation. Any approach that does not reflect the full value of Apple's intangibles would systematically under-compensate Apple for a substantial share of the investments that underpin the value jointly created with developers.

2. *Disproportionately narrow assessment of cognisable value*

(66) While a value-based approach provides the only appropriate benchmark for pricing, the Proposed CR seeks to narrow the range of value that Apple can recover for link-outs.[118] For Apple to have a realistic prospect of earning due compensation on the value it provides to developers that use link-outs, any final CR must take a broader and more proportionate approach.

(67) **First, any final CR should appropriately recognise Apple's legitimate right to charge for the value of its IP-protected tools, technologies, and services**. Under the value-based approach, the Proposed CR appears to restrict the scope of recoverable value to that derived from "*Native App Distribution services*" only, rather than Apple's platform as a whole.[119] It is unclear whether this is intended to capture the full value of Apple's platform-wide contribution to developer monetisation, including the range of IP-protected tools, technologies, and services that Apple

116 Steering Consultation, Proposed CR, ¶12(a)(iv). The cost-based approach limits the reasonable rate of return to, "*investments Apple made in infrastructure and services supporting Native App Distribution [...] [that] are, to a material and direct extent, causally attributable to providing Native App Distribution [...]*".

117 CMA, Strategic Market Status Investigation into Apple's Mobile Platform: Final Decision (22 October 2025), ¶¶1.15 and 4.156.

118 As discussed in **Section II.B**, the CMA also wrongly dismisses benchmark evidence showing that a value-based approach produces fair and reasonable outcomes for Apple and developers.

119 Steering Consultation, Proposed CR, ¶10(b)(i).

provides to all developers (regardless of whether or not they use link-outs).

(68) Restricting Apple from earning compensation on platform-wide IP-protected tools, technologies, and services, despite their use by developers using link-outs, would constitute an unlawful expropriation of Apple's IP, enabling such developers to benefit from the tools, technologies, and services they underpin without paying any compensation. This would infringe Apple's rights under Article 1 of the First Protocol, Schedule 1, Human Rights Act 1998. The CMA would need to identify the long-run impact that this unlawful loss of compensation would have on Apple's incentives to invest in the UK as a cost, and properly evaluate it as part of the proportionality assessment.[120]

(69) The Proposed CR should therefore at a minimum clarify that Apple can recover the entire value provided to developers that use link-outs. This would involve, for example, amending ¶10(b)(i) to allow Apple to charge for "*the value provided to Developers by the Native App Distribution services <u>and Apple's wider platform tools, technologies, and services</u>*" (emphasis added).

(70) **Second, the Proposed CR's "*market power*" adjustment is arbitrary, ill-defined, and unnecessary**.[121] The Proposed CR would require Apple to "*adjust for the direct and indirect effects of Apple's substantial and entrenched market power in respect of all elements of Apple's Mobile Platform*",[122] yet provides: (i) no definition of the relevant competitive counterfactual; (ii) no mechanism that accounts for developers' countervailing power; (iii) no methodology for isolating "*market-power effects*" from returns attributable to Apple's investment and differentiation; (iv) no metric for the scale of the adjustment; and (v) no basis on which Apple could demonstrate compliance "*to the CMA's satisfaction*".[123] Because Apple cannot know what the adjustment is meant to achieve, how it should be calculated, or what would satisfy the CMA, the proposed requirement fails to provide legal certainty and undermines the effectiveness of this consultation.[124]

(71) There is no reason to presume that the substantial value Apple provides would be "*competed away*" under effective competition: Apple's value to developers at its core stems from its platform's value to users, not from durable market power. Apple is plainly entitled to be compensated for it. Its sustained investment has created a platform that consumers value—and it is that consumer value that enables

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120 *See* DMCCA Explanatory Notes, ¶180, "*When considering the imposition of conduct requirements the CMA will assess the information and factors that it considers relevant in each case. This could include [...] burdens on designated undertakings and third parties, freedom of contract and <u>property rights</u>, the safety and privacy of users, and innovation in digital markets*" (emphasis added).

121 Steering Consultation, ¶4.122(a).

122 Steering Consultation, Proposed CR, ¶13(d).

123 Steering Consultation, Proposed CR, ¶9(a).

124 *See*, *e.g.*, *Percy v Hall* [1996] QB 924; *Staden v Tarjanyi* (1980) 78 LGR 614, p. 623. *See also* DMCR Guidance, ¶3.88 ("*The CMA recognises the importance of providing both the SMS firm and other market participants with regulatory certainty*").

developers to build and monetise their businesses. In addition, making adjustments solely for Apple and not for the substantial market power held by certain developers on Apple's platform (*e.g.*, Spotify or Epic) would create arbitrary and discriminatory outcomes.

(72) In any event, Apple's current commission model—and any commission model that would apply under a final CR—would be fully justified by reference to the value Apple provides to developers that use link-outs, rather than on "*the End-user base that can access Apple's Mobile Platform through the Native App Distribution services*".[125]

(73) **Third, the Proposed CR's requirement that Apple's link-out fees reflect "*developer value*" misunderstands how a value-based approach works.**[126] Developers' value contribution is not a separate deduction—it is what determines the value split in the first place. Apple's current commission already embeds a fair value split: developers retain at least 70% of revenue (85% for small developers) on the sales of digital goods and services, and 100% on sales outside the scope of Apple's commission. This split, which provides a straightforward way for Apple to participate in the surplus generated by its platform, already more than reflects developers' role in enhancing the platform, while also crediting Apple's vital contributions. Apple's commission rate already reflects any incremental value that developers (in aggregate) contribute to the iOS platform beyond the sale of digital goods and services. Layering an additional adjustment on top would cause confusion and risk double-counting the developer contribution, driving the fee below what a proper value-based framework yields.

IV. The Proposed CR's approach to user disclosures is unduly onerous

(74) The Proposed CR recognises the need for Apple to ensure that users are informed of the risks of link-outs and completing transactions on the open web (*see* **Section II.E.2** above), and therefore provides for Apple to show user disclosures when users tap a link-out.[127]

(75) However, the Proposed CR seems to reflect a profound scepticism of disclosure screens. It characterises any mitigations to reduce privacy, security, or confusion risks as "*frictions*".[128] But if disclosure screens are indeed "*frictions*", the CMA should see these as benign frictions—prompts to pause and reflect, thereby improving user decision-making, and not as automatically harmful. Their very purpose, when used proportionately and at the correct moment in a user's journey, is to convey critical information about the step a user is about to take. By way of analogy, traffic signals

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125 Steering Consultation, Proposed CR, ¶13(d).

126 Steering Consultation, Proposed CR, ¶¶10(b) and 13(e).

127 Steering Consultation, Proposed CR, ¶7. Referred to in the Steering Consultation as an "*interstitial screen*".

128 Apple does, however, agree with the restriction of webviews in the Proposed CR as a necessary measure to prevent user confusion, reducing the risk of users transacting with potentially malicious actors. *See also* Steering Consultation, ¶¶4.67–4.71.

are intentionally frictional: they stop traffic at hazardous crossroads and pedestrian crossings. This "*friction*" minimises clear risks to motorists and pedestrians.

(76) Likewise, Apple's user disclosures seek to minimise risks by ensuring users are fully informed. A user who is leaving the secure environment of Apple's platform is making a consequential choice that warrants an educational pause in the user's journey.

(77) Even by the Steering Consultation's own account, the third-party stakeholder and developer feedback that it seeks to rely upon to reject Apple's preferred approach was "*mixed*".[129] The Steering Consultation further acknowledges that developers are also "*unlikely to have tested the exact scenario of a neutral interstitial screen for steering.*"[130]

(78) The Proposed CR overlooks this mixed evidence base—it would instead in practice dictate user experience design at the expense of user safety and security.[131] In particular, it advances restrictive terms that would unfairly limit Apple's ability to inform users and help prepare them to navigate the open web. For example, the Proposed CR would:

- Require Apple's disclosure screens to observe certain concepts that are ill-defined and subjective, apparently giving the CMA freedom to dictate design choices. For example, the Proposed CR's requirement for Apple to include only information that is "*strictly necessary*" to inform an end-user that they are moving outside of Apple's IAP system.[132]

- Require Apple to implement only a single disclosure screen—irrespective of the nature of the risks link-outs raise.

(79) Apple invites the CMA to adopt a form of user disclosures in any final CR that would be more proportionate in achieving the intended aim of informed user choice to permit an objective description to enable users to understand who they are transacting with and what functionality may or may not apply to that transaction.

V. The Steering Consultation fails to give due consideration to potentially less onerous interventions

(80) As explained above in **Section II.A**, the CMA's assessment of proportionality requires that any intervention be the least onerous effective measure to achieve the aim. The Steering Consultation fails to apply the legal framework appropriately as it does not conduct a genuine analysis of equally effective but less onerous measures.

129 Steering Consultation, ¶¶4.60–4.61.

130 Steering Consultation, ¶4.62.

131 Steering Consultation, Proposed CR, ¶3.1, Definitions, Neutral Language.

132 Steering Consultation, Proposed CR, ¶7(a).

(81) Instead the Steering Consultation states that the CMA has not identified another equally effective CR design, and that the Proposed CR represents the "*only effective measure, which is therefore the least onerous*".[133] This conclusion cannot of itself satisfy the DMCR Guidance.[134] By treating the Proposed CR as the only measure capable of achieving its stated aim, the CMA has pre-empted any genuine comparison of alternatives and, in doing so, has rendered its proportionality assessment meaningless.

(82) **First, the Steering Consultation fails to weigh up other solutions which could be more directly capable of meeting the Proposed CR's principal aim which is to facilitate competition in "*app distribution*"**.[135] Alternative app marketplaces involve rivalrous interactions between platforms in the distribution of apps; link-outs do not. The CMA conducts no analysis of this option[136] but instead states that it "*will continue to keep broader measures in relation to app distribution under review […] such as alternative app distribution methods*."[137]

(83) The Steering Consultation's failure to engage with a measure that could introduce additional competition with the App Store—and jumping straight to price regulation—is a clear violation of the DMCCA's proportionality requirement. It is also inconsistent with the CMA's stated approach to competition in other contexts (particularly market investigations and merger control) where the CMA has identified as significant risks of price controls the unhelpful complexity and the likelihood of "*unintentional distortions in market outcomes over time*".[138] The CMA has typically therefore rejected the use of such mechanisms as effective remedies to address competition concerns.[139]

(84) **Second, the Steering Consultation fails to consider less onerous means of assessing fair and reasonable link-out fees**. If the CMA adopts a final CR requiring Apple to offer link-outs, it must also consider less onerous means of regulating the fees that Apple charges developers that link-out. At the very least, the CMA should revise its value-based principle in line with the feedback Apple has provided in **Section III.B.2** above—and abandon the cost-based principle altogether.

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133 Steering Consultation, ¶5.8.

134 DMCR Guidance, s. 3, ¶3.33(c).

135 Steering Consultation, ¶1.17.

136 Or the conditions under which it could potentially operate, including measures to preserve security, integrity and privacy insofar as possible.

137 Steering Consultation, ¶1.19.

138 CMA, Markets regime guidance (CMA3), ¶70.

139 *See* CMA, Final report: Retail banking market investigation (9 August 2016) ¶19.96, where the CMA explained it decided not to take the "*intrusive approach*" of capping certain charges as doing so was not necessary for the remedy's effectiveness; CMA Final report: Funerals Market Investigation (18 December 2020), ¶¶29-30, where the CMA explains that it has selected 'sunlight' remedies, reserving more intrusive remedies such as price regulation as an option in the future if further measures are found to be required by a future market investigation.

(85) The CMA must however also consider whether a more appropriate and proportionate approach would be to establish a principle based on a discount to Apple's headline commission rate. This approach would have two advantages over the Steering Consultation's current approach of effectively requiring Apple to justify its fees from first principles:

- It would be equally effective at achieving the CMA's aim of ensuring Apple "*receives fair remuneration for the services it provides*".[140] This is because the link-out rate would be established based on the value that developers do *not* receive when they link-out, which would relate to payment processing and commerce services (which includes transaction processing, tax services, refunds, and anti-fraud, and customer services). It would, correspondingly, ensure that Apple is adequately compensated for the value it continues to provide to developers that use link-outs.

- It would be a less onerous means of achieving the CMA's aim. A discount on Apple's headline commission rate would allow for a more straightforward estimation of the value that a developer forgoes when linking-out. It would avoid the inherent impreciseness of the Proposed CR's cost-based approach, which would require Apple to allocate platform-wide costs from scratch—an exercise the CMA has acknowledged "*can be arbitrary*"[141]—and which is effectively impossible for Apple to undertake accurately. By contrast, the Proposed CR's approach would require Apple to justify every increment of value and cost—an exercise that the CMA acknowledges is "*complex by its nature and open to a degree of subjectivity*".[142]

- It would be more proportionate given its closer alignment with the regulatory models in other jurisdictions. In particular, this approach would bring greater international coherence with Japan and Brazil, where Apple's commission model reflects the value provided to developers, with a deduction for payment processing where developers opt to link-out.[143] It would also build on Apple's existing fee structures in the UK that the CMA has acknowledged are clear and "*relatively simple*".[144]

(86) This approach would also be more consistent with the CMA's stated position that it does not intend to pursue an approach of "*directly constraining Apple's commission fees*".[145]

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140 Steering Consultation, ¶2.4(b).

141 CMA, Mobile ecosystems market study, Appendix C: financial analysis of Apple's and Google's mobile ecosystems (10 June 2022), ¶29 ("*[T]he presence of common costs complicates the assessment [of Apple's profitability] and allocation methods can be arbitrary*").

142 Steering Consultation, ¶4.126.

143 Apple Newsroom, Apple announced changes to iOS in Japan (17 December 2025).

144 Steering Consultation, ¶4.135.

145 Steering Consultation, ¶1.19.

VI. The Proposed CR's approach to implementation is unduly burdensome

(87) The Proposed CR would impose on Apple a prescriptive and onerous approach to implementation, including an unduly onerous accounting obligation (*see* **Section VI.A**), implementation period (*see* **Section VI.B**), and compliance reporting framework (*see* **Section VI.C**). In doing so the Proposed CR fails to consider the extent to which Apple "*will need to make changes to its technical systems and/or business model*" to implement any CR, as the DMCR Guidance explicitly mandates.[146] The Steering Consultation provides no reason for the necessity of such an onerous approach.

A. The Proposed CR's onerous accounting practices would be unduly burdensome

(88) The Proposed CR would require Apple to "*maintain cost accounting records (including inputs, allocations and assumptions) sufficient to be able to demonstrate compliance with the cost-based principle to the CMA's satisfaction*."[147] The onerous accounting requirement appears contrary to the CMA's own guidance, and is disproportionate because it:

- **Would require Apple to completely overhaul its UK accounting practices, imposing unduly burdensome costs**. Apple does not, in the ordinary course of its business, allocate costs in a fully burdened manner to specific products, services, or countries across its global operations. This reflects standard commercial practice for a highly integrated technology company whose infrastructure, IP, tools, and services are deployed simultaneously across many products and geographies. Compliance with this obligation would require Apple to develop entirely new accounting methodologies, allocation frameworks, and internal governance systems, creating a wholly disproportionate burden on Apple.[148] The Steering Consultation acknowledges that Apple would incur costs,[149] but dismisses these costs as "*unlikely to be substantial*." This bald assertion lacks any supporting evidence, and fails to grapple with the scale of what the obligations would actually entail for Apple.

- **Would by its very nature require Apple to make unreliable assumptions**. As discussed in **Section III.B.1**, any cost accounting framework constructed on this basis would also necessarily rest on arbitrary and unreliable assumptions (given the way that Apple operates). Therefore, the resulting records may not be a sufficiently reliable way to assess compliance.

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146 DMCR Guidance, ¶3.34(a).

147 Steering Consultation, Proposed CR, ¶12(d).

148 The Steering Consultation acknowledges as much, recognising the "*complexities in determining a suitable proportion of common costs and a reasonable rate of return on Apple's investments*". *See* Steering Consultation, ¶4.115.

149 The Steering Consultation acknowledges that Apple would incur costs through "*the need to gather cost accounting data as a basis for setting fees*". *See* Steering Consultation, ¶5.16.

- **Employs a cost accounting mechanism that is inappropriate to Apple's business**. Requiring Apple to maintain cost accounting records, allocate common costs across its integrated platform, and demonstrate compliance with a cost-based pricing principle to the CMA's satisfaction is the regulatory framework applied to traditional utilities and network industries characterised by natural monopoly, stable infrastructure, and costs susceptible to clean attribution. As discussed in **Section III.A.1**, it is inappropriate and disproportionate to treat Apple as a regulated utility.

(89) The onerous accounting requirements would impose a disproportionate burden on Apple and should be removed from any final CR. This would be consistent with the CMA's own approach in the Google Publisher CR, where the requirement for an independent baseline audit by a skilled person proposed at consultation was not carried through to the final decision,[150] on the basis that the CMA's existing statutory powers and risk-weighted approach to compliance provided a sufficient basis for oversight without imposing disproportionate upfront burdens on Google.[151]

B. The Proposed CR's implementation period would be unworkable in practice

(90) The Proposed CR would require Apple to submit an implementation plan to the CMA within one month of its final decision and comply with the CR within three months of that decision. This time period is disproportionately short and fails to reflect the scale and complexity of what compliance with the Proposed CR would actually require.

(91) The Proposed CR's proposal seems to rest on an assumption that Apple will prepare for compliance with the Proposed CR as it stands prior to finalisation of a potential final CR. But, for the reasons explained in this response, Apple cannot begin to implement a system with which to demonstrate compliance with the Proposed CR in its current form.

(92) Even once those issues are resolved, building the necessary infrastructure, appointing the required governance oversight, developing internal and public policies and technical monitoring systems, and ensuring that Apple's Nominated Officer can be satisfied that any compliance reports are complete, accurate and not misleading—all within three months—is not feasible. The DMCR Guidance requires the CMA to take such considerations into account.[152]

(93) The proposed three-month implementation period is also inconsistent with the treatment of Google in its Search CRs. The CMA provided Google with six months to

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150 CMA, Google Publisher CR, Final Decision, ¶3.72.

151 CMA, Google Publisher CR, Final Decision, ¶¶3.69 and 3.74.

152 DMCR Guidance, ¶3.68. The CMA is required, when determining the appropriate length of any implementation period, to consider "*the complexity of the CR and any changes the SMS firm is likely to need to make to its technical systems and/or business practices to comply with the CR*."

implement the Google Fair Ranking CR[153] and Publisher CR[154] (with an extended period of nine months specifically for the page-level controls in the Publisher CR, reflecting the additional technical work required).[155] A three-month window for Apple cannot be reconciled with the CMA's previous approach. If the Proposed CR is adopted in its current form, its breadth, ambiguity and technical complexity make it very difficult for Apple to estimate how long implementation might take.

C. The Proposed CR's reporting obligations would be unduly burdensome

(94) The Proposed CR's quarterly reporting cadence would also be burdensome and disproportionate. It departs significantly from Google's Search, Fair Ranking, and Publisher CRs (first two reports bi-annually, then subsequent reports annually),[156] and the data portability CR (after six months for the first report, reporting annually thereafter).[157] The Proposed CR does not explain why quarterly rather than six-monthly reporting is necessary or proportionate compared with these precedents. This is particularly striking given the DMCR Guidance requires the CMA, when implementing reporting requirements, to "*consider what is appropriate in the circumstances*," having regard to factors such as "*the complexity of the competition requirement*".[158] Apple invites the CMA to adopt a reporting cadence consistent with both its own guidance and its treatment of Google in its Search CRs.

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153 CMA, Google Fair Ranking CR, Final Decision, ¶3.68.

154 CMA, Google Publisher CR, Final Decision, ¶3.66.

155 CMA, Google Publisher CR, Final Decision, ¶3.67.

156 CMA, Google Fair Ranking CR Compliance Reporting Notice, ¶¶17–18; CMA, Google Publisher CR Compliance Reporting Notice, ¶¶17–18.

157 CMA, Google Data Portability CR Compliance Reporting Notice, ¶16.

158 DMCR Guidance, ¶6.43.