

Changes To The UK Competition Regime Brought By The Digital Markets, Competition And Consumers Act 2024 Are Now In Force

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Significant changes to the UK competition law landscape introduced by the Digital Markets, Competition and Consumers Act 2024¹ (the **DMCC**) came into force on 1 January 2025.² These changes include the introduction of a new digital markets regime, revised merger thresholds and enhanced powers of the UK Competition and Markets Authority (**CMA**) to investigate anti-competitive conducts:

- **New digital markets regime:** after four years of active consultation with the government and various stakeholders,³ and two years after the entry into force of the EU's Digital Markets Act (the **DMA**), the UK regime is now live. Similar to the designation of "gatekeepers" under the DMA, the DMCC grants the CMA

¹ <https://www.legislation.gov.uk/ukpga/2024/13>.

² The remaining provisions, which establish an enhanced consumer protection regime, are expected to take effect in April 2025. See written statement by the UK Parliament [Implementation of the Digital Markets, Competition and Consumers Act](#) on 9 September 2024.

³ For further background on the EU and UK digital markets regime in the making, see our client alerts on [Proposed EU and UK Regulatory Regimes for the Digital Market](#) (December 2022).

the power to designate certain digital companies as having “Strategic Market Status” (**SMS**) in respect of a digital activity and to impose certain responsibilities and obligations on such SMS firms. Unlike the DMA, the DMCC gives the CMA more flexibility in the designation of SMS, as well as wider discretion in relation to the tools it can use to regulate SMS firms.

The first SMS designation investigation was launched on 14 January 2025 and will conclude on 13 October 2025 (unless extended).

- **Revised merger thresholds:** the DMCC introduces a higher turnover threshold and a new hybrid turnover/market share jurisdictional threshold aimed at catching so-called “killer acquisitions”. A number of procedural changes in relation to the Phase II merger review process will also take effect as a result of the DMCC.
- **Enhanced investigative powers:** the CMA’s jurisdiction has been broadened, and its investigative and enforcement powers significantly strengthened with the confirmed extraterritorial reach of the CMA’s information gathering power, widened search and seize powers on domestic premises, and higher penalties for infringement of antitrust rules.

We discuss in more detail below the changes to the UK competition regime brought about by the DMCC, including the key differences between the UK and EU digital markets regimes.

Establishing a new digital markets regime

The DMCC establishes a new regime aimed at regulating the conduct and activities of powerful tech companies.⁴ The CMA has been preparing for this new regime since 2020 with the establishment of the Digital Markets Taskforce, which advised the UK government on the design and implementation of a pro-competition regime for digital markets. In 2021, the CMA also established a Digital Markets Unit (**DMU**) to oversee the new regime, which has, since then, been building significant capability and expertise in digital markets.

As of 1 January 2025, the CMA has the power to designate any firm as having SMS in respect of a digital activity if:⁵

- it generated a global turnover of more than £25 billion or a UK turnover of more than £1 billion in a relevant period; and
- it has “substantial and entrenched market power” and “a position of strategic significance” in relation to a digital activity linked to the UK.

⁴ Part 1 of the DMCC establishes a pro-competition regime for digital markets.

⁵ DMCC, Part 1, Sections 2-8.

Compared to the largely quantitative thresholds for the designation of “gatekeepers” under the DMA (which include EU turnover, and number of monthly active individual and business users), the criteria for designating SMS under the DMCC are qualitative and context-specific, allowing more flexibility in the interpretation of the criteria by the CMA. In addition, unlike under the DMA, there is no prescriptive list of the type of digital activities that could be caught by the regime, making the scope of the regime broader than that of the DMA. Having said that, in practice, the CMA expects the SMS regime to only apply to a handful of the largest tech companies,⁶ with SMS investigations in relation to three digital activities to be launched in the first six months of enforcement. The first investigation was opened on 14 January 2025.

Once designated, SMS firms will have to comply with a number of new responsibilities and obligations including:

- **Tailored conduct requirements (CRs):** in each case, the CMA will develop and impose tailored conduct requirements of a permitted type⁷ guiding the SMS firm’s practices in relation to a relevant digital activity. These CRs will be action- or outcome-oriented and based on the principles of fair trading, open choices, trust and transparency. The bespoke nature of CRs is in stark contrast with the one-size-fits-all approach adopted under the DMA, which has been criticised for not reflecting economic reality.
- **Pro-competition interventions (PCIs):** the CMA can decide to investigate SMS firms to assess whether a factor or combination of factors relating to a relevant digital activity is having an adverse effect on competition. Following such investigation, the CMA can impose a PCI to remedy, mitigate or prevent the adverse effect identified, including by mandating structural remedies (e.g. separation of businesses) or behavioural remedies (e.g. interoperability or data access requirements).⁸
- **Mandatory merger reporting:** SMS firms are also obliged to report certain acquisitions exceeding £25 million and the creation of joint ventures to the CMA prior to closing, provided that the target has a UK nexus.⁹ Unlike under the DMA, the reporting requirement is not limited to acquisition of targets that carry out digital activities.¹⁰

The DMCC also provides the CMA with tools to address non-compliance with the regime, including by imposing fines of up to 10% of global turnover for infringements¹¹ as well as issuing director disqualification orders.¹²

⁶ See CMA194, paragraph 2.2 and press release [Digital Markets, Competition and Consumers Act receives Royal Assent](#) on 24 May 2024.

⁷ DMCC, Part 1, Section 19.

⁸ This approach also contrasts with the DMA under which additional remedies in relation to a gatekeeper can only be imposed for systematic non-compliance (i.e. where the Commission had issued three non-compliance decisions to that gatekeeper within an eight-year period) of the prescribed obligations. See DMA, Article 18.

⁹ DMCC, Part 1, Chapter 5.

¹⁰ Under the DMA, transactions must only be notified where the targets provide a core platform service, or other digital or data collection services. DMA, Article 14.

¹¹ DMCC, Part 1, Section 85.

¹² DMCC, Part 1, Section 99.

Changes to UK merger control regime

The DMCC also reforms the existing UK merger control regime by introducing new thresholds and procedures which strengthen the CMA's powers of review. The following changes to the merger control review thresholds will apply to all deals completing after 1 January 2025 (other than those deals for which the CMA had already opened a Phase 1 investigation in 2024):¹³

- **Increased target turnover threshold:** the target UK turnover threshold increases from £70 million to £100 million (mainly to account for inflation, as per the CMA's explanation). For media merger transactions, the target turnover threshold will remain at £70 million.
- **Introduction of a new combined turnover and share of supply threshold:** this threshold is triggered if one party has both: (i) an existing 33% share of supply in the UK (or a substantial part of it), and (ii) a total UK turnover of at least £350 million, provided the other party has a UK nexus.

Unlike the 25% share of supply threshold (which continues to apply under the new regime), the new jurisdictional trigger above does not require any overlap in the parties' UK activities. This significantly expands the CMA's jurisdiction to intervene in so-called "killer acquisitions" involving targets with little or no turnover in the UK.

- **New safe harbour for small mergers:** transactions that are not media-related are exempt from the CMA's review if each party's UK turnover is less than £10 million.

The DMCC also makes a number of procedural changes to the merger control regime, mainly in relation to the Phase II review process. These include (i) the ability for parties to request a "fast track" Phase II referral without having to concede that the merger may give rise to competition concerns; and (ii) the ability for the CMA to unilaterally extend "fast track" Phase II reviews for 11 weeks, and/or mutually agree with the parties to extend the Phase II timeline without limit.¹⁴

For breaches of enforcement undertakings (including undertakings in lieu of reference and final undertakings) and enforcement orders, the CMA can now impose a fixed fine of up to 5% of the worldwide group turnover and/or daily fines of up to 5% of the daily worldwide group turnover of the company in breach.¹⁵

¹³ DMCC, Part 2, Chapter 2.

¹⁴ DMCC, Part 2, Section 128 and Schedule 5.

¹⁵ DMCC, Schedule 11.

Competition law investigations & enforcement

Finally, the DMCC enhances the CMA's powers to investigate and enforce competition rules, including by:

- **Extraterritorial reach:** the prohibition on anti-competitive agreements now also applies to agreements implemented outside of the UK, provided there are, or are likely to be, immediate, substantial, and foreseeable effects within the UK.¹⁶ The DMCC also confirms that the CMA's information gathering powers during investigations apply to entities outside of the UK.¹⁷ This change follows the Court of Appeal's judgment in January 2024 overturning the Competition Appeal Tribunal's earlier decision which found that the CMA had no power to demand information from foreign companies with no territorial connection to the UK.¹⁸
- **Enhanced investigative powers:**¹⁹ the DMCC also grants the CMA new and increased powers to gather evidence during investigations, some of which are aimed at tackling the difficulties posed by remote working. The CMA can now "seize and sift" evidence during inspections of domestic premises (instead of only at business premises) and require the production of accessible information not physically on-site (e.g. cloud-hosted data). The CMA can also impose an extended duty on individuals and companies to preserve documents relevant to investigations where it knows or suspects an investigation by the CMA is being or is likely to be carried out.
- **Increased penalties:**²⁰ the CMA has the power to impose higher penalties on parties for failure to comply with an investigative measure, an undertaking, order or commitment. The maximum fine has increased to 1% of annual worldwide turnover (up to a £30,000 cap), with additional daily penalties of up to 5% of daily worldwide turnover (up to a £15,000 per day cap).

Next Steps

The final step in the DMCC enforcement timeline is for the consumer protection regime under Parts 3 and 4 of the DMCC to come into force. This is expected in April 2025.

The CMA is currently inviting comments on its draft guidance on enforcement of the consumer protection regime²¹ and the consultation will close on 22 January 2025.

¹⁶ DMCC, Part 2, Section 119.

¹⁷ DMCC, Part 2, Section 144.

¹⁸ *CMA v Volkswagen AG & BMW AG Kingdom* [2023] EWCA Civ 1506.

¹⁹ DMCC, Part 2, Section 121-123.

²⁰ DMCC, Part 2, Section 143.

²¹ Available [here](#).

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