

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 (i) and (ii), the digital markets regulation and competition law elements.**

What are the key changes?

New digital regulation framework

New digital markets regulation is proposed, designed to empower the CMA’s Digital Markets Unit to implement a new pro-competition regime to tackle firms with substantial and entrenched market power in at least one digital market. The DMU’s new regulatory toolkit will be exercisable where there is a sufficient connection with the UK and is designed to promote competition and protect consumers.

New powers proposed include enabling the DMU to carry out “Strategic Market Status (SMS)” designation assessments, impose Codes of Conduct on SMS firms (to manage the effects of their market power) and make pro-competitive interventions (with a broad discretion to impose remedies in a swift and agile way) to help drive up competition and innovation in digital markets.

The CMA’s powers will also include the ability to impose financial penalties of up to 10% of a SMS firm’s global turnover for regulatory breaches and up to 1% global turnover for information offences (as well as additional penalties for businesses continuing not to comply). New SMS firm merger reform is also planned, including new mandatory reporting requirements - whereby SMS firms will be required to report significant transaction proposals exceeding certain thresholds before they can complete.

Enhanced competition law powers for the CMA

The new Digital Regulation framework will mean significant new powers will be given to the new Digital Markets unit (in the CMA), enabling them to regulate major digital providers with Strategic Market status.

How can you prepare?

Digital markets and new CMA powers

If your business or a competitor’s business is likely to qualify as a firm with substantial and entrenched market power, we recommend keeping a close eye on the progression of this Bill – as major market changes could impact the digital space once this new regime is in place. We can help your business with understanding how the new regime will work and guide and assist you through the relevant stages of the new CMA processes. We can also support you with monitoring the progression of the Bill and parallel relevant developments in Europe.

Is this similar to what’s happening in Europe?

Yes

The upcoming UK changes are very similar to new European powers which have been put in place under the EU Digital Markets Act and EU Digital Markets Services Act to regulate digital markets and help promote competition and protect consumers. We are also closely monitoring these (as the rules are already in place and we can expect to see developments soon).

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

If you would like to know more about new digital markets regulation and competition law rules, please let us know. Our **Competition and Communications Regulation** team are well qualified to help, as remedies are expected to be similar to *ex ante* telecoms regulation, in which we have extensive experience. We also have experts in the UK and Brussels and will be closely watching EU and international developments in this space, which could heavily influence UK developments, for example, if global remedies are implemented. Keeping up to speed with this will be important for businesses with any activities outside the UK.

Our team



Victoria Harris-Honrado
Partner

victoria.hh@wiggin.co.uk



Gordon Moir
Partner

gordon.moir@wiggin.co.uk