

CMA advises government on new regulatory regime for tech giants

- New regime will proactively shape the behaviour of the most powerful tech firms
- It will ensure consumers and businesses are treated fairly and help to level the playing field for smaller rival tech firms
- Proposals demonstrate the UK's continued leadership in developing a pro-competition regime for digital markets

The CMA has today issued advice to government on the design and implementation of the UK's new pro-competition regime for digital markets.

The advice has been produced by the Digital Markets Taskforce, commissioned by the government in March and led by the Competition and Markets Authority (CMA), working together with Ofcom, the ICO and the FCA.

It outlines a modern regulatory regime fit for the digital age – one that is forward-looking, targeted and enables quick results to harness the full potential of digital markets, driving greater competition and innovation.

If implemented, the new regime will govern the most powerful tech firms – those with 'strategic market status' (SMS) – meaning those with substantial, entrenched market power and where the effects of that market power are particularly widespread or significant. A new 'Digital Markets Unit' (DMU) will ensure the 'rules of the game' are clear up-front, and work with powerful tech firms to ensure they comply with them.

The three key proposed pillars of the regime for SMS firms are:

- A new, legally binding code of conduct, tailored to each firm and to where the evidence demonstrates problems might occur, designed and overseen by the DMU. The code will help to shape the behaviour of powerful digital firms, up front, and govern elements of how they do business with other companies and treat their users. There will be a range of powers available to the DMU to address any concerns, including the potential for significant penalties.
- Pro-competitive interventions, which can be used to address the sources of market power, allow competition to flourish and unlock the potential for transformative innovation by others in the market. An example of such an intervention could be imposing interoperability requirements on

tech firms and better enabling consumers to control and share data.

- Enhanced merger rules, which would enable the CMA to apply closer scrutiny to transactions involving SMS firms. This would include it being mandatory to notify the CMA of a transaction, imposing a block on completing a deal until the CMA had investigated, and a change to more cautious legal test when looking at the likelihood of harm to consumers in order to address concerns about historic under-enforcement of mergers involving big tech firms.

[The government announced last week](#) that the DMU would sit within the CMA. The new regime will become part of a wider regulatory framework for digital markets, including the new regime for harmful online content, and data protection laws. The CMA is now working with Ofcom, the ICO and FCA through the [Digital Regulation Cooperation Forum](#), to consider the steps that should be taken to ensure adequate coordination, capability and clarity across all digital regulation.

Following receipt of this advice, the government has committed to consult on proposals for a new pro-competition regime in early 2021 and to legislate to put the DMU on a statutory footing when parliamentary time allows. The taskforce has urged government to move quickly in taking this legislation forward, to take advantage of the clear opportunity for the UK to lead the way in championing a modern pro-competition, pro-innovation regime.

CMA CEO Andrea Coscelli said:

To ensure the UK can continue to enjoy a thriving tech sector, consumers and businesses who rely on tech giants like Google and Facebook should be treated fairly, and competitors should face a level playing field – enabling them to deliver more of the innovative products and services we value so highly.

For that to happen, the UK needs new powers and a new approach. In short, we need a modern regulatory regime that can enable innovation to thrive, while taking swift action to prevent problems.

To meet the new challenges of the digital age, it is essential that regulators work together. In developing these proposals, we have benefited from working alongside Ofcom, the ICO and the FCA.

Information Commissioner, Elizabeth Denham said:

We welcome the publication of the Digital Markets Taskforce Advice

and we have been pleased to support the work of the Taskforce. The dominance of a few major players in digital market impacts on people's data protection rights when they use these platforms. Our involvement with the Taskforce reflects the importance of safeguarding these rights and ensuring individuals have greater control over their personal information.

We continue to work closely with the CMA, Ofcom and FCA through the Digital Regulation Cooperation Forum to co-ordinate our approach to the regulatory challenges presented by new digital markets and platforms.

Dame Melanie Dawes, Ofcom Chief Executive, said:

We share the aim of ensuring competition works well in the digital economy, something which is vital to the sectors Ofcom regulates. We've been pleased to contribute to the Taskforce's work, and we look forward to working with the Government and other regulators to help take this forward.

Nikhil Rathi, Chief Executive of the FCA, said:

We have welcomed the opportunity to work closely with the Digital Markets Taskforce on their recommendations, which are an important step in developing an approach that protects consumers in digital markets. We will be focusing on the implications for financial services.

1. The CMA is the UK's primary competition and consumer authority. It is an independent non-ministerial government department with responsibility for carrying out investigations into mergers, markets and the regulated industries and enforcing competition and consumer law.
2. In March, the CMA was asked by government to lead a Digital Markets Taskforce, comprising CMA, Ofcom and the Information Commissioner's Office to advise government on how a new pro-competition approach should be designed for digital markets. Find out more in the [Terms of Reference](#) for this work.
3. Media queries should be directed to: press@cma.gov.uk or 020 3738 6460.