

ACT | The App Association response to the United Kingdom Competition and Markets Authority's Mobile Browser and Cloud Gaming Investigation Provisional Decision Report

About ACT | The App Association

The App Association is a global trade association for small and medium-sized technology companies. Our members are entrepreneurs, innovators, and independent developers within the global app ecosystem that engage with verticals across every industry. We work with and for our members to promote a policy environment that rewards and inspires innovation while providing resources that help them raise capital, create jobs, and continue to build incredible technology. The App Association has members in 51 countries around the world, including the UK, all 27 member countries of the European Union, and all 435 congressional districts of the United States, showing that with coding skills and an internet connection, an app maker can succeed from anywhere.

I. Concerns about the Potential for Unintended Consequences

App Association members had the opportunity to participate in this market investigation via a virtual meeting with CMA officials. This was a welcome opportunity for genuine micro, small and medium-sized enterprises (MSMEs) to engage in the conversation about digital regulation. The wide-ranging conversation with our members demonstrated that for small companies, the relationship between app developers and the ecosystems in which they operate is complex. Our members shared some frustrations with the current ecosystem, but also made clear that their businesses rely on the tools, market access, and services provide by platforms. Over-regulation can cause unintended consequences that will reduce or alter those services on which our members rely. Large companies with money in the bank can afford to weather those storms or build their own solutions. Small businesses who are the tech giants of tomorrow cannot.

The CMA itself acknowledges that the complexity of digital ecosystems demands careful consideration of regulatory impacts to avoid unintended consequences. While its provisional remedies aim to address specific anti-competitive behaviors without stifling innovation or disrupting ecosystem functionality, the CMA appears to assume that any limitation on competition—whether arising from market leadership or product integration—inevitably results in consumer harm. This perspective oversimplifies the realities of the digital ecosystem, where market leadership frequently reflects innovation and efficiency rather than anti-competitive conduct.

Moreover, the provisional remedies and assessment seem to mirror a growing trend of heavy-handed regulation seen in other jurisdictions, like the European Union's Digital Markets Act (DMA). While the DMA aims to promote fair competition, it has faced criticism for its one-size-fits-all approach, which fails to consider the diverse and dynamic nature of digital markets. A recent survey of 3500 EU and UK startups and scale ups showed that [small companies had an overwhelmingly negative view](#) of the DMA and other heavy

handed [tech regulations](#). Adopting similar measures in the UK could lead to unintended consequences, particularly for MSMEs that thrive in flexible, innovation-friendly environments provided by larger platforms.

We urge the CMA to reconsider whether heavy-handed intervention is the appropriate solution. Regulatory overreach, especially without rigorous economic analysis and data-driven evidence, could stifle innovation, reduce consumer choice, and disproportionately harm MSMEs that depend on the infrastructure provided by larger platforms. The dynamic nature of the digital economy demands a more nuanced approach—one that acknowledges the benefits of existing market structures while effectively addressing genuine harms.

II. The Provisional Remedies Potentially Threaten Digital Security and Innovation

The CMA's provisional remedies, such as opening mobile operating systems to alternative browser engines, directly threaten the security architectures fundamental to the digital ecosystem. These risk bypassing controlled environments, increasing vulnerabilities, eroding user trust, and threatening the integrity of the digital ecosystem.

Additionally, these remedies would likely place disproportionate burdens on MSMEs. Large companies have the resources to build their own solutions, and the brand loyalty for consumers to continue buying their products even after significant security breaches. *For example, people continue to buy Fortnite even after its creator, Epic Games, [was fined \\$520 million in the USA for violating the Children's Online Privacy Protection Act \(COPPA\) by deploying design tricks, known as dark patterns, to dupe millions of young players into making unintentional purchases.](#)* Small businesses do not enjoy the same level of brand trust and so any unintended security issue created by these regulations will likely reduce consumers' willingness to download from that business again. Worse, overall trust in small developers may be reduced. Small developers often lack the resources to handle the heightened security risks and lack the resources to compete in a complex market that has been forced to fragment by regulation. This could stifle innovation and reduce consumer choice, ultimately undermining the competition the CMA seeks to enhance.

We urge the CMA to consider these points and advocate for a more balanced approach that promotes competition while protecting the security and stability of the digital ecosystem.

III. Concerns about Choice Architecture Remedies

The CMA's push for choice architecture remedies, like mandatory choice screens, raises concerns. Our members' experience and analysis show that these remedies often create artificial choices that fail to benefit consumers or small developers. Instead, they tend to solidify the dominance of already-powerful players who can afford prime placements on these screens. This is because choice screens give an artificial choice between a small

number of hand-selected companies, effectively excluding smaller competitors from that choice and discouraging consumers to search for alternatives.

Additionally, the challenges in making these remedies user-friendly and truly effective in enhancing consumer choice are substantial. The CMA's limited focus for these complexities underestimates the risks involved. We urge the CMA to reconsider its reliance on choice screens and to explore alternative approaches that more effectively balance competition with user experience.

IV. The Role of MSMEs in the Digital Economy

MSMEs are the backbone of the app economy, driving innovation and creating jobs across the UK. A 2021 [Deloitte study](#) found that app makers, a large part of our membership, contributed £33bn directly to the UK economy, with £75bn in indirect contributions, creating 400,000 jobs. This figure has only grown since.

Regulatory measures that increase complexity, add market fragmentation, or destabilize platforms disproportionately harm MSMEs, risking the very innovation the CMA seeks to protect.

To ensure competitive and secure digital markets, the CMA must focus on remedies addressing demonstrable harms to competition while prioritising safeguarding security, privacy, and platform stability. Regulatory interventions should minimize burdens on MSMEs and avoid favouring the desires of larger players at the expense of innovative small companies. Drawing lessons from global frameworks like the EU's DMA, the CMA can tailor balanced solutions that uphold competition and innovation in the UK's digital ecosystem.

V. Conclusion

The App Association welcomes the CMA's interest in mobile ecosystems and supports its efforts to maintain the UK's fair and competitive digital economy. We support the CMA's goal of fostering a competitive digital market, but we believe the proposed remedies could be too blunt to achieve this. These remedies risk unintended consequences—stifling innovation, harming MSMEs, and reducing consumer choice. We urge the CMA to take a more balanced, evidence-driven approach that fully considers the impacts before moving forward.

Sincerely,

Mike Sax
Founder and Chairperson

Stephen Tulip
UK Country Manager