

# The UK competition regulatory regime for digital markets: overview

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This note considers the UK competition regulatory regime for digital markets and the work of the new Digital Markets Unit (DMU). The DMU has been established within the Competition and Markets Authority (CMA) to oversee a new pro-competition regime for digital platforms with strategic market status and is currently working in a shadow, non-statutory form, pending legislation granting its full powers.

## Introduction

On 7 April 2021, the UK Department for Digital Culture Media and Sport (DCMS), Department for Business, Energy and Industrial Strategy (BEIS) and the Competition and Market Authority (CMA) announced the launch of a regulator, the Digital Markets Unit (DMU), to boost competition in online markets. The DMU will be housed within the CMA and work towards safeguarding consumer choice and their control over their data, promoting online competition, and tackling unfair business practices that reduce consumer choice and increase prices.

## Background

The DMU was first mentioned in the Furman report in March 2019 (see [Legal update, Digital Competition Expert Panel publishes its report](#)). Subsequently, in November 2020, the UK government recommended the establishment of a unit responsible for the enforcement of a new pro-competition regime governing online platforms possessing significant market power (or in other words, strategic market status (SMS)) within the CMA following the CMA's market study into online platforms and digital advertising (see [Response to the CMA's market study into online platforms and digital advertising, November 2020](#) and see [Legal update, Government response to CMA final report on online platforms and digital advertising market study](#)).

In December 2020, the Digital Markets Taskforce published a report setting out its advice to the UK government on the new pro-competition regime, including the role, functions, powers and governance

of the DMU (see [Legal update, CMA publishes Digital Markets Taskforce's advice to government on design and implementation of new pro-competition regime for digital markets](#)). This was followed by the CMA noting its intention to set up the DMU, in its Digital Markets Strategy published in February 2021 (see [Legal update, CMA publishes refreshed Digital Markets Strategy](#) (see also [Competition and Markets Authority's digital markets strategy web page](#)).

The CMA in its Digital Market Strategy noted that its aim in setting up the DMU was to *"establish the DMU as a centre of expertise for digital markets, with the capability to understand the business models of digital firms, including the role of data and the incentives driving how these firms operate."* Further, the DMU's function will be two-fold: the enforcement of the new pro-competition regime for digital businesses with SMS, and the monitoring of competition in digital markets.

On 7 April 2021, the CMA announced the establishment of the DMU in 'shadow' non-statutory form ahead of legislation granting its full powers (see [Legal update, New non-statutory Digital Markets Unit begins work and terms of reference published](#)).

Between 20 July and 1 October 2021, the government consulted on proposals relating to the key aspects of the new pro-competition regime (see [Legal update, DCMS and BEIS consult on new pro-competition regime for digital markets](#)).

On 6 May 2022, the UK government presented the consultation outcome and its response.

On 10 May 2022, the UK government announced its intention to create new competition rules for digital markets and the largest digital firms as part of the Digital Markets, Competition and Consumer Bill.

### Role of the DMU

The DMU kicked off its first work programme on launch in April 2021 and will have the following functions prior to being given full powers through legislation:

- It will prepare for implementation of the new pro-competition regime, including by building teams with relevant capabilities and preparing draft guidance.
- It will support and advise the government on the establishment of the statutory regime. As a first step, the government has requested the DMU to analyse how codes of conduct governing the relationship between digital platforms and groups relying on them such as small businesses would work in practice. The DMU will adopt a sector-neutral approach in doing so. Initially, it will consider codes in the context of businesses engaged in digital advertising and content publishing.
- It will gather evidence on digital markets through CMA's existing powers of investigation. The information gathered will inform the work of the DMU once given full powers.
- It will engage with stakeholders across industry, academia, other regulators (national and international) and government to prepare for quick implementation of the legislation once it is in place.

### Structure of the DMU

The DMU will be housed within the CMA and will be headed by a senior CMA official. It will initially be led by Will Hayter. It currently has approximately 70 staff.

### Co-operation with other regulators

A forum comprising the CMA, DCMS, BEIS and HM Treasury will be set up to agree a work programme for the DMU and monitor its progress. The Information

Commissioner's Office, Ofcom and the Financial Conduct Authority will also be engaged to provide input on the work programme where required.

The DMU will also specifically work with the Ofcom to assess how a code could ensure that relationships between digital platforms and content providers such as news publishers are fair and reasonable.

### Next steps

The Digital Markets, Competition and Consumer Bill, which will provide the DMU with statutory status will be published in draft form in the 2022/2023 Parliamentary session but is not expected to come into force until at least after 2023.

In the meanwhile, the DMU will work closely with the CMA enforcement teams that are taking, or have taken, action against practices by Google, Apple and Meta and reviewed the merger involving Meta's acquisition of Giphy (see [Legal update, CMA imposes second fine on Meta \(formerly Facebook\) for deliberate breach of initial enforcement order in Facebook/Giphy merger](#) and [Legal update, Ruling on confidentiality in Meta appeal against Facebook/Giphy merger \(CAT\)](#)).

The CMA also recently conducted a market study into the UK mobile ecosystem and published a final report with its findings (see [Casetracker, UK mobile ecosystem market study](#) and [Legal update, CMA final report on UK mobile ecosystems market study and consultation on launching market investigation into mobile browsers and cloud gaming](#)), in which it noted that the DMU will be best placed to tackle the competition concerns identified by the market study, and on that basis, it will not be making a market investigation reference.

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