



**Google's Response to the CMA's User
Choice Conduct Requirements
Consultation of 23 September 2026**

13 October 2026

Table of Contents

Executive Summary.....	3
Part 1: Search Engine Eligibility Criteria.....	8
I. The revised eligibility criteria would expand the eligible providers beyond the relevant digital activity.....	9
II. The Consultation fails to satisfy the statutory conditions to impose the revised eligibility criteria.....	11
A. Failure to satisfy s. 20(2)(e) DMCCA.....	12
B. Failure to satisfy s. 19(5) DMCCA.....	15
C. Failure to satisfy s. 19(10) DMCCA.....	17
III. The revised eligibility criteria are disproportionate and would not bring consumer benefits.....	17
A. The revised eligibility criteria are ineffective in achieving the CMA's aims.....	17
B. The revised eligibility criteria would impose costs for multiple stakeholders.....	18
C. The CMA does not identify benefits from the revised eligibility criteria.....	23
Part 2: Choice Screens and Choice Architecture Measures.....	28
I. The Consultation's measures impose costs that are not counterbalanced by benefits.....	28
II. A more proportionate and less confusing means to achieve the CMA's goals.....	30
III. The revised choice screen design will harm the user experience.....	31
IV. Propagation of Android's default setting to Chrome leads to UX conflicts and degraded user experience.....	33
V. Allowing deeplinking into Chrome Settings exposes users to security risks and is inconsistent with industry practice.....	34
Conclusion.....	37

Executive Summary

1. In its revised User Choice CR consultation of 23 September 2026 (the **Consultation**), the CMA proposes to revise its eligibility criteria to make it easier for AI assistants to qualify for search engine choice screens. The CMA explains that the CR is “*responding quickly to the rise of AI assistants, which people are increasingly using as their search service, but aren’t included on Google’s choice screen.*”¹ The Consultation’s approach, if enacted in the CR, would be unlawful:
 - a. The CR would fall outside the scope permitted by s. 20(2)(e) DMCCA because it would impose choice options in relation to services that are not part of the relevant digital activity. The CMA excluded AI assistants from the scope of the relevant digital activity.² This exclusion, in turn, underpinned the CMA’s reasoning as to why Google Search had SMS.³
 - b. The Consultation proposes to impose the revised eligibility criteria without conducting the proportionality assessment required by s. 19(5) DMCCA. The Consultation includes no discussion of the costs for users, website publishers, or OEMs. Nor does it identify any benefits—it simply speculates, based on a submission from an AI chatbot and contrary to submissions from other stakeholders, that it will bring benefits.
 - c. The CMA has not had regard to the benefits for consumers, as required by s. 19(10) DMCCA. The consumer benefits the CMA had identified from the User Choice CR are to improve user awareness and engagement with search services and support the growth of search services. These benefits do not arise with the inclusion of AI assistants, which already have broad user awareness and engagement, and are growing exceptionally quickly.
2. If the CMA had conducted the required assessments under s.19(5) and (10) DMCCA, it would have concluded that the costs of the revised eligibility criteria outweigh the benefits:
 - a. **User costs** if search engine choice screens are now populated with AI assistants, which CMA Research consistently identifies serve a different purpose:

¹ [CMA Press Release of the Consultation](#), 23 September 2026.

² SMS Final Decision, CMA Search SMS Investigation into Google (**SMS Final Decision**) (10 October), paras. 1.18, 1.19, 4.10(d), 4.23, 4.56, 4.85.

³ *Ibid.*, paras. 1.18, 1.19, 5.44-5.68.

- i. The CMA User Research identified that users found that including AI assistants in search engine choice screens as “surprising”; it “raised a number of challenges and concerns for users”; users “questioned how it would work in practice”; they were “worried about accuracy and reliability of generative AI-based services”; and users had “had specific concerns around the feasibility and user experience of generative AI-based services.”⁴
 - ii. The research found, in particular, that “those with lower digital confidence” were “often concerned about the idea of using generative AI-based services because they felt they would give them a poorer search experience.” On top of this, including AI assistants raised surrounding “data privacy, environmental impacts and potential bias.”⁵
 - iii. Like previous CMA research, the User Research found that AI assistants and search engines are used for different purposes: “traditional services were typically used for fast and targeted search,” whereas AI assistants were “perceive[d] as being more conversational and suited to activities such as research, schoolwork or creative tasks.”⁶
 - iv. These costs from user confusion would be exacerbated by the fact that many AI assistants limit free usage, unlike search engines, which are free.
- b. **Website publisher costs** because AI assistants refer less traffic per query to website publishers than search engines.⁷ AI assistants’ crawl-to-refer ratio is, in turn, significantly higher compared to search engines: for each referral click that comes from an AI assistant, a publisher’s website will have been crawled 67 times more—meaning that publishers bear higher server load costs relative to

⁴ Thinks Insight & Strategy, User research on choice screens in search (April 2026) (**CMA User Research**), p. 41. CMA User Research, pp. 40-42.

⁵ *Ibid*, p. 41.

⁶ *Ibid*, p. 40. In 2025, the Thinks and Insights Strategy, [Exploring consumers’ search behaviours](#) (May 2025), p. 24. found that search engines are seen as “tools primarily used for searches that are more straightforward, [to] get an answer to their query quickly and with minimal effort” whereas AI assistants were used “when consumers felt that searches might take a long time and/or require multiple sources to generate suitable results [and to] offer [consumers] a ‘point of view’ on certain topics, as well as allowing for back and forth.” Another CMA study from June 2025 found that users rarely use AI assistants for general search use cases, see Accent, [Mobile Consumer Survey: Search Questions Final Report](#) (June 2025), p. 8.

⁷ This is identified in multiple third-party studies. See, e.g., [Shi et al., 2026](#), Answering Without Referring: How AI Search Rewrites the Web’s Economic Bargain; and [Profound Study](#), February, 2026, *How ChatGPT Sources the Web, based on 700k English queries in Q4 2025* (>80% of ChatGPT responses have no links at all).

the traffic received in return.⁸ AI assistants occupying search access points on Android and Chrome⁹ thereby impose a cost on publishers because they would receive less traffic (and therefore have less ability to monetise) than if those access points were occupied by search engines.

Website publishers, in response to the January Consultation, therefore strongly argued against AI assistants being included in search engine choice screens: “AI chatbots [...] are materially different from search engines. They are not designed primarily to direct users to external websites, but instead present information directly, often synthesised from third-party content, including copyrighted material, without necessarily driving traffic to rightsholders or operating within established licensing frameworks.”¹⁰

- c. **OEM costs that lead to higher retail prices for UK consumers:** Today, OEMs monetise non-search access points by selling them to AI assistants.¹¹ This allows OEMs to differentiate devices, reduce marginal costs, and generate new revenue streams that feed through to lower retail prices. Providing AI assistants with free promotion on choice screens reduces their incentives to enter into such deals with OEMs. That, in turn, reduces promotional value of non-search access points that OEMs can monetise, and implies decreased margins for OEM devices in the UK and higher retail prices for consumers.

- 3. The CMA has proposed its CR to correct a perceived market failure in general search, alleging a lack of players, insufficient entry, low switching and multihoming, inability to

⁸ The crawl-to-refer ratio measures how often each provider crawls a website's content compared to how often it drives human traffic back to the website. A higher ratio means that a website receives fewer visits back for each page crawled, implying higher server costs relative to returned traffic. The figure compares the average of Anthropic, Perplexity and OpenAI with the average of Microsoft, ByteDance, Google and DuckDuckGo. Cloudflare Radar, [AI Insights](#), "Crawl-to-refer ratio", 13 April – 28 September 2026.

⁹ The choice screen propagates to prominent search access points across Android and Chrome (including Chrome on iOS and Windows), which means that referrals to publishers from these access points would in turn diminish. See [Consultation: User Choice Conduct Requirement \(28 January 2026\)](#) (the **January Consultation**), Table 2, para 4.18, which shows that the number of monthly queries from access points affected by the choice screen is ~[<] billion.

¹⁰ Professional Publishers Association's response to the January Consultation. See also responses to the January Consultation from News Media Association, Guardian Media Group, Anonymous 10, and News Media Alliance; Google's Observations on the Agreed Eligibility Criteria (26 March 2026) and Google's Observations on Third-Party Responses to CMA Consultation on the User Choice Conduct Requirements (24 April 2026).

¹¹ OEMs and MNOs such as Samsung, Motorola, Nothing, Orange, and Deutsche Telekom have reached deals with AI assistants including Perplexity, ChatGPT, and Mistral.

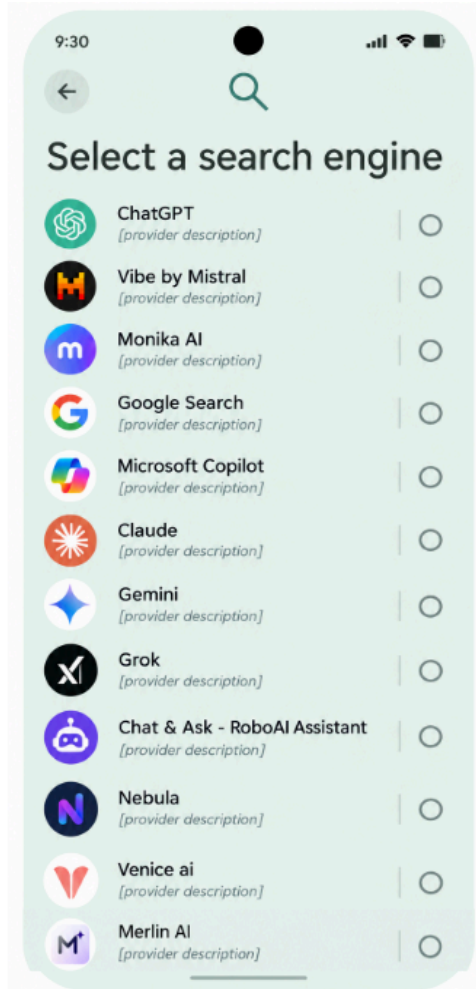
win placement deals, and reduced innovation. These characteristics do not apply to AI assistants, which are characterised by: a large number of players, frequent new entry, switching and multihoming, broad familiarity by UK users, multiple placement deals with OEMs, and strong innovation. In fact, the revised eligibility criteria would undermine competition because “*rival search services*”—whose growth the CMA intended the CR to support (Consultation, paras. 2.3(b), 2.6)—would be crowded out by already-successful AI assistants.

4. Applying the CMA’s methodology, the providers for slots 1-5 in the first round of UK choice screens are likely to include Google Search, Google Gemini, Microsoft’s Copilot, OpenAI’s ChatGPT, and Anthropic’s Claude, even though AI assistant providers (e.g., Anthropic) told the CMA they do not compete with Google Search.¹² The remaining 7 slots would then be filled at random from a pool that could have ~[3<] AI assistant participants¹³ and ~13 search engine participants.
5. Assuming [3<] of the AI assistants would meet the revised eligibility criteria, this means:¹⁴ 21% of UK search engine choice screens (around 1 in 5) would feature only a single search engine: Google Search. And 60% (around 3 in 5) would show at most a single non-Google search engine.
6. The screenshot below illustrates a choice screen that, based on the CMA’s revised eligibility criteria, could appear for more than 1 in 5 UK users, deploying the methodology above:

¹² See SMS Final Decision, paras. 5.47, 5.57 and 5.62(b).

¹³ Sensor Tower lists [3<] “AI Assistant” apps under the ‘Productivity’ category with MAUs in the UK. The Consultation refers to Sensor Tower as a data source. See Sensor Tower, [State of AI Report 2026: How AI is changing discovery, shopping, advertising, and more](#).

¹⁴ Assuming 60 AI assistants and 14 search engines meet the eligibility criteria. Excluding Google Search and four AI assistants in the fixed slots, 56 AI assistants and 13 search engines would be competing for the remaining seven slots that are filled at random, applying a hypergeometric probability distribution.



7. The CMA has not identified benefits from its revised eligibility criteria. The core reasoning the CMA gives is that “*ever more users are adopting generative AI-based tools*” (Consultation, para. 1.3) and there is “*growing use of new services like ChatGPT.*”¹⁵ But the strong growth and wide usage of AI assistants is a reason against, not for, giving AI assistants free promotion in search engine choice screens.
8. We urge the CMA to revise the eligibility criteria mindful of the scope permitted by s. 20(2)(e) DMCCA (a choice screen “*in relation to the relevant digital activity,*” i.e., general search services), as well as the proportionality assessment required by s. 19(5) DMCCA, and the consumer benefits analysis required by s. 19(10) DMCCA.
9. The Consultation also proposes CRs concerning choice design that ignore product design principles and would negatively impact the user experience. These include confusing users with a “test drive” option next to a “select” option on the choice screen

¹⁵ [CMA Press Release of the Consultation](#), 23 September 2026.

when users can already switch their search provider at any time;¹⁶ and requiring that the OS-level default central default switch propagate to Chrome, an individual app where it is already easy to select the default search engine. The CMA should reconsider these proposals.

10. In the following sections, we expand on these points: We explain that the revised choice screen criteria have not been subject to the necessary statutory assessments and would fail such assessments if they were conducted (**Part 1**). We elaborate on the user experience concerns that persist with the CMA's revised proposals on choice screen design (**Part 2**).
11. Mandated product design should be the last resort for a regulator seeking to promote competition and innovation. Intense regulatory processes led to the decision to interrupt consumers with choice screens designed to give them a choice of their search engine across search engine defaults. The CMA's extension of that framework into AI assistants at a time of peak AI innovation is a mistake—one that is compounded by exotic, unnecessary, and harmful new ideas for the pop-up experiences UK consumers must endure.

Part 1: Search Engine Eligibility Criteria

12. The CMA's press release proposes revised search engine choice screen eligibility criteria apparently aimed to *"allow AI assistants to be included"* in search engine choice screens, based on broadened eligibility criteria.¹⁷ The CMA explains that the CR is *"responding quickly to the rise of AI assistants, which people are increasingly using as their search service, but aren't included on Google's choice screen."*
13. The revised eligibility criteria would expand eligible providers beyond the scope of the relevant digital activity (**Section I**); this would be inconsistent with the law (**Section II**); and it would impose costs on UK consumers, website publishers, and OEMs, with no countervailing benefits (**Section III**).

¹⁶ The Consultation's proportionality analysis (see **Annex 1** to this Response) underestimates the costs and overestimates the benefits of its choice screen measures and, as a result, wrongly determines that they are proportionate.

¹⁷ [CMA Press Release of the Consultation](#), 23 September 2026.

I. **The revised eligibility criteria would expand the eligible providers beyond the relevant digital activity**

14. The January Consultation proposed search engine eligibility criteria that were technology-neutral, future-proof, and designed to ensure users had a choice of relevant search services.¹⁸ The criteria:
- a. Anchored on web-forwardness as the core criterion under Criterion 1 (because it included the requirement that providers should search the web);
 - b. Accounted for expectations of users, website publishers, and OEMs as to how search access points should function under Criterion 2;
 - c. Reflected the views of a significant proportion of UK users of the service under Criterion 3; and
 - d. Provided a safeguard against obviously non-search services free-riding on the choice screen by incorporating a small general search component under Criterion 4.
15. The eligibility criteria in the CMA's January Consultation received broad support from most respondents. Most respondents—including competitor search engines, AI service providers, and industry bodies—supported the eligibility criteria the CMA proposed, praising their technology-neutral, flexible, and future-facing design.¹⁹
16. Ignoring those comments, the CMA in the Consultation has now proposed revised search engine eligibility criteria that would extend the scope of eligibility beyond the relevant digital activity (*i.e.*, general search services) and introduce a highly-confusing mix of services into search engine choice screens.

¹⁸ **Criterion 1:** Adequately address the full range of use cases of a general search engine on a wide range of subjects by searching the web; **Criterion 2:** Provide the expected general search experience for affected search access points; **Criterion 3:** Be considered by a significant proportion of UK users to provide a general search service; **Criterion 4:** Be operated and marketed with general search as a core and central part of the service.

¹⁹ For example, Microsoft describes the proposed criteria as “giving users a broad range of search services to choose from”; DuckDuckGo “support[s] the CMA’s proposed eligibility criteria, which are appropriately technology-neutral”; The Chamber of Progress highlights that it “appreciate[d] the CMA’s confirmation that the eligibility criteria should be designed in light of the fact that offerings, user expectations, and behaviour, evolve”; and SCiDA states that “The proposed eligibility criteria based on technical capability and functionality appear adequate to ensure that only genuine and functionally comparable general search providers appear on the Search Choice Screen.”

- a. *Criterion 1* does not require providers to search the web or show web links to be included in choice screens.²⁰ The Interpretive notes (**INs**) at paras. 30-31, read together, would allow services that do not search the web, do not show web links, and do not attribute *at all* for *any* query to be eligible for the UK search engine choice screen.²¹
- b. *Criterion 2* has been revised to exclude how users, OEMs, and publishers expect affected search access points to function. This is troubling because responses to the CMA's January Consultation identified harm from AI assistants propagating to search access points.²² And it is in conflict with the DMCCA Guidance that stresses the importance of considering effects on stakeholders (users, customers, suppliers, and competitors) as part of any CR.²³
- c. *Criterion 3* is rendered meaningless because the INs explain that "*a significant proportion means a meaningful or non-trivial proportion*" and that "*it does not mean a majority*" (Consultation, INs, para. 42). As a result, a provider can be eligible if merely a non-trivial proportion of its users consider it provides a general search service, or simply because a non-trivial proportion of users use the service for the four basic use cases set out at IN para. 29. So even if the large majority of a provider's users do not use the service for search, it might be able to qualify for a search engine choice screen, under the INs.
- d. *Criterion 4* is removed entirely. The criterion acted as a safeguard to prevent non-search services from free-riding on the choice screen by incorporating a small general search component. It ensures that choice screens show genuine search services. The way a provider markets and operates a service is illustrative of its purpose and functionality and should therefore be factored into the assessment.²⁴

²⁰ The INs explain that eligible providers are not required to "*always search the web for every query or every use case*" (INs, para. 30).

²¹ In particular, the attribution requirement in INs para. 31 is rendered obsolete because it only requires that "*web content*" is attributed (and not any AI generated summary). But there is no requirement to show web content or to search the web. Therefore, an AI provider can simply show AI generated summaries without web content and avoid the requirement altogether.

²² See Google's Observations on Third-Party Responses to CMA Consultation on the User Choice Conduct Requirements (24 April 2026), Section II.

²³ DMCCA Guidance, para. 3.34.

²⁴ In the absence of Criterion 4, many services that do not provide a search service would qualify for the choice screen. For example, many companies with websites can and do enter into syndication deals for incidental search backfill or ad serving without having search as a core purpose (or a purpose at all). For example, Google has [redacted] syndication deals with companies

17. In practice, these revisions could allow any AI assistant—even if it does not search the web, does not attribute, and does not refer traffic to website publishers; users, OEMs, website publishers do not expect it to occupy search access points; a large majority of its users do not consider or use it for search use cases; and it is not marketed or operated as a search engine—to be included in the search engine choice screen. This could include options that cannot conceivably be general search services—including, for example, Anthropic and Mistral, both of which told the CMA that they do not consider their AI assistants to compete with general search services.²⁵
18. With the CR as drafted, we would expect the top five spaces to be taken by Google Search, Google Gemini, Microsoft Copilot, OpenAI’s ChatGPT, and Anthropic’s Claude.²⁶ The remaining seven slots would then be filled at random from a pool that could have ~[3<] AI assistant participants,²⁷ and ~13 search engine participants. Assuming [3<] the AI assistants meet the revised eligibility criteria, this means that:²⁸ ~21% of UK search engine choice screens (around 1 in 5) would feature only a single search engine: Google Search. ~60% (around 3 in 5) would show at most a single non-Google search engine.

II. The Consultation fails to satisfy the statutory conditions to impose the revised eligibility criteria

19. Under the DMCCA, the CMA can impose a CR only if the following conditions are (cumulatively) met: First, the CMA must show that the CR is of a permitted type under s. 20 DMCCA—the permitted type here is said to be s. 20(2)(e) DMCCA (Consultation, para. 2.2(b)). Second, the CMA must show that imposing the CR would be proportionate for the purposes of meeting one of the statutory objectives of fair dealing, open choices, or trust and transparency (s. 19(5) DMCCA). Third, the CMA must have regard to the benefits for consumers that would likely result from the CR (s. 19(10) DMCCA). The Consultation has not satisfied these statutory requirements for its revised search engine eligibility criteria.

such as [3<]. Companies could use syndication deals to enter the choice screen to get free promotion and increase downloads at no cost.

²⁵ See SMS Final Decision, paras. 5.47, 5.57 and 5.62(b).

²⁶ On the assumption that these AI assistants would qualify under the eligibility criteria. Google has not undertaken this assessment.

²⁷ Sensor Tower lists [3<] “AI Assistant” apps with MAUs in the UK.

²⁸ Assuming 60 AI assistants and 14 search engines meet the eligibility criteria. Excluding Google Search and four AI assistants in the fixed slots, 56 AI assistants and 13 search engines would be competing for the remaining seven slots that are filled at random, applying a hypergeometric probability distribution.

A. Failure to satisfy s. 20(2)(e) DMCCA

20. The relevant digital activity for the proposed CR is general search services (Consultation, para. 1.2).²⁹ The CMA's Search SMS Decision Notice defines a general search service as: "A service that searches the world wide web, and can draw on other sources, to return information on any subject" (general search); and "A service that enables advertising to users of general search" (search advertising). The CMA found that each of general search and search advertising is a digital activity within the meaning of s. 3(1)(a) DMCCA and it grouped them under s. 3(3)(b) DMCCA as general search services.
21. The CMA's SMS designation decision excluded Gemini Assistant and AI assistants from the scope of the relevant digital activity.³⁰ The CMA examined evidence from the supply-side³¹ and demand-side,³² and concluded that the "overall proportion" of usage of "AI assistants, including Gemini, in a way akin to general search" was "currently very low."³³ The CMA held that it did not expect or foresee that developments in AI assistants over the next five years would impact Google's position in general search:³⁴ it held that "currently they [AI assistants] are a limited alternative to Google's general search products and it is unclear whether they will substantially disrupt Google's position in general search in the next five years."³⁵
22. The proposed User Choice CR falls under the permitted type set out in s. 20(2)(e) DMCCA (Consultation, para. 2.2(b)). That provision explains that a CR may be imposed if it obliges an SMS firm to:
- "present to users or potential users any options or default settings in relation to the relevant digital activity in a way that allows those users or potential users to make informed and effective decisions in their own best interests about those options or settings"*
23. In other words, a CR under s. 20(2)(e) DMCCA can only require an SMS firm to present options or default settings "in relation to the relevant digital activity" (here: general

²⁹ [SMS Decision Notice](#), CMA Search SMS Investigation into Google.

³⁰ SMS Final Decision, paras. 1.18, 1.19, 4.10(d), 4.23, 4.56, 4.85.

³¹ *Ibid.*, paras. 4.30(a), 4.36(a), 4.64, 4.85(a), 4.107(a).

³² *Ibid.*, paras. 4.30(b), 4.36(b), 4.73, 4.85(b), 4.107(b).

³³ *Ibid.*, paras. 1.18, 1.19, 4.10(d), 4.23, 4.56, 4.85.

³⁴ *Ibid.*, paras. 1.18, 1.19, 5.44-5.68.

³⁵ *Ibid.*, para. 5.67.

search services). When it describes how s. 20(2)(e) DMCCA applies in this case, the CMA adopts this interpretation. The Consultation explains that s. 20(2)(e) DMCCA “permits obligations to present to users or potential users any options or default settings in relation to **general search services** in a way that allows those users or potential users to make informed and effective decisions in their own best interests about those options or settings” (Consultation, para. 2.2(a), emphasis added).³⁶

24. The explanatory notes to the DMCCA support that s.20(2)(e) must be limited to showing choices in relation to the relevant digital activity. Para. 187 of the explanatory notes explain that s. 20(2)(e) DMCCA “refers to requirements to oblige the designated undertaking to present to users engaging with the relevant digital activity any options or default settings.”³⁷ It goes on to provide a single example: “where the relevant digital activity is a search engine, a designated undertaking could be required to make clear to users that this search engine is the default setting on a particular device and that there are other search engines available, and to ensure that information provided to users on how to switch search engines is clear and understandable.” In other words, if the relevant digital activity is a search engine, the options presented should be other search engines.
25. Here, the revised eligibility criteria are apparently intended to permit AI assistants to qualify for the search engine choice screen (see Section I). AI assistants are not part of the relevant digital activity. They do not respond to user queries by searching the web and the revised eligibility criteria do not require them to search the web.³⁸ The CMA excluded AI assistants from the scope of the relevant digital activity.³⁹ And this exclusion

³⁶ Four responses to the CMA’s consultation argued likewise (Consultation, para. 4.8). News Media Association notes that it is “*inconsistent and harmful*” to treat Gemini as “*equivalent to general search engines*” (p. 2); Guardian Media Group observes that it is “*inconsistent to define other AI assistants as equivalent search engines for the purpose of choice screens*” as it was removed from the scope of CRs (p. 12); Computer & Communications Industry Association submits that the CMA has implied AI chatbots fall out of scope, thus “*they should not be part of a search engine choice screen*” (p. 2); and Professional Publishers Association “*urges the CMA not to treat AI assistant tools as eligible search engines*” while Gemini is out of scope of the SMS designation, as AI chatbots are “*materially different from search engines*” (p. 11).

³⁷ The statutory intention is to allow users “*to make informed and effective decisions about those options or settings [i.e., options or settings in relation to the relevant digital activity] in their own best interests.*”

³⁸ They therefore do not qualify as general search services under the CMA’s SMS Decision (“A service that searches the world wide web, and can draw on other sources, to return information on any subject”).

³⁹ SMS Final Decision, paras. 1.18, 1.19, 4.10(d), 4.23, 4.56, 4.85.

underpinned the CMA's reasoning as to why Google Search had SMS.⁴⁰ Section 20(2)(e) DMCCA therefore does not permit the CMA to impose a choice screen that presents users or potential users any options or default settings in relation to AI assistants.

26. The CMA suggests that, even though the relevant digital activity is general search, a choice screen for AI assistants might be permitted under s. 20(2)(e) DMCCA (Consultation, para. 4.15). In support, the CMA states that the SMS Final Decision's definition of the relevant digital activity as general search (excluding AI assistants) was "*based on Google's products and commercial decisions, not an assessment of the sector as a whole*" (Consultation, para. 4.15). The CMA's position is flawed on the law and the facts.
- a. On the law: the DMCCA is clear that the options or default settings to be presented as part of the CR under s. 20(2)(e) must be "*in relation to the relevant digital activity.*" In this case, the relevant digital activity is general search services.⁴¹ It follows that, under the statute, the CR that imposes options or default settings as part of the Search SMS designated activity must be in relation to general search services, not a different digital activity.
 - b. On the facts: the CMA's assessment in the SMS Decision was an assessment of the sector: the CMA conducted a demand-side analysis, referring to multiple AI assistants, their usage, their use cases, and reaching overall conclusions that AI assistants were "*a nascent and fast-evolving sector*" that was "*relatively small, nascent, and highly dynamic.*"⁴² While the CMA did identify AI assistants as potential competitors to search engines (Consultation, para. 4.15), it ultimately discounted this constraint, finding "*there is significant uncertainty regarding how use of these products will evolve and whether they will become a sustained and significant competitive threat to Google's general search products.*"⁴³
27. Following the proper interpretation of s.20(2)(e) does not mean the CMA could never impose a choice screen in relation to AI assistants. For example, the CMA has discussed the possibility of imposing a choice intervention for AI assistants on Android as part of its mobile SMS investigation, but has not identified evidence that this would be

⁴⁰ *Ibid.*, paras. 1.18, 1.19, 5.44-5.68.

⁴¹ [SMS Decision Notice](#), CMA Search SMS Investigation into Google.

⁴² SMS Final Decision, paras. 1.18, 4.86.

⁴³ *Ibid.*, para. 5.250.

necessary or proportionate.⁴⁴ The CMA explicitly recognised that this was an area “*that is developing at pace*,” where there is competition between Google and “*wider third parties*,” and where “*exploratory work*” would be needed to understand whether “*measures are needed*” to promote choice of AI assistants on Android.⁴⁵ Likewise, the EU DMA, for example, has set out a formal process for introducing a virtual assistants choice screen, but only when the statutory conditions are met.

28. What the CMA cannot do is what the Consultation proposes here: usurp the statutory scheme of meaning by inserting participants into a choice screen that are not part of the relevant digital activity (general search) and therefore go beyond what s.20(2)(e) DMCCA permits.
29. Finally, if the relevant digital activity were so wide as to include any informational-discovery services (such as AI assistants or other types of non-search services that could meet the revised criteria), the CMA would need to revisit its SMS Designation decision. The CMA’s findings as to substantial and entrenched market power were based on a competitor set limited to search engines, and that excluded other information discovery services like TikTok and AI assistants. If these are now considered to provide an alternative to general search engines for the purposes of choice screens, they must provide an alternative to general search engines for the purposes of assessing substantial and entrenched market power, too.

B. Failure to satisfy s. 19(5) DMCCA

30. As well as being of a permitted type, the CMA must show that a CR is proportionate under s. 19(5) DMCCA. The critical importance of CRs being proportionate was emphasized by the Government during the passage of the Bill.⁴⁶ And “*proportionality*” is one of the 4Ps that the CMA has stressed will guide its enforcement under the digital

⁴⁴ CMA, SMS investigation into Google’s mobile platform, [Roadmap of possible measures to improve competition in mobile ecosystems](#), paras. 3.29-3.33: “We will explore the factors likely to be of particular importance for the development of AI services on mobile with a view to considering whether measures are needed such as greater interoperability, and improved choice architecture.”

⁴⁵ *Ibid.*

⁴⁶ HL Deb [14 May 2024], vols. 835, 838, cols 488: “The CMA will have significant new powers and discretion under this *ex ante* regime and it is right that there are safeguards which ensure that it designs its interventions proportionately”; “we consider it important that it should be explicit that there is a statutory proportionality requirement for all conduct requirements”; “it is worth pointing out that setting out the requirement for proportionality explicitly will help ensure that the CMA uses its powers responsibly.” See also Letter from Viscount Camrose to Peers (26 January 2024): “The Government’s amendments at Commons report stage therefore make it clear that the CMA must act proportionately in all cases.”

market regime:⁴⁷ *“the principle of proportionality is at the core”* of the digital markets regime.

31. The DMCCA Guidance provides further colour on how the CMA should assess proportionality for the purpose of imposing a CR. In particular, any proposed CR must:⁴⁸ (i) be effective in achieving its intended aim; (ii) be no more onerous than it needs to be to achieve its intended aim; (iii) be the least onerous CR, where the CMA has identified multiple equally effective options that would achieve the intended aim; and (iv) not produce disadvantages that are disproportionate to its aim.
32. The CMA must assess both the proportionality of each individual measure and the proportionality of the package measures as a whole.⁴⁹ If the incremental costs of an individual measure outweigh its incremental benefits—particularly in light of the benefits already generated by the other measures comprising the proposed CR— the CR is, by definition, disproportionate and the CMA should remove or dismiss the proposed additional measure.
33. The DMCCA Guidance requires the assessment of the criteria above to take into account the potential effects of the proposed CR, including:⁵⁰ (i) effects on the SMS firm (i.e., Google); (ii) effects on third parties (*“for example, competitors, potential competitors, customers and/or suppliers”*) likely to be affected by the CR; (iii) effects on consumers and business users (*“[e.g.,] on the safety or privacy of users or innovation in the digital activity”*), including *“the loss of any benefits that may be generated by the conduct which the CR(s) is directed at”*; and (iv) wider effects, including *“risks of market distortions or unintended consequences.”*
34. The Consultation fails to establish that the revised eligibility criteria are necessary in achieving the CMA’s aims, or that it is proportionate to achieve those aims. It includes no discussion at all of the costs of expanding the eligible pool of providers, and it identifies no benefits from expanding the providers. Rather than considering the impacts on other stakeholders, the CMA explicitly *removed* a criterion that would take account for their interests, following *“Google’s interpretation that it would incorporate a range of stakeholders’ expectations”* (Consultation, para. 4.19). As a result, the revised

⁴⁷ CMA, *Delivering the 3Ps under the digital markets competition regime*, 30 April 2025./

⁴⁸ DMCCA Guidance, para. 3.33.

⁴⁹ CMA, [Mobile browsers and cloud gaming final decision report](#) (12 March 2025), para. 11.9; CMA, [Markets regime guidance](#) (3 February 2026), para. 8.97; [Tesco Plc v Competition Commission](#) [2009] CAT 6, para. 171.

⁵⁰ DMCCA Guidance, para. 3.34.

criteria are unlawful. The proportionality assessment presented in **Section III** below demonstrates that the costs outweigh the benefits.

C. Failure to satisfy s. 19(10) DMCCA

35. Despite the changes to the choice screen eligibility criteria, the Consultation concludes that the consumer benefits of the CR “*remain as set out in the January 2026 consultation*” (Consultation, para. 2.3). Such benefits purportedly include: (i) improving consumers’ awareness of, engagement with, and confidence in search services and their ability to switch default; and (ii) supporting the growth of “*rival search services*” and “*more competition in search*” (Consultation, para. 2.3 (b)).
36. The Consultation fails to substantiate the purported consumer benefits in light of the revised eligibility criteria. Specifically, in respect of (i), the Consultation does not explain why the purported improvement in consumer awareness would continue to relate to search services despite the choice screen becoming predominantly occupied by AI assistants. In respect of (ii), the Consultation fails to show how a choice screen filled with AI assistants would support the growth of search engines and competition in search, as opposed to AI assistants and competition in AI assistants. The failure to adequately consider consumer benefits arising from the revised eligibility criteria, again, renders the CR unlawful.

III. The revised eligibility criteria are disproportionate and would not bring consumer benefits

37. If a proportionality and consumer analysis had been carried out, it would show that the revised eligibility criteria are ineffective in achieving the CMA’s objective of promoting open choices in general search services, and bring significantly more costs than benefits.

A. The revised eligibility criteria are ineffective in achieving the CMA’s aims

38. As part of its proportionality assessment, the CMA must ensure that the CR is effective in achieving its intended aim.⁵¹
39. According to the Consultation, the proposed CR would “*pursue the open choices objective*” under s. 19(7) DMCCA, facilitating choice for “*users or potential users of general search services*” (Consultation, para. 2.2). Specifically, the proposed CR aims to improve UK users’ (Consultation, para. 2.1):

- a. “*Awareness of the broad range of available search providers;*

⁵¹ DMCCA Guidance, para. 3.33.

- b. *Engagement with, and confidence in, their choice of search providers; and*
 - c. *Ability to choose quickly and easily between search providers on key Google-operated access points, such that they can choose a search provider that best meets their needs.”*
- 40. Mandating a choice screen that primarily includes AI assistants is ineffective in promoting open choices in general search services. To the contrary, an AI assistant choice screen replacing a search engine choice screen is likely to hinder open choices in general search services, causing “*rival search services*” whose growth the CMA considers the CR would support (Consultation, paras. 2.3(b) and 2.6) to be foreclosed. This is because genuine general search providers are crowded out of the choice screen, and users who wish to select these options will not be able to do so from the choice screen.
- 41. The CMA’s stated aim is to “*increase the competitive pressure faced by Google and the incentive for its rivals to compete*” (Consultation, para. 5.47), which is also the primary basis for its proportionality assessment (paras. 5.46–5.48). Crowding rival search engines out of the choice screen would, at best, leave competition in search unchanged, and more likely reduce it, leaving the CR’s costs without the benefit the CMA relies on to justify them.

B. The revised eligibility criteria would impose costs for multiple stakeholders

- 42. The CMA’s Guidance makes clear that the CMA needs to assess the potential effects of the proposed CR on all affected participants, including competitors, customers and suppliers, and other business users.⁵² Here, the CMA has failed to consider the costs of the revised eligibility criteria for users, website publishers, and OEMs.
- 43. **Costs to users.** The revised criteria fail to take into account users’ expectations of how a general search service should function, risk degrading the user experience by including non-search services in the choice screen, and impose direct costs on them by including in the choice screen services that require subscriptions.
 - a. CMA User Research from April 2026 highlights the user confusion stemming from including AI assistants in search choice screens. It explains that users found the presence of AI assistants in the choice screen as “*surprising*”; they “*questioned how it would work in practice*”; they thought it amounted to a “*significant change*”; they “*felt that they needed reassurance about how [choosing an AI assistant] would work in practice*”; and they had “*had specific concerns around the feasibility and user experience of generative AI-based*

⁵² DMCCA Guidance, para. 3.34.

services.”⁵³ Users were also “worried about accuracy and reliability of generative AI-based services,” evidencing they do not consider AI assistants to fulfil their search needs.⁵⁴

- b. The research also found that “those with lower digital confidence” were “often concerned about the idea of using generative AI-based services because they felt they would give them a poorer search experience.” On top of this, “concerns also surrounded data privacy, environmental impacts and potential bias.”⁵⁵
- c. The research found that AI assistants and search engines are used for different purposes: “traditional services were typically used for fast and targeted search,” whereas AI assistants were “perceive[d] as being more conversational and suited to activities such as research, schoolwork or creative tasks.”⁵⁶
- d. CMA research from May 2025 evidenced that users use search engines and AI assistants for different purposes, with search engines being seen as “tools primarily used for searches that are more straightforward, [to] get an answer to their query quickly and with minimal effort” whereas AI assistants were used “when consumers felt that searches might take a long time and/or require multiple sources to generate suitable results [and to] offer [consumers] a ‘point of view’ on certain topics, as well as allowing for back and forth.”⁵⁷ Another CMA survey similarly found that users rarely use AI assistants for general search use cases.⁵⁸

⁵³ CMA User Research, pp. 40-42.

⁵⁴ *Ibid.*, p. 40.

⁵⁵ *Ibid.*, p. 41.

⁵⁶ *Ibid.*, p. 40. For the 2025 Research, the Thinks and Insights Strategy, [Exploring consumers’ search behaviours](#) (May 2025), p. 24. found that search engines are seen as “tools primarily used for searches that are more straightforward, [to] get an answer to their query quickly and with minimal effort” whereas AI assistants were used “when consumers felt that searches might take a long time and/or require multiple sources to generate suitable results [and to] offer [consumers] a ‘point of view’ on certain topics, as well as allowing for back and forth.” Another CMA study from June 2025 found that users rarely use AI assistants for general search use cases, see Accent, [Mobile Consumer Survey: Search Questions Final Report](#) (June 2025), p. 8.

⁵⁷ Thinks and Insights Strategy, [Exploring consumers’ search behaviours](#) (May 2025), p. 24.

⁵⁸ Accent, [Mobile Consumer Survey: Search Questions Final Report](#) (June 2025), p. 8.

- e. During the US Search trial, OpenAI itself testified that “users don’t yet use ChatGPT for the full range of Search needs.”⁵⁹ Based on these representations and other evidence, Judge Mehta found that AI chatbots, like ChatGPT, “serve different purposes” than search engines.⁶⁰ OpenAI’s public materials later referred to shortcomings of AI assistants in general search, explaining that LLMs “struggle [with] searches [that are] very keyword-based and short.”⁶¹
 - f. Choice literature evidences that users have difficulty performing comparisons when a list includes options from different categories – such as when AI assistants and search engines are mixed in one choice screen. This results in users abstracting options into vague, subjective generalisations rather than properly engaging with the options available and making an informed choice. This also dramatically increases cognitive processing and degrades the choice-making quality.⁶²
 - g. Many AI assistants have periodic limits on the number of free queries that users can enter. By contrast, search engines are free. Including AI assistants imposes a direct cost on users who need to upgrade to the paid tier to get answers to their queries.⁶³
44. **Costs to website publishers.** The winning provider from the choice screen would populate search access points that today comprise around [3-5]% of total search queries on Google’s search access points in the UK, and account for ~[3-5] billion search queries per month.⁶⁴ The revised eligibility criteria would result in costs to website publishers,

⁵⁹ *USA and Colorado v. Google LLC*, Plaintiff’s Remedies Responsive Proposed Findings of Fact (29 May 2025), para. 1120.

⁶⁰ *USA and Colorado v. Google LLC*, Memorandum of Opinion of Judge Mehta (2 September 2025), para 13; see also *id.* at para. 22 (describing search as a “component” of the overall functionality of ChatGPT and other AI assistants).

⁶¹ YouTube, [OpenAI – Introducing ChatGPT Atlas](#) (November 2025).

⁶² See Michael D. Johnson, Consumer Choice Strategies for Comparing Noncomparable Alternatives, *Journal of Consumer Research*, Vol. 11, Issue 3 (December 1984). In fact, combining non-comparable alternatives in a single list has been used as a marketing tactic to influence users into making choices they would not otherwise make: see Huber, J., Payne, J. W., & Puto, C. (1982). Adding asymmetrically dominated alternatives: Violations of regularity and the similarity hypothesis. *Journal of Consumer Research*, 9(1), 90–98.

⁶³ For example, ChatGPT’s free tier has usage limits for certain tools (see OpenAI, [ChatGPT Free Tier FAQ](#)); Grok’s free plan allows only 10 text prompts every two hours, 10 image generations every 3 hours, and 3 image analyses per day (Grok, [Shared Grok Conversation](#)).

⁶⁴ January Consultation, Table 2, para 4.18.

because AI assistants refer considerably less traffic to website publishers compared to search engines for each query.⁶⁵

45. Moreover, AI assistants' crawl-to-refer ratio is significantly higher compared to search engines: for each referral click that comes from an AI assistant, a website publisher's website will have been crawled 67 times more, meaning that website publishers bear higher server load costs relative to the traffic received in return.⁶⁶
46. AI assistants occupying search access points are therefore likely to impose a cost on website publishers because they would receive less traffic from search access points and therefore have a reduced ability to monetise. At minimum, the CMA would need to consider how the addition of AI assistants would impact traffic to website publishers relative to the counterfactual of the existing choice screen and its eligibility criteria, which is missing.
47. **Costs to OEMs due to reduced monetisation opportunities from distribution deals.** Including AI assistants in search engine choice screens impacts costs to OEMs because they lose significant monetisation and product design opportunities.
48. Android OEMs already operate on thin margins, competing intensely with each other and Apple. To be able to effectively compete, OEMs need to be able to monetise the space on their devices (e.g., by entering into default deals with AI assistants) as effectively as possible, and have autonomy on product design decisions (e.g., working with AI providers on an AI-feature phone).⁶⁷ Providing AI assistants with free promotion

⁶⁵ This is identified in multiple third-party studies. See, e.g., [Shi et al., 2026](#), Answering Without Referring: How AI Search Rewrites the Web's Economic Bargain; [Profound Study](#), February, 2026, *How ChatGPT Sources the Web, based on 700k English queries in Q4 2025* (>80% of ChatGPT responses have no links at all).

⁶⁶ The crawl-to-refer ratio measures how often each provider crawls a website's content compared to how often it drives human traffic back to the website. A higher ratio means that a website receives fewer visits back for each page crawled, implying higher server costs relative to returned traffic. The figure compares the average of Anthropic, Perplexity and OpenAI with the average of Microsoft, ByteDance, Google and DuckDuckGo. Cloudflare Radar, [AI Insights](#), "Crawl-to-refer ratio", 13 April – 28 September 2026.

⁶⁷ Samsung expanded its partnership with Perplexity in February 2026 to embed Perplexity Pro directly into Galaxy AI capabilities for high-end devices (see [Perplexity's post on X](#): "Every S26 will ship with Perplexity built in ..."). Motorola's commercial agreement with Perplexity preloads the answer engine across its global hardware portfolio (see Perplexity, [Announcing our global partnership with Motorola](#) (24 April 2025)). Nothing's integration with OpenAI incorporates system-level widgets into Nothing OS and enables direct audio interaction via gesture controls on connected earbud accessories (TechCrunch, [ChatGPT is a squeeze away with Nothing's upgraded earbuds](#) (18 April 2024)). OpenAI has [acquired](#) IO and is planning to create AI-enabled devices.

on choice screens and access to search access points for free reduces their incentives to enter into such deals with OEMs, and thereby diminishes OEMs' bargaining position in reaching deals with AI assistants. That, in turn, reduces promotional value of non-search access points that OEMs can monetise, and implies decreased margins for OEM devices in the UK and so higher retail prices for consumers.

49. **Costs to competition in search.** Imposed as currently drafted, the CR could create a choice screen that includes (i) the top five search engines and AI assistants (this could be Google Search, Google Gemini, Microsoft Copilot, OpenAI's ChatGPT, and Anthropic's Claude, based on popularity and current growth levels);⁶⁸ and (ii) seven options rolled at random from ~60 AI assistants and ~13 search engines. This means that 21% of UK search engine choice screens (around 1 in 5) would feature only a single search engine: Google Search; and 60% (around 3 in 5) would show at most a single non-Google search engine.
50. Allocating choice screen space to popular and well-established AI assistants therefore reduces genuine search engines' visibility (and in turn, selectability) in the choice screen. Each AI assistant in the top five takes the guaranteed place of a rival search engine, and because users are drawn to "*familiar brand names*" (Consultation, para. 4.78), smaller search engines are less likely to be chosen when shown. This would reduce their ability to gain scale and their incentive to innovate and compete, which is the very incentive the CMA relies on to justify the CR (Consultation, paras. 5.35 and 5.47).
51. To assess these costs, the CMA would need to consider and quantify all relevant factors (including but not limited to the following questions), and weigh those costs against the benefit it seeks to achieve.

Example questions the CMA failed to consider for its necessary proportionality assessment for the revised eligibility criteria

User costs
1. Extent to which UK users consider AI assistants to meet general search purposes at the relevant search access points (Android search widget and Chrome address bar) 2. Effect of choice screen composition on users' ability to find and select their preferred search provider, including a non-Google search engine 3. Rate at which users select an AI assistant that does not meet their needs, and time and quality costs associated with queries that do not meet users' search needs
Costs to publishers

⁶⁸ On the assumption that these AI assistants would qualify under the eligibility criteria. Google has not undertaken this assessment.

1. Extent to which AI assistants are likely to win search choice screen selections 2. Difference in referral rates per query between AI assistants and search engines, and the resulting change in traffic to publishers assessed against a counterfactual of no AI assistants on the search choice screen 3. Effect of any change in traffic on publishers' revenues, server costs, and incentives to produce content given propagation of choice screen to Android and Chrome search access points
Costs to OEMs
1. Current and expected value to OEMs of distribution agreements for non-search access points by AI assistants (e.g., side button, hotword, pre-installation) 2. Effect of free prominence and access to a new default access point for AI assistants on AI assistants' willingness to pay for those non-search access points 3. Expected impacts on OEM monetization and revenues, and pass-through impacts on retail prices for OEM devices
Costs to competition in search
1. Expected composition of the search choice screen with the inclusion of AI assistants 2. Resulting effects on alternative search engines' selection rates, scale, and incentives to compete (i.e., the benefits on which the CMA's CR proportionality case is predicated on)

C. The CMA does not identify benefits from the revised eligibility criteria

52. Set against those costs, the CMA does not identify benefits from its revised eligibility criteria and its proposal to include AI assistants in search engine choice screens.

1. Strong growth and wide usage of AI assistants is a reason against, not for, intervention to support AI assistants

53. The CMA's press release for the Consultation states that the revised proposals seek to *"respond[] quickly to the rise of AI assistants,."* Likewise, the Consultation notes that *"ever more users are adopting generative AI-based tools"* (Consultation, para. 1.3).

54. The CMA correctly identifies the rapid development and widespread use of AI assistants, but fails to explain why this means they should be eligible to participate in search engine choice screens. The fast growth and wide usage of AI assistants is a reason against—rather than in support of—regulatory intervention in this field. It shows that the market characteristics that the CMA is ostensibly seeking to address in search via the User Choice CR (i.e., low consumer awareness and engagement with services and low growth) are not present for AI assistants.

2. No competitive indicia suggest there is a lack of competition in AI assistants

55. Multiple competitive indicia confirm the strong competition in AI assistants:

- a. **Large numbers of players:** There are over hundred competitors in AI assistants. Competitors include: ChatGPT, Claude, Grok, Gemini, Mistral, Deepseek, Meta AI, Qwen, and many more. These include some of the most well-resourced companies in the world that are achieving record-breaking valuations.⁶⁹
- b. **Frequent new entry:** New entrants continue to exert competitive pressure on all players. There were 1,953 newly funded AI companies in 2025 in the U.S. alone.⁷⁰
- c. **Multihoming and switching.** Users are familiar with and make use of the many options available: they readily switch between products or multi-home.⁷¹ Users' switching and multihoming is also growing, with more than [3<] UK users of [3<] using more than one of them in 2026 to date, approximately double the 2025 rate.⁷²
- d. **Familiarity with AI services.** UK users are familiar with and use AI assistants and AI services (albeit for different use cases than general search). A 2025 survey showed that 59% of UK adults had used some form of generative AI,⁷³ with scholars commenting that, "*for a new technology, this speed of global diffusion has no precedent.*"⁷⁴

⁶⁹ Anthropic is reportedly targeting an IPO valuation exceeding \$2 trillion; OpenAI is discussing a new funding round that would value the company at approximately \$1.4 trillion.

⁷⁰ See Stanford Artificial Intelligence Index Report 2026.

⁷¹ 7% of Gemini's, 8% of Claude's, and 9% of DeepSeek's inbound traffic was referred from ChatGPT, consistent with users comparing responses across assistants. See Sensor Tower, [State of AI 2026](#), p. 36. Data covers US Q1 2026.

⁷² Google's analysis of [3<]. See also Wolfstone Digital, [UK ChatGPT Usage Statistics 2026](#) (last updated May 2026): ChatGPT had 1.8 billion UK visits in the first 8 months of 2025, up from 368 million in the same period of 2024. There were 252 million visits in the UK in August 2025 alone, up 156% year-on-year.

⁷³ Department of Science, Innovation, and Technology, DSIT Public Engagement Survey 2025/2026 (16 July 2026).

⁷⁴ Bick et al, The Rapid Adoption of Generative AI (September 2024). Statistics on AI assistants' growth in a short period of time supports this. For example: ChatGPT reached 1 billion MAUs in May 2026 and had reached 100 million MAUs in just two months after launch (Reuters, [ChatGPT app hits 1 billion monthly active users in record time, data shows](#) (2 June 2026) and Bick et al, The Rapid Adoption of Generative AI (September 2024)). Similarly, Claude reported 56 million global

- e. **Winning placement and default deals:** AI assistants are winning placement deals or developing their own integrated systems. Perplexity has won deals with [Samsung](#) and [Motorola](#). ChatGPT is partnering with [Nothing](#) and has [acquired](#) IO to develop its own AI-powered hardware. Meta has [launched](#) its AI gadget Charm, alongside its smart glasses lineup.
 - f. **Strong innovation.** AI patents increased by >3000% between 2010-2023 and by 30% between 2024-2025⁷⁵ and AI publications more than doubled between 2013 and 2024, increasing from roughly 102,000 to about 258,000.⁷⁶ The complexity of tasks AI assistants can complete has been increasing exponentially, doubling every 7 months for the past 6 years.⁷⁷
56. Rather than concerns around too little competition in AI assistants, the public policy issue recently raised that competitive pressure is *too intense*, not that there is insufficient competition.⁷⁸ This is difficult to square with a regulatory proposal to seek to support AI assistants beyond the operation of normal competition.

3. Most respondents to the January Consultation opposed including AI assistants

57. Multiple respondents to the January Consultation—representing around 3,500 different companies—“*opposed the inclusion of AI services*” in search engine choice screens (Consultation, para. 4.8).⁷⁹ These included comments by News Media Association,

MAUs in 2026, with year-on-year MAU growth of 640% (Reuters, [ChatGPT app hits 1 billion monthly active users in record time, data shows](#) (2 June 2026). More generally, the chatbot sector is predicted to grow at a rate of 23.3% annually from 2025-2034 (Master of Code, Chatbot Statistics: [How AI is Powering the Rise of Digital Assistants](#)).

⁷⁵ Stanford Artificial Intelligence Index Report 2025.

⁷⁶ *Ibid.*

⁷⁷ Kwa *et al*, Measuring AI Ability to Complete Long Tasks (March 2025).

⁷⁸ UK and EU policymakers have recognised that competition and innovation must be balanced against safety and this may require pacing the frontier. UK Prime Minister Andy Burnham described AI as “a multiplier of risk” and said: “We’ve all heard the warnings – which we must heed.” UK Foreign Secretary Ed Miliband told the UN Security Council that countries must “take whatever measures are necessary so that AI is secure, safe, and trustworthy”. The President of the European Commission has said that “CEOs of the most advanced companies tell us that it is time to slow down on the self-recursive models”, and that she is open to “support[ing] ongoing industry efforts to pace the frontier”.

⁷⁹ The Consultation lists six respondents – that represent approximately 3,350 different companies. Samsung also opposed including AI assistants, along with Professional Publishers Association, Guardian Media Group, News Media Alliance, News Media Association, DuckDuckGo, and Anonymous 10.

Samsung, Guardian Media Group, Professional Publishers Association, CCIA, News Media Alliance, DuckDuckGo, and Anonymous 10.

58. In fact, most respondents—including competitor search engines, AI service providers, and industry bodies—supported the eligibility criteria the CMA proposed in the January Consultation, praising their technology-neutral, flexible, and future-facing design, as referenced above.
59. Set that against that broad consensus, the CMA cites two sets of submissions apparently in support of its proposals to widen the eligibility criteria:
60. First, the CMA cites submissions from Vivaldi, Trainline, Microsoft, Which?, Chamber of Progress, and Platform Leaders (Consultation, para. 4.6). These respondents in fact *support* the criteria proposed in the January Consultation:
 - a. Vivaldi and Trainline support the January eligibility criteria without calling for AI assistants’ inclusion.⁸⁰
 - b. Microsoft supports the January eligibility criteria and considers them “*broad enough*.”⁸¹ It did not seek changes.
 - c. Which? did not seek to include AI assistants but merely said that the January criteria should be made less ambiguous.⁸²
 - d. Chamber of Progress called for the eligibility criteria to be future-proof and not tied to a particular service configuration or technology, which was already achieved under the previous criteria. It did not call for the eligibility criteria to be broadened to admit AI assistants.
 - e. Platform Leaders merely asked to ensure that the criteria “*capture AI-powered search experiences*,” which the criteria already did, and did not call for any change to the criteria.

⁸⁰ Vivaldi’s response to the January Consultation, p.1; Trainline’s response to the January Consultation, p.15.

⁸¹ Microsoft’s response to the January Consultation, p.2.

⁸² The revised criteria do not make the criteria less ambiguous; they introduce ambiguity and contradictions (see **Section I**). Which? also called for “*AI-based services*” to be included, but these were never excluded under the January criteria. The criteria have always been technology neutral.

61. Second, the CMA cites OpenAI's submission which—unsurprisingly, given OpenAI's operation of the leading AI chatbot ChatGPT—called for the CMA to “*explicitly include a clear reference to AI chatbots*” in the eligibility criteria.⁸³
62. Accordingly, revisions to the eligibility criteria the CMA proposed in January 2026 to admit AI assistants seem to be based on a single submission from OpenAI. This is an insufficient basis upon which to identify benefits to support the revised eligibility criteria.⁸⁴

4. Incoherence with the CMA's assessment of benefits of the CR

63. None of the CMA's purported benefits from the CR would derive from the revised eligibility criteria (Consultation, paras. 5.34–5.36):
- a. The Consultation identifies a benefit from increased competition, the mechanism of which “*includes search providers [...] having a greater incentive to compete for users; Google's rivals being more likely to benefit from greater economies of scale*” (Consultation, para. 5.35). But there is no evidence—and the CMA does not explain—how this benefit would arise from a search engine choice screen populated with AI assistants.
 - b. If the increased competition the Consultation refers to is meant to come from AI assistants, this is inconsistent with the CMA's position in the SMS Final Designation, which found AI assistants were a lesser constraint on Google compared to search engines. It would also be inconsistent with the views of AI assistants that submitted to the CMA that they do not consider themselves competitors of Google's general search services.⁸⁵ Enhancing AI assistants' growth at the expense of search engines therefore would have the reverse effect—*i.e.*, reducing competition in search, compared with the counterfactual of a choice screen focused on search providers, by the CMA's reasoning.
 - c. For the same reasons, the benefits the CMA attributes to that competition would not follow. The Consultation identifies a potential decrease in search advertising prices as a benefit from its intervention (Consultation, para. 5.47(b)). But there is no evidence—and the CMA does not explain—how free promotion

⁸³ OpenAI's response to the CMA Consultation, 6 March 2026.

⁸⁴ See, by analogy, *Cérélia Group Holding SAS v CMA* [2025] Bus LR 94 *per* Green LJ, para. 41 (A conclusion that a decision is in error because it was not supported by the evidence is the same as a conclusion that the decision is “*irrational*” and therefore quashable on judicial review).

⁸⁵ Anthropic, Mistral and another AI assistant submitted to the CMA that they do not compete with Google in general search. See Final Decision, paras. 5.47, 5.57 and 5.62(b).

of AI assistants decreases search advertising prices. AI assistants tend not to show advertising, and if users shift queries from search engines to AI assistants, this would imply a reduction in the supply of search advertising, inconsistent with the CMA's presumed decrease in search advertising prices.

- d. Likewise, the Consultation identifies a purported benefit via enhanced competition in search by reference to the number of users of Google Search in the UK (Consultation, para. 5.47(a)). But there is no evidence—and the CMA does not suggest—that the same benefit would arise from increasing the already-intense competition in AI assistants yet further.
- e. Finally, the Allcott *et al* study that the Consultation cites to identify user preferences from preference matching with their preferred search engine is based on a study of search engines, not AI assistants (Consultation, para. 5.43). There is no evidence—and the CMA does not suggest—that this benefit arises from matching with AI assistants.

Part 2: Choice Screens and Choice Architecture Measures

64. Google supports the requirement to show choice screens regardless of the search engine that is set as default by the user. Google also welcomes directional improvements to render the test drive and annual choice screen proposals more user-friendly (*i.e.*, by proposing that these are served via skippable and visually limited notifications).

65. Some aspects of the proposed measures, however, impose significant user costs that are not outweighed by countervailing benefits, when compared to Google's proposed Choice Package.⁸⁶

I. The Consultation's measures impose costs that are not counterbalanced by benefits

66. The CMA has proposed making the annual choice screens and end-of-trial 'test drive' notifications skippable, dismissible, and visually limited. With these proposals, the CMA is seeking to improve consumers' awareness of search providers and confidence in their choice (Consultation, para. 4.61). The Choice Package is already fully effective in achieving that aim: [x] choice screens would show over the course of the CR (at a cadence of [x] per day), with [x] impressions of rival search engines; and switching is easy via the new Android setting, the new Android switching prompt, and Chrome's settings.

67. Set against the lack of incremental benefits, the 'test drive' would impose user costs:

⁸⁶ [x].

68. First, the ‘test drive’ feature is a confusing interface. The CMA User Research finds that the ‘test drive’ confused users: “[the test drive] *button led to confusion*.”⁸⁷ This affects participants with the lowest digital confidence—the users whom the choice screens are intended to assist.⁸⁸ Many participants understood the trial’s practical effects only on the subsequent confirmation screen, prompting some to return to their initial choice.⁸⁹
69. Second, the ‘test-drive’ button gives the false impression that the button without test drive (“set as default”) is a permanent choice, and that the default cannot be changed. That is counterproductive and confusing, given that the functionality that the user receives whether they click “test drive” or “set as default” is identical—both allow the user to use the selected service for as long as she wants or, alternatively, switch the service at any point in time.
70. Third, the ‘test-drive’ button, if pressed, gives the user the false impression that she is test driving the service until the trial period ends, so is not able to change in the interim period and is forced to make a permanent selection once the trial ends. Neither is true: the user can both change her default during the test drive and can change the default after the test drive, in exactly the same way.
71. Fourth, a ‘test drive’ button is redundant and frictional where a user can already select her preferred search engine through the choice screen and change it easily through settings. A trial button adds layers of additional decisions: how to select a provider, which provider to select, and whether to do so temporarily or permanently, alongside further information to process. Users must also understand additional rules, including the trial’s duration, what happens when it ends, and the consequences of any intervening changes. One participant specifically questioned “*if I changed it in the meantime what would happen*”, underscoring both the risk of choice overload and the inherent UX-design problem described above.⁹⁰ Indeed, the CMA User Research warns that unnecessarily complex additional information may increase choice overload.⁹¹
72. Fifth, the Consultation’s costs / benefits assessments to support the annual choice screen and ‘test drive’ are based on a flawed methodology and unsound underlying assumptions (see **Annex 1** for Google’s assessment of the Consultation’s cost / benefit

⁸⁷ CMA User Research, p.36.

⁸⁸ *Ibid.*, p.36

⁸⁹ *Ibid.*

⁹⁰ *Ibid.*, p. 37.

⁹¹ *Ibid.*, pp. 25-26, 31.

analysis). Google's assessment, adopting the Consultation's framework but applying corrections to several errors, shows that, once corrected, the annual choice screen and test drive would still require switching well above the Consultation's benchmark, so the Consultation does not show that their benefits outweigh their costs.

73. Sixth, the proposals are unnecessary and disproportionate on Chrome because the Chrome settings menu already allows users to easily switch their default search engine at any time or trial a new one, from a list of search engines that is identical to the one in the Chrome choice screen. There is therefore no added benefit from showing a test drive and annual prompt. By contrast, the proposals risk significant degradation to the user experience,⁹² as well as implementation challenges.⁹³
74. Ultimately, having two buttons that lead to the same outcome for users is confusing and unnecessary, especially given users can already easily change their search engine at any moment via multiple ways. There are more proportionate ways to achieve the CMA's goals, as discussed immediately below.

II. A more proportionate and less confusing means to achieve the CMA's goals

75. If the CMA's aim is to promote user awareness and confidence in search engines even further beyond the Choice Package ([3<]), there are more proportionate and less confusing means to achieve it.
76. Specifically, a better approach would be as follows:
 - a. All users, at the choice screen stage, are clearly informed that the search engine choice is not permanent and they are able to change their search engine at any time, including via the new Android central switch
 - b. All users will be told in the information screen that they will be reminded that they can change their choice screen after a short period of time.
 - c. The choice screen shows just a single action button – set as default – rather than the two confusing buttons that have the same functionality
 - d. All users will be shown a notification after two weeks that links to the central default settings.

⁹² Google, [3<]; Annex 1 to Google's Observations on the Third-Party Responses to CMA Consultation on User Choice Conduct Requirements (24 April 2026).

⁹³ See also Google's Response to CMA's s.69 notice dated 18 June 2026 (3 July 2026).

77. This modified design would retain the core benefit of the test drive while reducing the user costs of the Consultation's proposal:
- a. It would dramatically increase the number of search engine prompts that users would see: at least more than doubling the [≡<] prompts that users see via the choice screens under the choice package. It would thereby promote the CMA's goals to improve consumer awareness and engagement with search services.
 - b. It would provide a more streamlined experience by eliminating the confusing distinction between two buttons that work in the exact same way, reducing the amount of information users must process before selecting a provider, and avoiding the perception that a test drive had ended prematurely when a user changed settings during the trial window.
 - c. It would provide an opportunity for users to experience an alternative provider and reconsider their selection after a short period.
78. Google's proposal would thereby achieve the CMA's goals to promote user awareness and confidence in their choices, but without the obvious downsides of the 'test drive' proposal.

III. The revised choice screen design will harm the user experience

79. The CMA previously recognised that the existing choice screens in the UK, which show 12 providers using a 5+7 stratified list "*offers users a reasonable choice of a range of popular and broader options.*"⁹⁴ Google agrees with this assessment. Showing 12 providers in a stratified randomised list manages the risk of choice overload and maintains the value of the screen for providers by showing the providers users are most familiar with in an initial randomised block.
80. The Consultation now proposes that choice screens show a fully randomised list of 12 providers. The proposed change to randomisation logic without an amendment to reduce the total number of participants on the screen is a negative development. The revised proposal will (1) reduce value for providers, because any increase in choice screen slots will diminish the exposure and user attention that each provider individually can receive, and (2) undermine choice, because displaying too many options will overwhelm users and cause choice overload. This is evidenced by the following:
- a. **CMA's user research.** CMA User Research found that a fully randomised list of 12 providers was "*surprising and overwhelming,*" led users to "*pick[] search*

⁹⁴ January Consultation, para. 4.27.

services they recognised,” made them “reluctant to consider other options.”⁹⁵ and users also suggested “grouping or ordering options” to reduce the cognitive burden.⁹⁶

- b. **Feedback from third parties.** During the DMA choice screen design process, DuckDuckGo, Ecosia, and Qwant warned against showing too many providers: “[c]onsumers expect to see options they are familiar with and that are viable” and showing “options most users won’t know [...] may undermine the credibility of the choice screens.”⁹⁷ European think tank CERRE emphasised that “the list should be long enough to provide real choice and promote real contestability, while not leading to choice overload.”⁹⁸ Responses to the CMA’s January Consultation also cautioned that “12 may be too high a number, with users having choice fatigue or information overload”⁹⁹ and “too many [options] may create decision paralysis favoring the incumbent.”¹⁰⁰
- c. **Choice literature.** UI / UX literature confirms that interspersing marginal providers with main available providers risks introducing “inferior decoys” to the user’s choice, increasing consumers’ preference for a superior option they may not otherwise have chosen because it is meant to look more attractive.¹⁰¹
- d. **Google choice lab research.** 98-99% of users prefer selecting a default search engine from a list of fewer than 7 options.¹⁰²

81. The Consultation’s proposal to show 12 providers in a fully randomised list must also be read in the context of the Consultation’s proposed eligibility criteria and method of

⁹⁵ CMA User Research, p. 3.

⁹⁶ *Ibid.*, p.26.

⁹⁷ DuckDuckGo, Ecosia, Qwant, Technical brief: eligibility and data source on Digital Markets Act (DMA) search and browser choice screens (January 2024),

⁹⁸ CERRE, DMA Switching Tools and Choice Screens - Issue Paper (November 2022).

⁹⁹ Samsung, Submission in response to CMA’s consultation on Google’s general search services: proposed conduct requirements (February 2026).

¹⁰⁰ Shaping Competition in the Digital Age, Response to the CMA Consultation on the Proposed Conduct Requirements for Google’s General Search and Search Advertising Services (February 2026).

¹⁰¹ Huber *et al.*, 1982.

¹⁰² This research consisted of online surveys with 6,000 participants from Germany, France, Italy, Spain, Poland, and the UK. It was conducted with the support of external market research and consulting firm, Ipsos.

selection. Given the fast rate at which AI services that the CMA proposes would be eligible for the search choice screens are growing, the choice screen meant to increase competition in *search* and increase users' engagement with alternative *search* providers is likely to be dominated by AI assistants.

IV. Propagation of Android's default setting to Chrome leads to UX conflicts and degraded user experience

82. The Consultation maintains the CMA's proposed CR from January 2026 that would require the Android default switch for search services to propagate to the Chrome browser. The CMA's proposal is confusing for users, inconsistent with the Android defaults framework, and conflicts with the difference between system-level settings and app settings.
83. It is a basic principle that OS-level settings do not override settings inside apps. Operating system settings and app settings sit on different levels, including on iOS, Android, Windows, MacOS, and Linux. The operating system is tasked with controlling system-wide behaviour, while settings inside apps are reserved for apps themselves, to be determined by the developer. Allowing the Android default switch to propagate to the Chrome browser would be inconsistent with this basic principle, which is widely adopted across operating systems and well-understood by users.
84. Users expect OS-level settings to be separate from settings inside apps. Consider the following examples:
- a. The user sets her OS-level default calling app to cellular services. The OS applies this setting to WhatsApp. The user is harmed when she pays more because placing calls via WhatsApp is less costly than cellular calls on her mobile phone plan.
 - b. The user sets her OS-level default browser on Android to DuckDuckGo. The OS imports this setting into Instagram, even though Instagram has its own in-app browser. All links in Instagram open in DuckDuckGo rather than Instagram's in-app browser, providing an unexpected user experience that conflicts with the developer's specifications.
 - c. The user sets her OS-level default payment app on iOS to Apple Wallet, where she stores the credit card she uses day to day. The OS imports this setting into all apps with payment capabilities. The user is frustrated and confused when she tries to book a flight on an airline app and sees that Apple Wallet is the default payment choice, instead of her airline-branded credit card that she had previously saved to her airline app.

85. In line with these examples, a user who changes her default setting from the Android settings menu would be confused if doing so impacted the default search engine setting her their browser. It would be even more confusing for the Android setting to control only one browser. And confusion would be compounded by the one-way nature of the design: a user who changes their search engine in Chrome would not see that choice propagate to other parts of the OS.
86. The Consultation dismisses the user confusion concerns by speculating (without evidence) that the CMA “do[es] not believe that a similar setting for search providers will unduly confuse users” because “the default settings menus already exist on Chrome.” Contrary to the CMA’s analysis, the existence of a bespoke default settings menu inside Chrome explains—rather than disproves—why users would be confused. A user who wants to change her default search engine in an app (in this case, Chrome), can simply do so via the Chrome settings menu and would be confused if another setting at the OS-level achieves the same result.
87. The risk of user confusion is amplified by the fact that the Android default switch is intended to impact only Chrome, and not other browsers that the user may have installed on the device. It would be illogical and confusing for the central default switch to change the default settings inside Chrome but no other browser. This is especially the case if the user’s default browser is a non-Chrome browser.

V. Allowing deeplinking into Chrome Settings exposes users to security risks and is inconsistent with industry practice

88. The Consultation proposes a new CR requiring Google to allow websites to deeplink users into the Chrome settings menu.¹⁰³ The proposed CR is unnecessary given the ease with which users can already switch their default search provider on Chrome and given the ability of search services to prompt their users via Chrome extensions. And it is disproportionate given the security risks associated with providing websites access to Chrome settings. Those risks are enhanced further when read together with the CMA’s proposed eligibility criteria. In more detail:
89. **Users can easily switch their default search provider in Chrome.** Users can already switch their default search service in Chrome in a few simple steps on all platforms – Android, iOS, and desktop. They simply need to tap the menu icon on Chrome, select Settings, and select the search engine they would like to use from a list of options shown. The Consultation presents no evidence that this switching journey is too difficult or at odds with the CMA’s aims set out in the Consultation, para. 2.1. The

¹⁰³

[§].

expansion of the CR is based only on two unsubstantiated responses from DuckDuckGo and Microsoft.¹⁰⁴

90. **Search providers can prompt users to become the default provider via the default API on Android, extensions on Chrome on desktop, and promos shown on their websites.** The Consultation states that eligible providers should be able to “*prompt users to take action when they are using the Eligible Provider’s search service*” (Consultation, para. 4.100). The Consultation omits, however, that providers can do so in several ways under the Choice Package:
- a. Search providers can show prompts to their users inside their apps and link to the Android settings menu via our new Android default prompting API.
 - b. Search providers can offer extensions on the Chrome Web Store that set their service as the default search engine in Chrome.
 - c. Search providers can show promos about their apps to users in in-page content on their websites, including when users visit their websites in Chrome.
 - d. On mobile, search providers who do not show in the Chrome settings menu can also appear under “Recently Visited” in Chrome settings if they simply publish an Open Search Description Document (OSDD).
91. The proposed CR to allow websites or apps to deeplink into Chrome settings is therefore unnecessary, in light of the many ways users can switch their default search service.
92. **Allowing websites and apps on Android and iOS to deeplink into Chrome settings poses real security risks.** Allowing websites and apps on iOS and Android to deeplink into Chrome’s settings creates a new attack surface in the browser, including increased risk of theft of sensitive data.
93. Chrome Inline Installation was an analogous feature that allowed users to install Chrome extensions directly from websites. This capability was abused by bad actors to install malicious extensions. Attackers would imitate a webpage that users are likely to recognise (e.g., a search engine or social media platform) and trick users into clicking a link on that page to install malicious extensions. This feature was subsequently removed from Chrome to protect users from these types of attacks that are rooted in the ability to cross between the web content area, controlled by a website, and the browser itself.

¹⁰⁴ DuckDuckGo’s comments overlook the fact that search providers can already prompt users to become the default provider through various means as explained above, whereas Microsoft’s comment is entirely unsubstantiated.

94. The search hijacking concerns previously explained to the CMA also illustrate the risk of opening up access to sensitive settings to the web. Search hijacking seeking to change users' default search engine without their knowledge represents [36] % of all malware installs on Chrome and is an issue Chrome security team is actively combating.
95. The Chrome security team's practice of prohibiting deeplinking is a core security feature of Chrome, applied to all comers (including Google products or web pages) and reflects security risks. Google is not alone in this approach. Safari, Edge, Firefox, Brave, Samsung Internet, Naver, Opera, Vivaldi, Tor, and Silk also prohibit deeplinking into settings pages. In fact, this has been standard practice in the open web ecosystem since the late 90s, starting with Internet Explorer.
96. **Allowing websites or apps to deeplink into Chrome settings would go against open web standards.** Creating a Chrome-specific behavior from the open web would go against the spirit of having an open, interoperable web and APIs. Requiring Chrome-specific builds would violate web principles meant to ensure developers and users benefit from a consistent, safe experience across browsers. Websites and apps would develop Chrome-specific behaviours to work only in Chrome, which would require investment from developers. It would also risk an inferior user experience for non-Chrome users, who may encounter technical bugs on websites that have been built to work on Chrome but not other browsers, or may experience different versions of the same website across browsers, creating confusion.
97. Given that Chrome already allows users to easily switch their default search services, including by allowing search services to show promos and create extensions for their services to be set as default, the proposed CR is disproportionate. It achieves no additional benefit compared to the *status quo*, but comes at cost to users' safety and security.

Conclusion

98. The CMA's objective with the CR is to promote informed and effective user choice. The CR, as drafted, would not achieve that objective. The revised eligibility criteria turn a search engine choice screen into a free promotion platform for AI assistants, crowding out genuine search providers, confusing users, harming publishers, and reducing OEM monetisation.
99. The Consultation fails to satisfy the statutory conditions under the DMCCA to impose these criteria. The proposals, if enacted, would be unlawful.