

Written Evidence from ACT | The App Association on the Digital Markets, Competition and Consumers Bill (DMCC)

Introduction and statement of interest

ACT | The App Association is an international policy trade association for the small business technology developer community with a substantial membership in the United Kingdom (UK). Our members are small and medium-sized enterprises (SMEs) within the app ecosystem whose products are used across a wide range of sectors in the UK and around the globe. 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.

SMEs are a key engine of the UK technology economy

The UK has the third largest tech sector in the world, valued at over \$1 trillion. In 2021, 56 per cent of the digital sector's £182.1 billion contribution to the UK economy came from SMEs. SMEs account for over 50 per cent of all private sector jobs in the UK.¹

The app economy is important to UK prosperity

A huge amount of economic activity involves applications, many of which we do every day without a second thought. To name a few examples: shopping, booking travel, gaming, banking, watching media, working, communicating, teaching kids in school, monitoring our health, learning new languages, etc. The list goes on and on. We can also add the internet of things (IoT) to the list, where applications are used to control our homes, cars, factories, and medical devices, plus several more activities. These activities don't just generate money, they increase sustainability, boost productivity, and provide genuine support to people with specific health needs.

The term for this broad ecosystem of economic benefit is 'the app economy', and it is a significant contributor to the UK. The direct revenues of the UK app economy in 2021 amounted to £33 billion. Including direct and indirect contributions, the app economy generated £74.8 billion in revenue throughout all sectors of the UK's economy in 2021, creating more than 400,000 jobs in the process.²

Strategic Market Status (SMS) designations will have a significant impact on SMEs

While the App Association's members are unlikely to be designated Strategic Market Status, their success is closely linked to an SME-friendly implementation of the DMCC. The tech sector is an ecosystem, where small business success is helped by the existence of infrastructure and services provided by large companies. Likewise, the devices and services consumers buy from large (or small) companies are made better by apps, products, and designs that are devised and built by SMEs. Put simply, without the apps developed by small developers, most smart devices wouldn't be that smart. Therefore, when considering the regulation of tech giants, the Digital Markets Unit (DMU) must always consider the wider tech ecosystem and the risk of unintended negative consequences on small companies that are part of that system.

¹ Tech UK - [UK Tech SMEs: A Global Force to Be Reckoned With | #techUKDigitalTrade](#) - 2023

² Deloitte – [The App Economy in Europe](#) – 2022

Preserving the benefits of app marketplaces

App marketplaces like Apple's App Store and the Google Play store have a central position in the app economy by creating a frictionless environment where app users and developers can interact easily. The mobile app market is a 'multi-sided market', bringing together and benefitting both app developers and mobile device users. It is vital to preserve both the privacy and security protections for consumers, as well as the tremendous benefits that SME app developers have enjoyed through app marketplaces, including access to a global market, consumer trust, protection from intellectual property (IP) theft, and enhanced security.

Trust is the most important currency for small developers

Trust in app marketplaces has created an environment where people feel safe to buy or subscribe to apps from unknown brands. If the customer doesn't like it, they can get a refund or cancel the subscription. The trust that the transaction is secure and the ability to easily cancel fundamentally makes consumers more likely to take a chance on trying an app developed by a small or micro business. The ability to pay through app stores removes the administrative burden of billing and subscription management from small developers, freeing them to focus on their apps.

Reduced trust harms the smallest businesses the most. The DMU must ensure that its interventions do not create environments where consumers are less likely to trust an app from an unknown business, or where consumers can be easily tricked into downloading copycat or malicious apps.

Many of the large companies that are calling for interventions, including forced sideloading³, established their market dominance using the app marketplaces. Now worth billions of dollars, these companies are seeking to pull the ladder up behind them and prevent today's startups from benefitting from the same opportunities they had. The losers from this behaviour, if left unchallenged or unchecked, will be innovative SMEs and consumers in the UK.

The DMCC should contain provisions that ensure there are no interventions that cause a shift in app downloads and revenues towards larger app vendors and away from SMEs. Leading app marketplaces go to great lengths to design review processes that keep out bad actors. Platform payment systems also give consumers safety assurances by making it easy to get refunds for subscriptions. It is important that codes of conduct are designed to warn and protect consumers from bad actors. Otherwise, consumers will start to only install apps from well-known and trusted brands, which would be detrimental for innovative SMEs and startups in the UK.

Combating IP theft

App marketplaces provide streamlined processes for developers to have apps removed that infringe their IP and may even introduce malware that mimics their precious brand. Such IP theft can cause tremendous damage to app makers, not limited to the direct loss of revenues from pirated copies. Embedded malware may be devastating to app makers' reputations. Developers may end up incurring substantial costs for customer support, as well as hosting expenses, for products for which they have not received any revenue. The mainstream and reputable app marketplaces make the removal of such apps quick and straightforward.

³ Forced sideloading I when legislation calls for all platforms to allow the installation of alternative app marketplaces from third parties.

Preserving consumer privacy and cybersecurity

Unfortunately, some app marketplaces have less stringent security requirements than others. The DMU must ensure that any interventions taken do not increase the possibility of consumers being exposed to apps from bad actors, for example from forced and unrestricted sideloading.

On the Huawei app store for example, we found numerous copycat versions of one of our member's applications.⁴ This is damaging to our member from an IP theft perspective and raises the possibility that some of the copycat apps have malicious content, thereby damaging consumers. Any increase in cybercrime resulting from alternative app stores would likely reduce the trust consumers have in lesser-known brands, damaging SMEs. We encourage the DMU to make sure that security and IP protection across the ecosystem are carefully considered when implementing Strategic Market Status (SMS) codes of practice.

Regulating SMS companies should not increase costs or complexity for SMEs

Small businesses are least able to adapt to increased costs, it is important to keep the barriers to entry consistently low for offering apps in app marketplaces to encourage SME innovation and new market entrants. Costs to SMEs should be a key consideration of SMS designations and codes of practice to avoid unintended negative downstream effects.

The flexible nature of the DMCC means that a situation could arise where SMS designation applies to multiple companies for similar activities, for example relating to the different app marketplaces that our members use to sell their products to the world. We applaud the flexibility that this approach brings but urge that safeguards are implemented against creating unnecessary complexity for app makers who sell their products on multiple platforms.

We encourage DMU interventions to strive for consistency of requirements between app marketplaces. This will avoid unnecessary hurdles for SMEs who develop across multiple platforms. Harmonisation of requirements will also help establish consistent practices with relation to security and privacy across different platforms, to the benefit of consumers.

Opportunities for the DMCC to benefit SMEs and innovation

By carefully considering the full app ecosystem when reaching decisions, the DMU can help UK tech SMEs to continue flourishing. As mentioned already, the app economy is an ecosystem with many interdependencies. Any measures taken at the SMS level will affect how SMEs can innovate and conduct business. By carefully consulting with small businesses, the DMU can guard against the risks we have outlined here and make the current environment even friendlier to SMEs and innovators. Indeed, the DMU has the power to advance consumer protections while helping SMEs to benefit from the app ecosystem with a renewed belief that their IP, including their brand, and consumer trust are being safely enhanced by the DMU's interventions.

Stakeholder engagement is crucial at every step

⁴ ACT | The App Association - [Security and Trust from an App Maker's Point of View](#) - 2021

The App Association calls for special provisions for continued SME engagement to be included in the DMCC bill. We also urge that the DMCC bill should provide clear guidance and expectations on the DMU to engage with business stakeholders as well as public consumers. Most UK SMEs are business-to-business customers of SMS companies and therefore crucial stakeholders in SMS designations. All proposed codes of conduct should be subject to rigorous consultation of all stakeholders, not only the potential SMS companies. This means that stakeholder constituencies must be clearly defined, including the businesses that rely on SMS-designated services.

While consultation with SMEs is absolutely essential, it can be extremely difficult for SMEs with limited time and resources to respond effectively. Therefore, extra measures should be taken to ensure that SMEs can successfully engage with consultation processes, for example by:

- Giving sufficient time for SMEs to respond, for example, a minimum of six weeks.
- Encouraging responses from trade bodies representing SMEs.
- Where possible, enabling SMEs to make short-form contributions. The recent Intellectual Property Office [online SME survey on standard-essential patents](#) is a good example of a consultation that was designed to be easier for small businesses to engage with.
- Empowering SMEs to engage in free-form discussions such as workshops and roundtables.
- Tracking engagement indicators to monitor SME participation levels over time.

Conclusion

The App Association welcomes and shares the ambition of the DMCC bill to preserve a competitive digital market within the UK. Any new policy framework must be based on the identification of specific market failures and, if found, a data-driven and consultative assessment of the structural issues that are causing the market dysfunction. We advise that the DMU be obliged under the legislation to ensure that any new pro-competitive interventions take an ecosystem-wide approach to impact assessment. This will help to minimise unintended consequences and to avoid harming small businesses. While we support the efforts to strengthen the UK's digital economy, we urge the DMU to refrain from using the SMS designation to interfere in markets without consulting on the potential consequences for SMEs.

The App Association 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. We thank the Public Bill Committee in advance for its consideration of our submission, and we look forward to engaging further.