



NATIONAL CONSUMER FEDERATION RESPONSE TO THE DIGITAL MARKETS, COMPETITION AND CONSUMERS BILL (DMCC)

Overview

We welcome the opportunity to contribute a consumer perspective to the DMCC Bill. It covers important aspects of the digital market but more will be needed to ensure fully effective consumer protection in these complex markets. The Bill needs to address restrictive market practises, and Trading Standards Authorities need the powers and resources for effective monitoring and enforcement. Voluntary Standards to underpin the broad requirements of the Bill when enacted are essential.

Consumer Protection

- As shown in Figure 1, Consumer Product Lifecycle Chart, the Digital Markets, Competition and Consumers Bill consumer protection concentrates on Step 4 of the lifecycle. For full consumer protection all steps need to be fully considered. However, the National Consumer Federation believes that the current Bill should be implemented largely as proposed. Attempting to fully address all aspects of the product lifecycle at this time would delay implementation and we believe it is in the public interest for the Bill to enter into force without delay.

Figure 1 – The product lifecycle applicable to consumer goods and services that utilise digital technology



2. The Bill sets out the principles (essential requirements) to regulate digital markets. From the consumer perspective this needs to be underpinned by standards to define the detailed requirements to ensure effective regulation of businesses, to ensure protection for all economic players especially consumer protection, and to provide a level playing field for businesses above which they can compete fairly in their markets.

Competition

3. Turning to competition issues (see Figure 2), we are concerned that software and products including software have resulted in restrictive practices where customers are tied into the company supplying the original product. The Bill does cover some of these aspects through which the product lifecycle can deliberately or inadvertently result in restrictive practices. However, there are other lifecycle practices to be considered.

Figure 2 – Where restrictive practices can be found in the consumer product lifecycle



4. For example in figure 2 :

- i. Step 4 – Sales and marketing
Anti-competitive cases where online market players are offering goods and services from many different suppliers “nudging” consumers to the products where they obtain the greatest commercial advantage.
- ii. Step 5 – Maintenance
Software used in a car that can only be supplied and updated by the car manufacturer and their franchised agents severely restricts consumer choice.

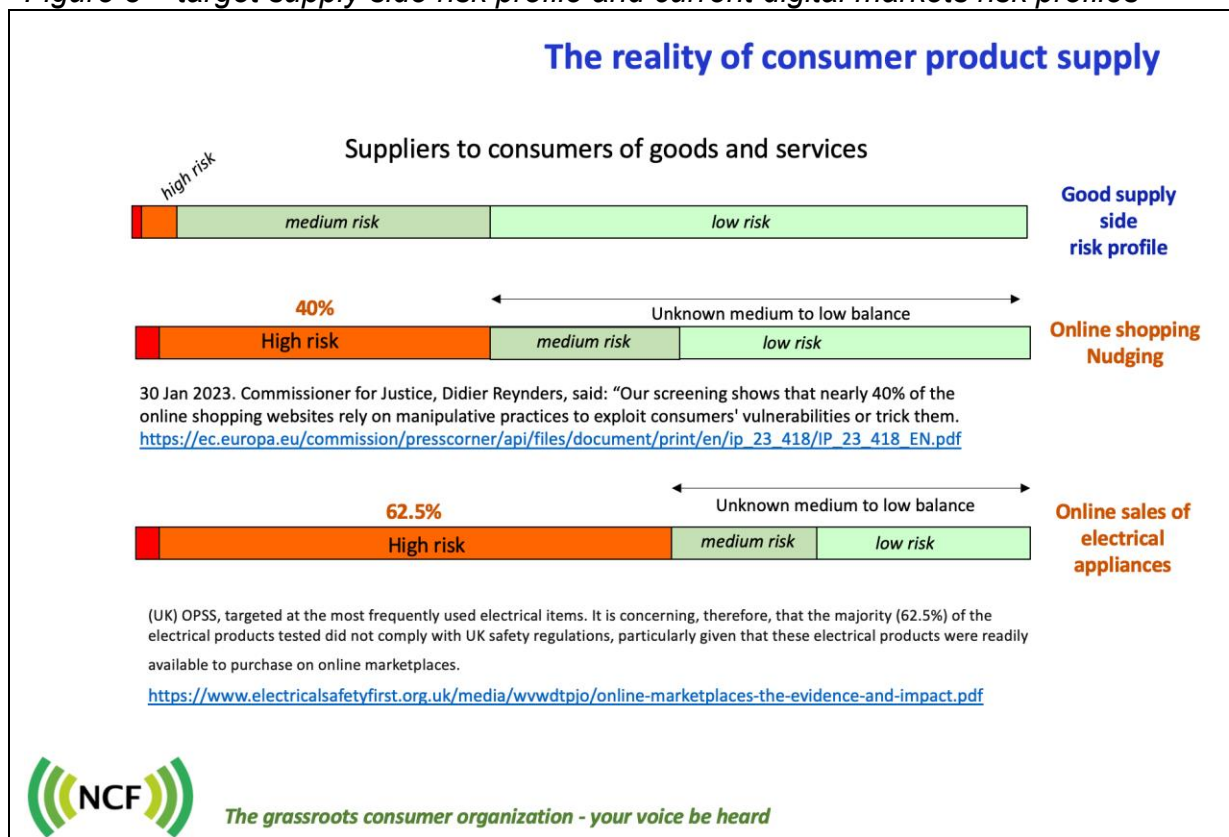
- iii. Step 5 – Online reviews
Online reviews obtained as feedback from real consumer experience being used to mislead consumers in marketing communications.
 - iv. Step 7 – End of product life
Withdrawing support from existing users in order to bring about further purchases of their “next generation” products when users need continued support for the current product. Moving to the “next generation” has a cost to the customer in terms of familiarisation and in some cases the need to purchase additions/changes to their existing digital products.
5. It is important that underpinning standards should be developed through a consensus process involving all interested parties including consumer experts. The British Standards Institution (BSI) provides the most inclusive mechanism for providing these standards in the United Kingdom (and possibly the world) and, through BSI, provides the ability to develop standards at national, European and international levels to ensure that UK interests are protected in the global marketplace.
 6. Hence, as a follow on to the Bill, the NCF would recommend Parliament encourages the British Standards Institution to develop a standard or standards representing care and diligence throughout the product lifecycle applicable to consumer goods and services incorporating digital technology. This would be a useful tool for all stakeholders.
 7. The UK is in a strong position to lead on the protection of consumers in the world’s digital markets. We have trained consumer standards experts from the consumer movement, especially found within BSI’s Consumer and Public Interest Network and the NCF, that are already working on the standardisation of digital markets at UK, European and international levels. We have a role in ANEC, the European Consumer Voice in Standardisation and through ISO/COPOLCO, the International Organisation for Standardisation’s Committee on Consumer Policy. Consumer representation from other countries is patchy, there are some very good representatives but many countries, including the USA, have little or no direct consumer influence on their standards. The broad stakeholder standards process in the UK is influential at these international levels.

Enforcement authorities

8. Without effective enforcement for all the sources of supply to consumers and the risks they pose to consumers, legislation has very little impact or economic benefit. This ‘value add’ comes with improving the overall quality level in the UK economy reducing the number of times that good suppliers, doing the right thing, are displaced and disadvantaged by the bad actors. In addition, without effective enforcement, consumer detriment is very high.
9. Enforcement authorities face a major challenge in the wild west of the digital domain and need additional powers to monitor and enforce this broad sector.
10. Figure 3 contains some data on the risk profiles of ‘digital’ supply to consumers. Digital market risks are measurably enormous and bad actors are innovative and

constantly changing their means of deception. Enforcement bodies need really effective levels of resourcing, technical tools and capabilities to bring risk levels down to a societally acceptable level, as represented by the top profile in figure 3.

Figure 3 – target supply side risk profile and current digital markets risk profiles



Evidence provided by:

Peter Eisenegger Director, NCF

Peter is a Director of the National Consumer Federation addressing the consumer issues of making homes net zero ready and smart homes technologies. Prior to his retirement in 2006 Peter had a career with wide experience in the application of digital technology and its commercialisation. Starting with the design and testing of integrated circuits, through systems development to field service operations, then commercially putting customers' needs at the forefront, product management and major innovation projects.

Peter is a BSI CPIN member and ANEC's expert contributing to the CEN/CENELEC AI standardization work. This is building on much of the work undertaken on digital product safety with Electrical Safety First and the standard that he initiated for ISO's Committee for Consumer Policy on consumer protection provided through the design of goods and services (ISO 31700). He is also a member of BSI's IoT and Privacy and Security technical committees.

Arnold Pindar Chair, NCF

Arnold worked for the Dept. Trade and Industry for 30 years, mostly at the Laboratory of the Government Chemist, mainly dealing with consumer safety, rising to Principal Scientific Officer. He represented UK at EEC/EU Council and Commission Working Parties on the harmonisation of trade and on standards technical committees dealing with consumer safety. He then spent almost 10 years at BSI as Head of Consumer and Societal Policy. He was President of ANEC, the European Consumer Voice for Standardisation 2011-2019 and was an active member of ISO/COPOLCO chairing a number of working groups including the Priorities WG and Co-chairing the Services WG.