

**31 March 2026**

Feedback of  
ACT | The App Association

to the

**United Kingdom's Department for Business and  
Trade**

regarding its

**Consultation on Refining the Competition  
Regime**

## **Introduction and statement of interest**

ACT | The App Association (ACT) emphasises that competition policy must explicitly account for innovation, SME market access, and dynamic competition—not solely short-term consumer price effects.

ACT is a trade association representing small business technology companies from across the United Kingdom (UK) and around the globe. Our members are entrepreneurs, innovators, and independent developers within the global app ecosystem that engage with verticals across every industry. We work with 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.

### **Small and medium-sized enterprises (SMEs) are a key engine of the UK app economy**

The UK has the third largest tech sector in the world, valued at more than \$1.2 trillion. In 2021, 56 per cent of the digital sector's £182.1 billion gross value add contribution to the UK economy came from SMEs. SMEs account for more than 50 per cent of all private sector jobs in the UK.<sup>1</sup>

### **The small business-driven app economy is vital to UK prosperity**

ACT members build and deploy products and services across communications, health, education, retail, finance, mobility, and industrial applications. These SMEs are especially sensitive to regulatory uncertainty, delay, and process burdens, particularly where compliance is resource intensive. We also note that the practical operation of the compliance regime is shaped around larger firms with greater internal capacity.

ACT appreciates the opportunity to provide comments on the government's consultation, *Refining Our Competition Regime*. We welcome the government's focus on pace, predictability, proportionality, and process. These objectives matter greatly to SMEs. For smaller firms, uncertainty itself can operate as a significant cost and barrier to growth. Uncertainty affects investment decisions, partnership opportunities, product planning, and commercialisation long before any formal intervention is imposed. The most valuable reforms will therefore be those that provide genuine clarity, preserve rigorous and evidence-based analysis and enforcement, and ensure that processes remain workable for smaller firms. Predictability requires clearly articulated evidentiary thresholds and limits on discretionary intervention.

Competition policy should remain grounded in clear objectives, standards, thorough economic analysis, and well-demonstrated effects. It should avoid creating unnecessary uncertainty for smaller firms or undermining the legitimate routes through which they innovate, grow, and realise success.

## **Chapter 1: Enhancing accountability for CMA decision-making in mergers and markets**

**Question 1: What impact would the proposed reform have on the consistency and predictability of decision-making in merger and markets cases?**

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<sup>1</sup> Tech UK - [UK Tech SMEs: A Global Force to Be Reckoned With](#) – 2023.

ACT recognises the government's objective of improving accountability and coherence in merger and markets decision-making. To the extent the proposed reforms help align the CMA's internal decision-making structures and provide a clearer framework for how major decisions are taken, they may contribute to greater consistency.

At the same time, for SMEs, predictability depends less on the formal label attached to the decision-maker and more on whether the relevant legal standards, evidentiary expectations, and procedural pathways are sufficiently clear in practice. Businesses benefit where guidance and process make clear the kinds of evidence likely to be considered relevant, the criteria likely to be applied, and the manner in which affected stakeholders may engage.<sup>2</sup> Smaller firms in particular benefit from clarity that allows them to allocate limited resources effectively.

Accordingly, while the proposed reform may support greater consistency, it will improve predictability in a meaningful way only if it is accompanied by continued efforts to make the practical operation of the regime clearer and more accessible to SMEs.

### **Question 3: Should the government take other steps to improve consistency and predictability in merger and markets cases?**

Yes. ACT encourages the government to continue pursuing practical reforms that provide businesses with greater clarity as to how the regime will operate in practice.

First, guidance and legislative materials should continue to clarify the types of evidence and experiences likely to be considered pertinent, and the criteria against which they will be assessed. This would assist smaller firms in understanding how to engage and where to focus limited internal resources.

Second, the regime should continue to provide realistic avenues for SME participation. Smaller firms may require targeted outreach, short-form contribution options, workshops, and sufficient time to prepare responses if their perspectives are to be meaningfully captured.

Third, reforms should continue to be judged against whether they reduce friction for businesses in practice. Flexibility is useful where it increases clarity and reduces unnecessary burden. It is less useful where it simply relocates uncertainty or creates bespoke processes that smaller firms are less able to navigate.

## **Chapter 2: Markets work and market remedies**

### **Questions 4 and 5: The proposed single-phase market review tool**

ACT recommends that any streamlined process include explicit procedural safeguards, including defined scope limits, transparent evidentiary standards, and opportunities for SME participation. ACT is open to reforms that streamline the markets-review process and reduce unnecessary delay, provided that procedural safeguards and evidentiary discipline are maintained. The current structure can result in lengthy review periods, creating uncertainty for businesses operating in or adjacent to the market under examination. This burden is especially acute for SMEs.

A more streamlined approach may therefore be beneficial. However, the design of the new tool will matter greatly. Any new policy framework should be based on the identification of specific

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<sup>2</sup> See HM Government, *Strategic Steer to the Competition and Markets Authority* (2025).

market failures and, where such failures are found, on a data-driven and consultative assessment of the structural issues said to be causing the problem.

ACT therefore encourages the government to ensure that any new market review framework remains evidence-led, consultative, and proportionate in operation. In particular, the use of compulsory information-gathering powers from the outset should not result in disproportionate burdens on smaller firms with limited resources or only a peripheral role in the market under review. Requests should remain tailored, clear, and proportionate to the size and circumstances of the business concerned.

### **Questions 6 and 7: The legal test for the new market review tool**

Any new policy framework should be based on identified market failures and a data-driven assessment of the structural issues said to be causing market dysfunction. Policy-level decisions should not be based on edge cases or hypotheticals that do not reflect the reality of the business environment.

Those principles should guide the government here. If the government proceeds with a new adverse-effect-on-consumers formulation, it should ensure that the regime remains grounded in rigorous economic analysis, material and well-demonstrated harms, and careful consideration of the likely effects on innovation, entry, and investment. This is particularly important in digital and technology markets, where interventions may have wider ecosystem effects and where smaller firms often depend on the stability and predictability of surrounding market conditions.

### **Questions 8 to 10: Remedy reviews and sunset clauses**

ACT supports the recognition that remedies should not remain in place indefinitely without meaningful reassessment. In dynamic markets, especially digital markets, remedies may quickly become outdated, may cease to deliver the expected benefits, or may begin to impose unnecessary burdens over time.

Periodic review is consistent with a sound and proportionate competition regime. It can help ensure that interventions remain necessary, effective, and fit for current market conditions, while also identifying unintended or unexpected effects.

ACT therefore supports requiring the CMA to consider sunset clauses and to revisit remedies at appropriate intervals. Such reviews should examine whether a remedy remains necessary, proportionate, and fit for current market conditions. This is important not only for firms directly subject to the remedy, but also for smaller firms that may bear indirect compliance burdens or experience downstream effects from outdated measures.

### **Questions 11 to 13: Other markets proposals**

More broadly, ACT encourages the government to ensure that reforms to the markets regime remain consultative and attentive to SME participation. Interventions directed at larger platforms or firms can nonetheless acutely affect SMEs that rely on those businesses or operate within the same ecosystem. For that reason, stakeholder engagement should not be limited to the largest market participants and their direct competitors. It should include the businesses that rely on the relevant services and may experience unintended consequences from intervention.

ACT also encourages continued clarity as to how evidence will be evaluated and sufficient time and assistance for businesses to engage effectively. These practical considerations are

particularly important if the government is seeking to make the regime more predictable and proportionate in operation.

### **Chapter 3: Merger control reforms**

#### **Questions 14 to 21: Increasing predictability in merger control**

ACT stresses that acquisitions are a critical exit pathway for startups and should not be chilled by speculative or non-evidence-based theories of harm. This is a particularly important aspect of the consultation for ACT and the SMEs we represent. For our members, a barrier to exit is a barrier to entry.

Success for a startup or small business can take a variety of forms, including being acquired by a larger company with the resources and knowledge to improve the product and streamline market expansion.<sup>3</sup> Acquisition is often a natural and desirable outcome for many SMEs and may benefit both the business owner and consumers. The UK economy and consumers benefit when novel products created by smaller technology firms can be combined with the resources, technical knowledge, and commercial reach of businesses that later acquire those innovations.<sup>4</sup> A merger that helps deliver better products or services for consumers is often a desired outcome and is consistent with sound competition policy.

For that reason, ACT strongly supports efforts to provide greater certainty on whether a merger will be subject to investigation in the UK. Vague or open-ended jurisdictional tests do not affect only the largest transactions. They can create uncertainty around fundraising, partnerships, minority investments, and other ordinary growth strategies that are especially important for SMEs.

Broad formulations of relevant merger situations, including approaches that extend to joint ventures, outsourcing arrangements, and similar commercial relationships, can introduce uncertainty for SMEs engaging in typical growth strategies.<sup>5</sup> Merger review should maintain a strong foundation in economic analysis and should avoid relying on edge cases or hypotheticals that do not reflect the reality of the business environment.

ACT therefore supports reforms that make merger jurisdiction more predictable and more readily administrable. Reforms should provide businesses and investors with clearer criteria against which transactions may be assessed, reduce unnecessary discretion, and preserve a strong role for rigorous economic assessment. This is important to ensure that merger control remains focused on transactions that raise genuine substantive concerns, rather than deterring pro-competitive transactions or ordinary commercial arrangements that may benefit consumers.

#### **Question 22: Providing more time to agree Phase 1 remedies**

ACT supports extending the period for agreeing remedies at Phase 1.

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<sup>3</sup> Engine Advocacy, *Exits, Investments, and the Startup Ecosystem* (2022), available at <https://startupexits.engine.is/>

<sup>4</sup> Samuel Kortum & Josh Lerner, *Assessing the Contribution of Venture Capital on Innovation*, 31 RAND J. Econ. 674 (2000).

<sup>5</sup> Association for Competitive Technology (ACT), *Response to CMA Consultation on Draft Updated Mergers Guidance Documents* (12 September 2024).

This is a practical reform that may improve proportionality for businesses, especially SMEs. The prospect of a Phase 2 review can impose considerable cost and uncertainty. Smaller firms often lack the internal legal and transactional resources needed to respond rapidly within compressed timelines. A somewhat longer and more realistic period at Phase 1 may therefore help preserve transactions that can be addressed without the need for a more burdensome review.

ACT accordingly supports this proposal as a sensible adjustment that may improve process while avoiding unnecessary escalation in appropriate cases.

#### **Chapter 4: Further cross-cutting changes**

##### **Question 23: Stronger investigative powers for algorithms**

Investigatory powers should focus on conduct, not technology, and ACT urges caution with respect to the proposal to expand the CMA's powers to investigate algorithms.

Algorithmic and AI-enabled systems are general purpose technologies used by businesses of all sizes.<sup>6</sup> Such tools may often be pro-competitive. Enforcement should therefore focus on harmful conduct rather than on the technology itself. Broad new investigative powers should not rest on assumptions that algorithmic tools are inherently suspect.

At the same time, certain algorithmic use cases may create demonstrably unique challenges. If the government concludes that additional powers are necessary, those powers should be tightly bounded and accompanied by appropriate safeguards. This is particularly important when SMEs are involved. A request to generate simulated outputs, vary conduct, or perform technical demonstrations may be manageable for a large firm with substantial engineering and legal capacity. The same request may be materially disruptive for a small technology company with limited internal resources.

ACT therefore encourages the government to ensure that any such powers are exercised only where justified, are proportionate to the matter under investigation, include robust protections for confidential and commercially sensitive information, and expressly take account of the size and resources of the business concerned. The objective should be to ensure that investigatory capability is improved without imposing disproportionate burdens on smaller firms or discouraging the adoption of useful technologies.

##### **Questions 25 and 26: Excluding the Christmas period from statutory time limits**

ACT supports excluding a clearly defined Christmas period from statutory time limits. This is a practical reform that may improve the realism and fairness of the process for businesses and advisers alike. For many firms, especially SMEs, staffing and responsiveness are materially affected during this period. A predictable pause is therefore sensible, provided the scope of the exclusion is clear and consistently applied.

#### **Conclusion**

ACT appreciates the opportunity to provide comments on the government's consultation on refining the UK competition regime.

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<sup>6</sup> OECD, *Is Generative AI a General-Purpose Technology? Implications for Productivity and Policy* (June 2025).

We support the objective of improving pace, predictability, proportionality, and process. These goals are important for the small and medium-sized technology companies we represent. At the same time, reforms will be most effective where they provide genuine clarity, preserve rigorous and evidence-based analysis, and remain workable for smaller firms that lack the resources of larger market participants.

Merger policy should continue to recognise that mergers and acquisitions are a natural and desirable outcome for many SMEs and that unnecessary uncertainty in this area can deter innovation, investment, and growth. More broadly, new powers and procedures should remain proportionate to the actual risks at issue and should not create avoidable burdens for smaller businesses.

The focus of the competition regime should remain on ensuring that interventions are evidence-based and proportionate to the actual risks posed. For small businesses, which drive much of the innovation in the UK's digital economy, maintaining the flexibility to engage in mergers and acquisitions without unnecessary regulatory burdens is essential. We encourage the government to continue refining the regime with the goal of fostering, rather than stifling, entrepreneurial activity.

ACT remains at your disposal to provide further input and would welcome the opportunity to contribute to developing practices and solutions that address competition issues in ways that benefit all market participants, especially innovative UK SMEs.

Sincerely,

Mike Sax  
Founder and Chairperson  
[MSax@actonline.org](mailto:MSax@actonline.org)

Stephen Tulip  
UK Country Manager  
[STulip@actonline.org](mailto:STulip@actonline.org)