DMCC Act in Focus
The UK's new digital markets regime

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Introduction

The Digital Markets, Competition and Consumers Act (**DMCC**) gives the Competition and Markets Authority (**CMA**) groundbreaking new powers to regulate the largest and most influential tech firms. Like the EU's Digital Markets Act, these new regulatory powers will focus on a select group of tech companies. The CMA can designate firms as having "Strategic Market Status" (**SMS**) in relation to certain digital activities.

Unlike the broader competition law framework under the Competition Act 1998, this is an "ex-ante" regime. It is designed to level the playing field in the digital economy and tackle structural competition concerns arising out of the market power of the largest tech firms head-on. The CMA's Digital Markets Unit (**DMU**) will oversee the new regime.

- **Targeted only at the largest tech firms with Strategic Market Status (SMS)**
- **Pro-Competitive Interventions (PCIs) to address structural market concerns**
- **Bespoke Codes of Conduct for each designated SMS firm**
- **Mandatory pre-notification of mergers to prevent harmful 'killer' acquisitions**

An overview of the new digital markets regime

SMS Designation

CMA launches an **SMS investigation** where it suspects that the firm may meet the conditions to be designated with SMS

Firms found to hold **substantial and entrenched market power** and a **strategic position** are designated with SMS

Pro-Competition Interventions

CMA can launch a **PCI investigation** to tackle root causes to competition

Where appropriate, CMA makes a binding **PCI order** imposing remedies

CMA may **trial remedies and iterate** a PCI to ensure effectiveness

Conduct Requirements

CMA sets **rules** to ensure fair dealing, open choices, and trust and transparency

If firms don't comply, CMA may issue an **enforcement order***

Mergers

Designated firms **must report certain mergers** to the CMA, or face fines

If a reported merger raises concerns, the CMA can take this forward through the **existing merger investigation process**

Enforcement

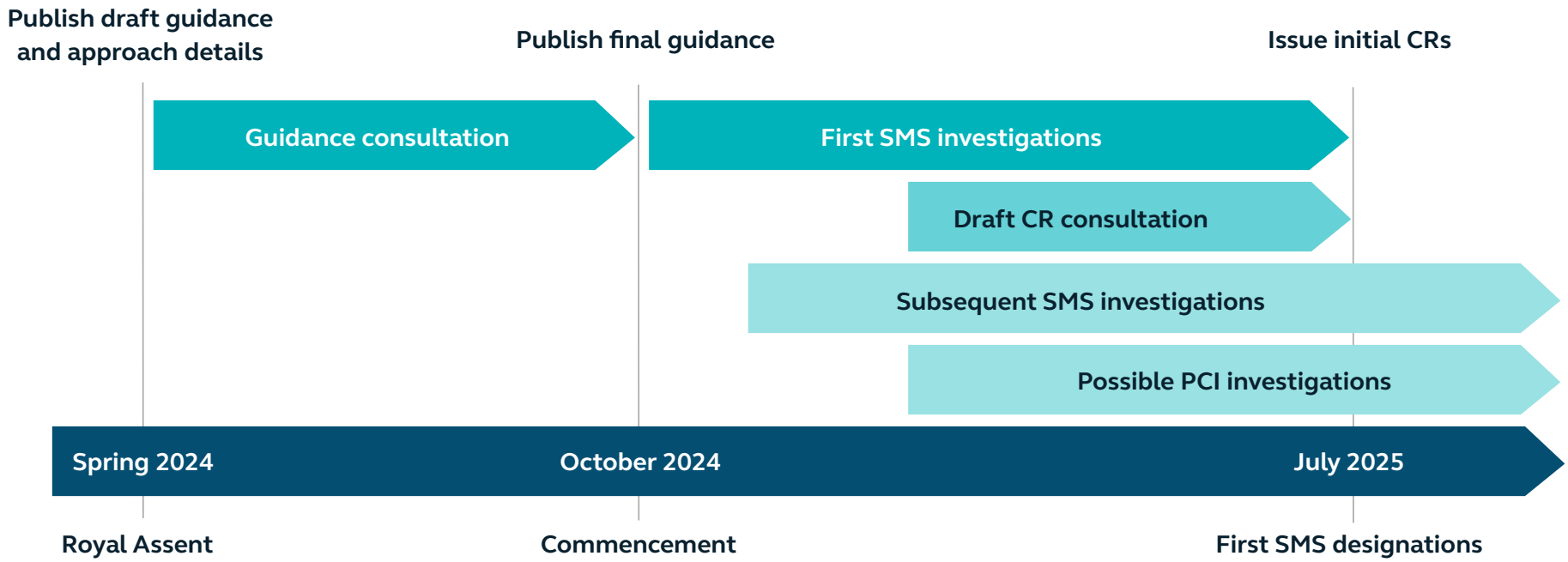
If firms don't comply the CMA may issue **fines** and could apply for **director disqualification** or **court orders**

**Where necessary, the Final Offer Mechanism can be used to tackle non-compliance relating to payment terms*

What are the timelines for implementation?

The DMCC Act gives the CMA the statutory powers to develop the new regulatory framework for tech firms with SMS. The first step will be for the CMA to commence SMS investigations which will result in some firms (most likely just 3-4 initially) being designated with SMS. While the SMS investigations are underway, the CMA is likely to be working on conduct requirements (CRs) for the SMS firms in question and, potentially, pro-competitive interventions (PCIs) to break down any structural barriers to competition in priority focus areas.

The CMA's own indicative timeline is as follows:



Which tech firms will the new rules apply to?

The digital markets regime is designed to level the playing field and open up competition and, as a result, the new rules will have an impact on the wider UK economy. It will present risks for those designated as having SMS under the regime and opportunities for those trading with them.

A firm can only be caught by the new regime if the CMA has designated them as having SMS following a formal investigation process. In other words, interventions and CRs cannot be imposed 'out of the blue' on a tech firm – the formal (and public) process of SMS designation is the gateway that enables the CMA to bring new firms within the remit of the DMU.

The **impact assessment** accompanying the Bill has assumed that there will be four SMS designations in the first year after the Act comes into force, but of course, this is just an estimate. Either way, it is unlikely that every tech firm that could satisfy the SMS criteria will receive formal designation in the immediate term once the Bill comes into force. The CMA has limited resources, so it will need to select its targets carefully. The initial focus is most likely to be on the firms the DMU is already actively investigating, in particular Google, Meta and Apple, but the CMA has discretion to cast its net wider.

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What is the Digital Markets Unit?

The DMU is a specialist unit that sits within the CMA's wider governance framework. It houses specialist lawyers, economists and tech specialists with the expertise to oversee complex and evolving digital markets. The DMU already operates in shadow form within the CMA before receiving its new statutory powers under the Act. For example, it has supported the CMA's recent market investigation into Apple and Google's alleged duopoly in mobile ecosystems and Competition Act 1998 (CA98) investigation into Meta and Amazon's use of third-party data, which was **resolved via commitments**.

What does "Strategic Market Status" mean?

The government has been clear that the rules are not simply designed to capture tech firms that are large or powerful. There are five stringent criteria that the CMA must satisfy before designating a firm as having SMS:

1. Digital activity

Firstly, the firm must be carrying out a "digital activity".

The scope of "digital activity" is set out in the form of three broadly defined categories of activity, namely:

- the provision of a service via the internet;
- the provision of digital content; or
- any other activity carried out for the purpose of either of the above.

2. Linked to the UK

A digital activity will be considered to be linked to the UK if:

- the digital activity has a significant number of UK users;
- the firm carries on business in the UK in relation to the digital activity; or
- the digital activity or how the firm carries on the digital activity is likely to have an immediate, substantial, and foreseeable effect on trade in the UK.

The Explanatory Note accompanying the Act when it was going through Parliament gave the example of a search engine service with operations located outside the UK, which could still be considered "linked to the UK" if the activity had a significant number of UK users.

3. Substantial and entrenched market power

The main qualitative criteria that the CMA must satisfy is whether the firm has "substantial and entrenched market power" in relation to the digital activity (based on a forward-looking assessment of a period of at least five years).

In determining whether this criterion is met, the CMA must take into account developments that would be expected to happen if the firm was not designated, as well as broader developments that may affect the firm's conduct in carrying out the digital activity (such as changes in the wider regulatory landscape or the introduction of other legislation).

This test is likely the most contestable element of the SMS test given the level of subjectivity involved. There are likely to be some overlap elements with the "gatekeeper" test under the EU Digital Markets Act, which requires an "entrenched and durable" market position. Otherwise, it remains to be seen how this test will apply in practice and how it will differ from the typical dominance assessment under Competition Act 1998. Further CMA guidance is expected in due course.

4. Position of strategic significance

Next, the firm must also have a "position of strategic significance" in relation to the digital activity.

There are four alternative ways that a firm can satisfy this test, which are expanded upon in the Explanatory Note accompanying the Bill when it was tabled in Parliament:

- **The size or scale of the digital activity.** This is relative, so, if the total number of potential users of a digital activity is small (because the activity is relevant to businesses in a particular sector only) but the undertaking captures a large proportion of those users, it could be considered that the undertaking has achieved a position of significant scale in respect of the activity.
- **The number of other undertakings that use the firm's digital activity.** For example, this condition could apply in cases where large numbers of businesses advertise on a search engine to reach their customers or use particular software to carry out their activity.
- **The ability of the firm to extend its market power to other activities.** For example, an undertaking with substantial and entrenched market power in the sale of operating systems may be able to use this power to bundle other services, such as its own online communication service, with its operating system, making it harder for users to switch.
- **Its ability to determine or substantially influence how other undertakings conduct themselves.** Or, as the Explanatory Note to the Bill puts it, the firm's ability to "set the rules of the game". For example, if a search engine requires its customers to use certain mobile friendly formats to benefit from advantageous distribution, that may influence how mobile webpages are designed across the internet.

5. Turnover thresholds

Finally, a firm can only be designated as having SMS if it meets certain turnover thresholds, which have been designed to confine the regime to the largest players.

The turnover condition is met in relation to an undertaking if the CMA reasonably estimates that:

- The firm's UK turnover in the relevant period (which is typically the most recent 12-month period) exceeds £1 billion; or
- Its global turnover in the relevant period (which is typically the most recent 12-month period) exceeds £25 billion.

If the firm is part of a group, then the turnover of the whole group should be considered rather than the firm's UK turnover. Importantly, the relevant turnover does not need to relate to digital activities: total turnover is the relevant measure for this test.

What is the process for SMS designation?

Before making an SMS designation, the CMA is required to conduct an SMS investigation. Such investigations must be concluded within nine months (extendable by up to three months in limited circumstances). They can only be undertaken where the CMA has reasonable grounds to consider that it may be able to designate a company as having SMS.

Once designated, the company will be considered to have SMS for five years, although the CMA can revoke or renew the designation. SMS designation decisions can be appealed to the courts or Competition Appeal Tribunal (**CAT**) but, importantly, only on judicial review (JR) grounds – meaning a decision cannot be appealed on the merits.

The JR standard of appeal is consistent throughout the digital markets chapter of the Act and has proved highly controversial. While the intention is to speed up decision-making by limiting the scope of appeals, several third parties submitted evidence to Parliament during the Bill's passage, arguing that the sweeping powers and wide discretion handed to the CMA calls for more robust independent judicial scrutiny. While some adjustments were made to the legislation requiring additional procedural rigour on the CMA's part, ultimately, the JR standard of appeal has been maintained.

Will each SMS firm have their own conduct requirements?

Unlike the EU's Digital Markets Act, the UK has opted for a more tailored approach. The Act gives the CMA the power to impose bespoke CRs on SMS firms in relation to the digital activities for which they are designated. These requirements will govern how an SMS firm must conduct itself in relation to the specified digital activity (covering its interactions with both users/consumers and other firms).

This means that the CRs are likely to look very different for each SMS firm to reflect the particular concerns the CMA has about their activities. For example, the CRs may address some of the issues the CMA has raised in relation to Apple and Google's alleged **duopoly in mobile ecosystems** and Amazon's alleged self-preferential treatment of its own retail business over third-party sellers on Amazon Marketplace.

The CMA is required to consult publicly before imposing (or indeed varying or revoking) a CR on an SMS firm, but it retains broad discretion.

Although the CMA can only impose CRs on a firm after it has received formal SMS designation, it may consult on proposed CRs before making a decision on designation, enabling it to impose CRs at the same time as issuing a decision on designation, or very shortly afterwards.

The CMA will issue guidance on CRs when they are introduced for each SMS firm. It must also keep CRs under review to assess their effectiveness and determine whether they should be varied or revoked. In addition to revoking or amending imposed requirements, the CMA can introduce additional requirements.

> Conduct requirements will be bespoke for each tech firm designated with SMS.

What kind of behaviour will the conduct requirements cover?

Strictly speaking, the CMA can only impose certain "permitted types" of CRs. However, in practice, these afford the CMA vast discretion to introduce requirements that promote fair trading, open choices, trust and transparency.

This has proved controversial, with some arguing that they afford the CMA too much power to direct the affairs of SMS firms. For example, the CMA can require SMS firms to trade on "reasonable and fair terms", which could have significant implications for businesses that deal with SMS firms. This could be used to stop SMS firms from imposing unfair payment terms on users. The Act includes a specific "final offer" mechanism to help resolve disputes related to unfair payment terms (see further below). Terms that unreasonably limit users' legal or proprietary rights could also be banned.

More generally, the permitted CRs that the CMA can impose on an SMS firm are divided into two categories: obligations and restrictions.

> The CMA has vast discretion to impose requirements that promote fair trading, open choices, trust and transparency.

Conduct obligations	Conduct restrictions
The CMA may impose CRs **obliging** an SMS firm to do any of the following: a. Trade on fair and reasonable terms; b. Have effective processes for handling complaints by and disputes with users or potential users; c. Provide clear, relevant, accurate and accessible information about the relevant digital activity to users or potential users; d. Give explanations and a reasonable period of notice to users or potential users of the relevant digital activity before making changes in relation to the relevant digital activity where those changes are likely to have a material impact on the users or potential users; e. 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.	The CMA may impose CRs **preventing** an SMS firm from doing any of the following: a. Applying discriminatory terms, conditions or policies to certain users or potential users or certain descriptions of users or potential users; b. Using its position in relation to the relevant digital activity, including its access to data relating to that activity, to treat its products more favourably than those of other undertakings; c. Carrying on activities other than the relevant digital activity in a way that is likely to increase the undertaking's market power materially, or bolster the strategic significance of its position, in relation to the relevant digital activity; d. Requiring or incentivising users or potential users of one of the designated undertaking's products to use one or more of the undertaking's other products alongside services or digital content the provision of which is, or is comprised in, the relevant digital activity; e. Restricting interoperability between the relevant service or digital content and products offered by other undertakings; f. Restricting whether or how users or potential users can use the relevant digital activity; g. Using data unfairly; and h. Restricting the ability of users or potential users to use products of other undertakings.

What kind of harms will the CMA focus on?

The CMA's concern is that firms with SMS may be able to act in ways that make it harder for other innovative firms to compete and grow effectively and, as a result, further reinforce or extend their market power. Its overriding focus will be on ensuring that digital markets stay open, fair and competitive.

Regarding more specific focus areas, the CMA will likely build on its ongoing investigations into platforms funded by digital advertising (including search and social media) and mobile ecosystems. Beyond this, the CMA has outlined some of the perceived harms to consumers that it may seek to tackle using its new powers under the Act.

> The CMA's focus will be on ensuring that digital markets stay open, fair and competitive.

Categories of harm	Examples
Behaviours that reinforce core market power	• Sophisticated use of online design to lock in customers. • Restricting competitors' access to data in a way that stops smaller firms being able to compete fairly. • Preventing different services from working together, e.g., users can't access digital content outside the platform they bought it on.
Behaviours that extend market power into related markets	• Promoting a platform's own products/services ahead of competing firms in a way that disadvantages competitors. • Selling products and services in a bundle to prevent rivals from competing on one product/service. • Using data in an anti-competitive way to disadvantage competitors.
Behaviours to block or restrict new markets and innovation	• Preventing competitors' access to the software needed to create complementary products/services. • Preventing competitors' access to hardware e.g., near-field communication chips to provide complementary services.
Behaviours that harm consumers	• Providing false/poor quality information that distorts consumer decision-making. • Using online design to mislead consumers into buying products they do not want or signing up for subscriptions without realising.
Exploitation of market power	• Charging excessively high prices (including to business users on two-sided platforms). • Collecting excessive amounts of data (particularly where users have no choice to opt out of data-sharing). • Setting exploitative T&Cs for businesses that rely on their platforms to access their customers.

What happens if an SMS firm breaches conduct requirements?

The CMA may open a 'conduct investigation' where, based on available evidence, it has reasonable grounds to suspect that an SMS-designated firm has breached a CR. Before reaching a decision, the CMA is required to consider any representations made by the firm being investigated. As part of these representations, an SMS-designated firm may argue that its conduct is justified because it drives wider consumer or competition benefits in the market – a process referred to as the 'countervailing benefits exemption'.

What is the countervailing benefits exemption?

The countervailing benefits exemption is designed to ensure that SMS firms cannot be accused of breaching CRs concerning practices that result in net benefits for users (or potential users) that outweigh any adverse impact on competition.

Some examples of benefits include lower prices, higher quality goods or services, or greater innovation in relation to goods or services. Much like the approach under Section 9(1) of the CA98, such an exemption can only be established where the CMA is satisfied that there is no other reasonable or practical way for the firm to achieve the same benefits with a less anti-competitive effect – in essence, the outcome must be that which is the least disruptive to competition.

While further guidance from the CMA on the countervailing benefits exemption is expected in due course, an example was provided in the Explanatory Notes accompanying the Bill in Parliament. It refers to a CR being imposed on a designated firm requiring users to be allowed to make their own choice between internet browsers on their phone operating system (rather than using the firm's default browser). If the firm rolled out an update to its operating system, which changed the default internet browser back to its own browser, the CMA could investigate the firm for breaching the CR. However, if the firm could demonstrate that the countervailing benefits exemption applied because, for example, the change was necessary to apply critical security patches, then the CMA could close the conduct investigation in relation to the CR on default options.

Consistent with the approach in the Act, more generally, it is proposed that the CMA will have flexibility in how it may choose to enforce a breach of CR by an SMS-designated firm. For example, it can:

- Accept voluntary **commitments** during a conduct investigation from the firm in question;
- Make an **enforcement order** imposing obligations on the firm to stop the breach of CRs, prevent the breach from reoccurring and/or address any resulting damage; or
- Impose a **penalty** of up to 10% of global (group) turnover and/or to impose daily fines of up to 5% of daily global (group) turnover for specific ongoing infringements. The CMA can impose similar penalties for breach of commitments or an enforcement order.

The Act also introduces the possibility of individual liability for those involved in breaches of CRs. Consistent with the CMA's stance of aggressively pursuing directors following breaches of CA98, directors of SMS-designated firms could face director disqualification proceedings of up to 15 years following breach of CRs. In addition, the CMA may impose penalties on senior managers assigned to the role of nominated officer for failure without reasonable excuse to ensure compliance with a relevant compliance reporting obligation imposed by a CR. SMS-designated firms may appeal CMA breach decisions in the CAT, but only on JR grounds.

> If an SMS firm breaches a conduct requirement, they could face penalties up to 10% of global turnover. Alternatively the CMA can accept commitments or impose an enforcement order on the SMS firm.

Can third parties complain to the CMA about breaches of conduct requirements?

Although the Act itself makes no reference to third-party complaints regarding conduct breaches, the Explanatory Notes to the Bill in Parliament made clear that complaints submitted by third parties will be a relevant factor when considering whether the CMA has reasonable grounds to suspect that an undertaking has breached a CR (i.e., whether or not to open an investigation). However, whether the DMU will implement a formal mechanism to facilitate third party complaints remains to be seen.

Separately, the Act does provide a third-party dispute resolution process for cases where a SMS-designated firm breaches an enforcement order in relation to a CR regarding fair and reasonable payment terms. This is known as the "final offer mechanism" (FOM).

Can third parties bring private enforcement for damages against SMS firms following breaches of conduct requirements?

Yes, the Act establishes a private enforcement regime enabling claims to be brought by third parties affected by a breach of a CR by an SMS-designated firm.

A CR will constitute a statutory duty owed by a SMS-designated firm to any person who may be affected by a breach of the requirement. This means that third parties who have suffered loss due to an established breach of a CR by an SMS-designated firm may bring 'follow-on' civil proceedings seeking damages and/or an injunction against the SMS firm.

In principle, it is possible that SMS firms could also face 'standalone' damages claims brought independently by third parties alleging breach of a CR. However, such a third party would face the challenge of evidencing both the breach and their financial losses.

In practice, it will only be possible to bring such claims under the Act once there has been a SMS designation of a firm by the CMA and the adoption of a relevant measure (such as a CR). However, the broad nature of CRs that the CMA can impose means that each CR, if breached, could give rise to a number of claims – some of which may be speculative – focussing on different aspects of the relevant firm's conduct. We may also see hybrid cases with elements of overlap between CRs under the Act and abuse of dominance claims under CA98.

It is also notable that the Act does not permit mass 'opt-out' class action claims by consumers who have suffered loss as a result of an SMS firm's breach of CRs– although some third parties (for example, the consumer body Which?) did submit evidence to Parliament calling for consumer class action rights in the Bill to be brought in line with those that apply for breaches of the CA98.

It remains to be seen how the private enforcement regime around the Act will evolve in practice, but as with CA98, we can expect claimants to test the outer boundaries of civil damages actions to their limits.

What is the Final Offer Mechanism?

The FOM is a tool of last resort that the CMA can use to resolve disputes about fair and reasonable payment terms between a SMS-designated firm and a third-party. The process, referred to as "baseball arbitration" due to its long-standing use in Major League Baseball salary disputes, involves both parties submitting a best and final offer to the CMA. The CMA can only accept one of those two offers, which will become binding on the parties.

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This is designed to encourage the parties to agree independently rather than risk the other party's final offer being chosen by the CMA. It is also in the parties' interest to submit a realistic final offer to increase the likelihood the CMA selects it.

Still, the FOM is only available in exceptional circumstances, as the CMA can only utilise the mechanism if an SMS firm has breached an enforcement order in relation to fair and reasonable payment terms. It is proposed that the process would work as follows:

1. If an SMS firm has breached a relevant enforcement order and the CMA has exhausted all other enforcement tools, it can initiate the FOM.
2. If the FOM is initiated by the CMA (which is optional for the third party, but mandatory for the SMS firm):
    a. The CMA will specify a date before which each party must submit its final offer payment terms. The CMA has to choose between one of the two offers.
    b. The CMA has six months from the date the FOM is initiated to make a final offer order (absent parties agreeing terms between themselves).
    c. Before the six-month period expires, the CMA will select one of the offers that a party has submitted, and those terms will become the terms in the proposed transaction (and any subsequent transaction between the parties that is substantially the same as the proposed transaction).
    d. The CMA will also impose such obligations as are required to give effect to the chosen terms.
3. If either party is unhappy with the outcome, it can only be appealed on JR grounds.

Final offer orders cease to have effect when revoked (e.g., where the parties reached an agreement before the CMA makes a final offer order) or when the designation to which they relate ceases to have effect.

Pro-competitive interventions

While the ex-ante approach is designed to pre-empt competition concerns before they arise (via CRs), the Act also gives the CMA the power to make more flexible pro-competitive interventions (PCIs) on an ongoing basis to tackle the factors that are the source of a firm's market power.

The CMA has said that PCIs aim to create longer-term dynamic changes in these activities, opening up opportunities for greater competition and innovation.

These open-ended powers go much further than CRs. In theory, they could result in the CMA making significant decisions about an SMS firm's business model, including structural remedies at a product or business level. This may include allowing people to easily transfer their data from one provider to another or requiring different products and services to work together (interoperability).

The Act also makes provisions for PCI to be tested before being rolled out to the wider market, including the possibility of 'live testing' on consumers. For example, it could test different types of digital design options (such as default browser options) to determine which approach delivers the most pro-competitive outcomes.

What is the process for imposing a PCI Order?

Before imposing a PCI Order on an SMS firm, the CMA is first required to conduct an investigation within a nine-month timeline to determine whether there are any factors relating to an SMS firms' designated digital activity that adversely affects competition. During this process, the CMA has said it will build a detailed understanding of how the market operates and the factors leading to any competition problems. The CMA will also determine whether an intervention is required, what it should be, and whether it would be effective and proportionate in dealing with the problem.

> PCIs will enable the CMA to act quickly to address structural competition concerns in relation to the digital activites of SMS firms.

As noted above, the CMA can order an SMS firm to take (or not take) certain action and can require them to undertake testing or trialling to help determine the most effective remedy.

There are some notable similarities with the CMA's existing (wide) market investigation powers under the Competition Act 1998, under which the CMA also has wide-ranging powers to determine the most effective remedy to address its competition concerns. However, the PCI process goes further and, crucially, enables the CMA to act much more quickly to address systemic competition concerns in relation to digital markets.

Merger control

Finally, the Act introduces a mandatory notification obligation for SMS-designated firms where a deal meets certain control and value thresholds. Unlike standard merger control rules, this includes cases where an SMS firm simply increases its shareholding without acquiring control of the target. These new rules are designed to improve transparency and give the CMA much clearer visibility of the merger activity that SMS-designated firms are engaged in.

Under the DMCC Act's new rules (and in contrast to the general voluntary UK merger control regime which will continue to apply for mergers not meeting the relevant requirements) SMS firms will be required to report mergers (prior to completion) which result in an entity within the SMS corporate group **increasing the percentage of shares and/or voting rights** it holds in a "UK-connected body corporate" to or beyond any of the following "qualifying status" thresholds:

- from less than 15% to 15% or more;
- from less than 25% to 25% or more; and
- from 50% or less to more than 50%.

However, it applies only where the merger has a total **consideration value of "at least £25m"** for the voting or equity share (broadly defined and calculated to include direct, indirect and deferred consideration).

For joint ventures, the qualifying status requirement is 15% of shares and/or voting rights in the venture vehicle (which is expected or intended to be classed as a UK-connected body corporate) will be held by an entity within the SMS corporate group. The value of consideration contributed to the joint venture (including capital and assets) must also be at least £25m to trigger the reporting duty.

Mergers involving SMS firms that meet the above criteria will need to be reported to the CMA in a prescribed form before completion (or establishment of the relevant joint venture vehicle). The report submitted will likely be less detailed than a full merger notice, but it must give the CMA adequate information to decide whether to open a Phase 1 merger investigation or make an initial enforcement order. Following receipt of the report, the CMA will have five working days to confirm if it accepts it is sufficient.

> If an SMS firm fails to notify a reportable merger without a reasonable excuse, the CMA can impose fines of up to 10% of the firm's worldwide turnover.

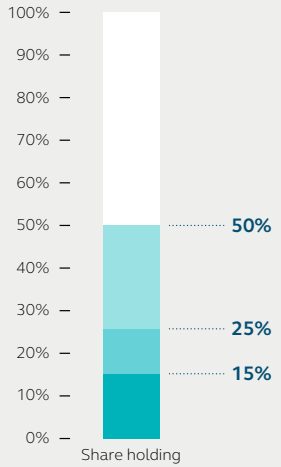
Following acceptance, there is then a further five working day "waiting period" (beginning with the first working day after notice of acceptance) during which the deal cannot complete.

If an SMS firm fails to notify a reportable merger without a reasonable excuse, the CMA can impose fines of up to 10% of the firm's worldwide turnover.

What is a UK-connected body corporate?

Please note that for both categories of reportable event (target and joint venture) a body corporate is UK-connected if it, or any of its subsidiaries, carries on activities in the UK or supplies goods or services to any person in the UK.

Strategic Market Status – mandatory reporting requirement



SMS firms must notify the CMA if:

1. the SMS firm's shareholding in the target surpasses certain **thresholds**;
2. it involves a firm that is active in the UK; AND
3. it is for a consideration, or contribution to joint venture, exceeds **£25m**.

Unlike voluntary merger reporting for non-SMS firms, reporting is mandatory.

TLT’s digital competition experts

Recent experience

Advised **comparethemarket.com** throughout a 4-year long investigation brought by the CMA in relation to its use of price parity clauses in connection with its digital comparison tool, including successfully appealing a £17.9m fine in the Competition Appeals Tribunal.

Advised **Ecotricity Group** during the CMA’s investigation into electric vehicle charging, which considered alleged anti-competitive exclusivity arrangements between the Electric Highway and various motorway service stations.

Acted as **UK Government Department’s** sole external legal advisers on a high profile and business critical dispute arising out of a contract for the development and implementation of a bespoke and core telecommunications platform.

Advised a **global technology firm** on a number of potential operating models for restricting the interoperability of third party replacement parts with its product lines (in respect of which it was at risk of having a dominant market share) on product safety and quality grounds.

Advising **a blue light organisation** on Ofcom’s competition law investigation into the Motorola and Sepura radio handset information sharing breach..

Made representations to the CMA on behalf of a large consumer brand during the its **Digital Advertising Market Study**, which considered the need for tighter regulation of Google and Meta’s market power in paid search advertising.

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