

# The UK Digital Competition Pro-Growth Dilemma

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*The UK's pro-growth agenda pushes the Competition and Markets Authority to implement its digital competition regime in emerging technologies, such as AI, in a timely and careful manner.*

## 1 Introduction

The United Kingdom is pursuing a pro-growth agenda to attract investment and foster innovation, particularly in emerging digital technologies<sup>1</sup>, which are key drivers of global economic growth<sup>2</sup>. As part of this strategy, the UK Competition and Markets Authority (CMA) has also adopted a pro-growth focus<sup>3</sup>, establishing a growth and investment council with business and investor representatives<sup>4</sup>. A central element of this agenda is the CMA's long-awaited digital competition regime, which regulates the business practices of large online platforms through conduct requirements, pro-competitive interventions, and mandatory merger notifications<sup>5</sup>. The CMA expects this regime to stimulate competition and investment, ultimately driving economic growth in the UK<sup>6</sup>.

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<sup>1</sup> UK Government, Invest 2035: the UK's modern industrial strategy, 24 November 2024 (accessed 27 January 2025). Available at: <https://www.gov.uk/government/consultations/invest-2035-the-uks-modern-industrial-strategy/invest-2035-the-uks-modern-industrial-strategy>

<sup>2</sup> World Economic Forum, For Inclusive Growth, Leaders Must Embrace A Global and Open Economic Future, 18 January 2023 (accessed 27 January 2025). Available at: <https://www.weforum.org/stories/2023/01/finance-inclusive-growth-wef23/>

<sup>3</sup> CMA, Growth, Opportunity, and Prosperity for the UK at the Heart of the CMA's Next Annual Plan, 13 January 2025 (accessed 27 January 2025). Available at: <https://www.gov.uk/government/news/growth-opportunity-and-prosperity-for-the-uk-at-the-heart-of-the-cmas-next-annual-plan>

<sup>4</sup> CMA, Growth and Investment Council Terms of Reference, 28 January 2025 (accessed 28 January 2025). Available at: <https://www.gov.uk/government/publications/growth-and-investment-council-terms-of-reference>

<sup>5</sup> Digital Markets, Competition and Consumers Act 2024 (accessed 27 January 2025). Available at: <https://www.legislation.gov.uk/ukpga/2024/13/enacted>

<sup>6</sup> CMA, How the UK's Digital Markets Competition Regime Works, 23 January 2025 (accessed 27 January 2025). Available at: <https://www.gov.uk/guidance/how-the-uks-digital-markets-competition-regime-works>

However, the UK faces a digital competition pro-growth dilemma. In line with its broader pro-growth strategy, the government recently forced the CMA chair to step down<sup>7</sup>, which coincides with the CMA's efforts to designate firms and propose conduct requirements under its digital competition regime<sup>8</sup>.

This raises the question of whether these investigations will stimulate economic growth or discourage investment and innovation from major digital firms and third parties, especially when they are heavily investing in AI technologies.

This analysis explores this dilemma, drawing insights from public consultations on the CMA's investigations and proposing recommendations to the CMA to ensure a competitive policy supporting economic growth.

## 2 The Dilemma

The UK digital competition regime is designed to enhance competition in digital markets. It is the legislative response to various expert reports<sup>9</sup>, market investigations<sup>10</sup>, and antitrust inquiries<sup>11</sup> indicating that some digital markets, such as general search engines and mobile operating systems, face significant competition issues due to alleged anticompetitive practices and structural barriers.

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<sup>7</sup> Kalyeena Makortoff and Heather Stewart, Chair of Competition Watchdog Steps Down After Labour Intervention, *The Guardian*, 21 January 2025 (accessed 27 January 2025). Available at: <https://www.theguardian.com/business/2025/jan/21/chair-of-competition-watchdog-steps-down-after-labour-intervention>

<sup>8</sup> For a tracker of the UK digital competition regime, see Christophe Carugati, UK Digital Markets Act Tracker, *Digital Competition* (accessed 27 January 2025). Available at: <https://www.digital-competition.com/ukdigitalmarketsact>

<sup>9</sup> Jason Furman et al, Unlocking Digital Competition Report from the Digital Competition Expert Panel, March 2019 (accessed 27 January 2025). Available at: [https://assets.publishing.service.gov.uk/media/5c88150ee5274a230219c35f/unlocking\\_digital\\_competition\\_furman\\_review\\_web.pdf](https://assets.publishing.service.gov.uk/media/5c88150ee5274a230219c35f/unlocking_digital_competition_furman_review_web.pdf)

<sup>10</sup> See, for instance, CMA, Online Platforms and Digital Advertising Market Study, 1<sup>st</sup> July 2020 (accessed 27 January 2025). Available at: <https://www.gov.uk/cma-cases/online-platforms-and-digital-advertising-market-study>

<sup>11</sup> See, for instance, CMA, Investigation into Apple Appstore, 21 August 2024 (accessed 27 January 2025). Available at: <https://www.gov.uk/cma-cases/investigation-into-apple-appstore>

The UK is not alone in implementing such regulations. Europe, Germany, India, Australia, and other jurisdictions have proposed or enacted similar competition regimes targeting digital platforms<sup>12</sup>.

However, the UK's approach is distinct. Contrary to other regimes, the CMA has a broad discretionary power to designate firms and design and enforce digital activity-specific obligations based on evidence-based concerns about current and future competition.

Drawing on both domestic and international experiences, the CMA has initiated a series of investigations under its digital competition regime. As of January 2025, these investigations target Google's search and search advertising activities<sup>13</sup>, as well as Google and Apple's operating systems, app stores, and web browsers<sup>14</sup>. Moreover, the CMA inquiry group has provisionally identified competition concerns in cloud services, recommending the CMA launch investigations against Amazon and Microsoft's cloud services<sup>15</sup>.

The CMA must engage in stakeholder consultation before adopting a final decision. In its public consultations, the CMA thus invite stakeholders to comment on the proposed designations and potential conduct requirements that the designated firms would have to comply with.

In its Google search and search advertising consultation, which is closing on 3 February 2025, the CMA maintains that Google holds significant market power. Drawing from its 2020 Online Platforms and Digital Advertising market study, the CMA found that Google dominates search and search advertising markets and faces little competitive pressure<sup>16</sup>.

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<sup>12</sup> Christophe Carugati, Fast-Follower Digital Competition Regimes: Leveraging Lessons from First Movers, *Digital Competition*, 17 January 2025 (accessed 27 January 2025). Available at: <https://www.digital-competition.com/comment/fast-follower-digital-competition-regimes%3A-leveraging-lessons-from-first-movers>

<sup>13</sup> CMA, Strategic Market Status Investigation into Google's General Search and Search Advertising services Invitation to Comment, 14 January 2025. Available at: [https://assets.publishing.service.gov.uk/media/678524823ef063b15dca0f04/Invitation\\_to\\_Comment.pdf](https://assets.publishing.service.gov.uk/media/678524823ef063b15dca0f04/Invitation_to_Comment.pdf)

<sup>14</sup> CMA, Strategic Market Status Investigations into Apple's and Google's mobile ecosystems Invitation to Comment, 23 January 2025. Available at: [https://assets.publishing.service.gov.uk/media/679115f1cf977e4bf9a2f1a0/Invitation\\_to\\_comment.pdf](https://assets.publishing.service.gov.uk/media/679115f1cf977e4bf9a2f1a0/Invitation_to_comment.pdf)

<sup>15</sup> CMA, Cloud Services Market Investigation: Provisional Findings, 28 January 2025 (accessed 28 January 2025). Available at: <https://www.gov.uk/guidance/cloud-services-market-investigation-provisional-findings>

<sup>16</sup> CMA, Online Platforms and Digital Advertising Market Study, 1<sup>st</sup> July 2020 (accessed 27 January 2025). Available at: <https://www.gov.uk/cma-cases/online-platforms-and-digital-advertising-market-study>

However, the CMA highlights that market developments in Generative AI (GenAI) are reshaping the general search engine markets into answer engine markets, prompting Google to integrate its own GenAI services, Google AI overviews, into Google Search. In its 2024 AI Foundation Models market study, the CMA found that the integration could lead to potential competition issues due to the leveraging practices of a dominant position, raising entry barriers for competing providers<sup>17</sup>.

Against this background, the CMA is considering imposing several conduct requirements to lower entry barriers and give more choices to businesses and consumers, such as restricting Google's ability to leverage its dominant position in the general search market to gain advantages in other activities. While Google has to comply with several of the envisaged requirements in Europe under the European Digital Markets Act (DMA), some are unique to the UK regime.

Due to the regime's forward-looking approach, the CMA is also considering requirements that would directly impact AI market developments and Google's incentive to invest in AI technologies in the UK. These obligations would include mandating data sharing to enable competitors to improve AI search services or restricting Google's ability to use data crawled for search purposes in developing and fine-tuning AI models.

However, these envisaged requirements necessitate careful impact assessments. They raise timing and proportionality concerns, given that the AI sector is currently showing signs of intense competition and innovation from the incumbent and new players, including PerplexityAI, OpenAI, Anthropic, Microsoft, and DeepSeekAI, to name a few.

While the CMA<sup>18</sup>, alongside other competition authorities<sup>19</sup>, want to avoid intervening too late, the intervention at this early stage could distort the competition process by preventing the incumbent from the necessary inputs to compete with other players or its ability to offer product improvement to businesses and consumers, as well as by lowering the entrant's

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<sup>17</sup> CMA, AI Foundation Models: initial review, 16 April 2024 (accessed 28 January 2025). Available at: <https://www.gov.uk/cma-cases/ai-foundation-models-initial-review>

<sup>18</sup> Sarah Cardell, Opening Remarks at the American Bar Association (ABA) Chair's Showcase on AI Foundation Models, 11 April 2024 (accessed 28 January 2025). Available at: <https://www.gov.uk/government/speeches/opening-remarks-at-the-american-bar-association-aba-chairs-showcase-on-ai-foundation-models>

<sup>19</sup> See for instance, G7 Competition Authorities and Policymakers' Summit, Digital Competition Communiqué, 4 October 2024 (accessed 28 January 2025). Available at: <https://en.agcm.it/en/media/press-releases/2024/10/G7-Competition-Authorities-against-AI-risks>

incentive to invest and innovate in new inputs or techniques to provide its services. Should these effects materialise, they could harm rather than boost growth, as businesses and consumers will not benefit from the most innovative services.

These effects are not theoretical. In Europe, the DMA prevents Google from giving its own services preferential treatment over rivals in Google Search. As a result, Google is not yet offering Google AI overviews in Europe, depriving businesses and users of an innovative service.

Similarly, in its Google and Apple's public consultations on mobile ecosystems, which are closing on 12 February 2025, the CMA considers that Google and Apple hold significant market power in mobile operating systems, app stores, and browser engines. Drawing from its 2022 Mobile Ecosystems market study, the CMA found that Google and Apple are in a duopoly position due to market characteristics and business practices preventing new entrants from offering alternative services, such as alternative app stores on Apple smartphones and tablets<sup>20</sup>.

In this context, the CMA thus envisages conduct requirements to open access to these markets to rivals, such as mandating Apple to allow alternative app stores or mandating Google to list alternative app stores within its App Store. While Google and Apple must comply with several of the envisaged requirements in Europe under the DMA, the CMA proposes requirements tailored to each digital activity of Apple and Google to address the identified competition concerns. Moreover, the envisaged requirements would have the impact of promoting rivals on the incumbent's services rather than simply opening access to these services.

These requirements would provide opportunities for new entrants, fostering investments and innovation. For instance, in Europe, Epic Games now offers an alternative gaming app store that directly competes with the Apple App Store<sup>21</sup>.

While these measures do not specifically address market developments in AI, the CMA is assessing barriers to third parties utilising and deploying AI products and services. Should the CMA adjust its requirements to address concerns in AI, they will directly impact market

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<sup>20</sup> CMA, Mobile Ecosystems Market Study, 10 June 2022 (accessed 28 January 2025). Available at: <https://www.gov.uk/cma-cases/mobile-ecosystems-market-study>

<sup>21</sup> Epic Games, App Store Economy is Far from Open, Despite Efforts by Epic, Developers, and Regulators in the EU, 23 January 2025 (accessed 28 January 2025). Available at: <https://www.epicgames.com/site/en-US/news/app-store-economy-is-far-from-open-despite-efforts-by-epic-developers-and-regulators-in-the-eu>

developments and Google and Apple's incentives to provide AI products and services in the UK. For instance, in Europe, Apple is delaying the launch of its AI services, Apple Intelligence, over interoperability concerns under the DMA<sup>22</sup>, prompting the Commission to open a formal regulatory dialogue with Apple to address the concerns<sup>23</sup>. The delays of Apple Intelligence in Europe deprive developers and consumers of the benefits of innovative products and services from Apple and third parties.

### 3 Recommendations

The UK competition regime can deliver growth by offering new opportunities and choices to businesses and consumers. However, the regime's forward-looking approach can substantially shape emerging market developments, such as AI. Given AI's rapid pace, future developments are highly unpredictable. Therefore, the CMA should adopt a cautious and evidence-driven approach before imposing long-term requirements on emerging technologies.

Against this background, the CMA should continue to monitor market developments in emerging technologies in the context of market investigations, such as its AI Foundation Models market study, before intervening with requirements that will impact the competition process.

However, should the CMA decide to intervene to ensure competitive markets, the intervention must carefully consider the proportionality of the intervention and its impact on the ability and incentive of both the designated firm and the potential beneficiaries to provide innovative services in the UK.

*At Digital Competition, we offer consulting services to help interested parties and their counsel respond to public consultations. We also provide tailored training sessions in digital and AI markets, including a dedicated programme on the UK digital competition regime.*

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<sup>22</sup> Javier Espinoza and Michael Acton, Apple Delays European Launch of AI Features because Of EU Rules, *Financial Times*, 21 June 2024 (accessed 28 January 2025). Available at: <https://www.ft.com/content/360751cb-7a22-48e0-9b00-6a30ff41dcfe>

<sup>23</sup> European Commission, Commission Starts First Proceedings to Specify Apple's Interoperability Obligations Under The Digital Markets Act, 19 September 2024 (accessed 28 January 2025). Available at: [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_24\\_4761](https://ec.europa.eu/commission/presscorner/detail/en/ip_24_4761)

## About

### Digital Competition

Digital Competition (<https://www.digital-competition.com/>) is a research and strategy consulting firm dedicated to promoting open digital and competition policies that foster innovation for businesses, law firms, and government agencies. Led by Dr. Christophe Carugati, a passionate and impartial expert in digital and competition policy, the firm combines expertise in law, economics, and policy to deliver cutting-edge research, strategic consulting, think tank initiatives, tailored training programmes, and impactful conferences. Digital Competition is committed to addressing the most pressing challenges in the rapidly evolving landscape of digital and competition policies. This analysis was conducted independently and did not receive any funding.

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