



## Preparing for the upcoming UK Digital Markets, Competition and Consumer Bill

The Bill will do 3 key things – i) set up the UK’s first digital regulatory framework, ii) upgrade the competition law powers of the CMA, and iii) significantly change the UK’s consumer protection and enforcement laws. **This document focuses on (iii), the consumer element.**

### What are the key changes?

#### Enhanced consumer rights

To further empower consumers, the Bill will introduce changes to tackle so-called ‘subscription traps’, which will be of relevance to many businesses/sectors and will require new processes to be put in place to comply with the new requirements. These requirements will include providing mandated pre-contract information about the nature of the subscription contract, sending compulsory reminders to consumers, and ensuring that consumers have a straightforward, cost-effective, and timely mechanism to exit a subscription contract.

We also expect to see the Bill introduce changes to better protect consumers against the use of fake reviews (requiring businesses to take active steps to verify the authenticity of reviews before they’re posted online) and championing ‘fairness by design’ principles in how online transactions are presented.

#### Significantly increased enforcement powers

The existing UK consumer protection regime was designed at a time when the economy was analogue. The Bill will introduce major change, establishing an ‘administrative model’ of enforcement and bringing the UK’s approach up to date in a digital world.

As part of these changes, the UK’s consumer regulator, the CMA, will be newly empowered to decide for itself when consumer protection law has been breached, and to take direct, swift enforcement action including the ability to issue major, turnover-based fines for breaches of consumer law (**up to 10% of annual global turnover**).

### How can you prepare?

#### Consumer-facing terms and conditions

The finer detail of the new subscription and other rules will not be known until the Bill is released (see further below for timings) but in terms of the enhanced enforcement powers, now is a good time to make sure your company’s consumer T&Cs are in robust shape and fully compliant with consumer law and best practice, particularly around the use of unfair/blacklisted (and therefore unenforceable) contract terms. The complex law regulating business-to-consumer contracts isn’t itself set to change – only the consequences of breach – so this is something that businesses can do now to get out ahead of the reforms and free up space to focus on the other changes that will be set out in greater detail in the Bill.

#### Advertising and marketing

A renewed focus on compliant consumer communications – in particular any form of advertising & marketing – would be advisable given the significantly enhanced enforcement powers on the horizon.

Also of note is the current regulatory spotlight on tackling problematic ‘online choice architecture’ and ‘dark patterns’ (i.e., digital design that exploits, misleads, or pressures consumers into making certain decisions) as well as misleading environmental or ‘eco’ claims.

### Is this similar to what’s happening in Europe?

#### In some ways, yes

The new enforcement powers broadly align – and in a number of ways exceed – the sanctions introduced in the EU in 2022 under the so-called “Omnibus Directive”. The Omnibus Directive also brought in a raft of other changes that businesses selling to consumers within the EU must comply with.

### When is this happening?

#### Soon

In its Autumn Statement, the UK Government announced that it was bringing forward the Bill in the third (i.e., current) Parliamentary session. In light of this, we expect to see the Bill published in the next few months, with full enactment possible within the year.

### How Wiggin can help

Our **Consumer** and **Advertising & Marketing** teams have extensive experience advising businesses in various markets (including those with a digital focus) on their T&Cs and advertising/marketing, as well as the compliant management of customer processes which are coming under increased regulatory scrutiny both under the new Bill and otherwise (e.g., customer journeys, free trials, cancellations, information requirements, and so on).

### Getting in touch

Please do get in touch if you would like to discuss further.



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