

New competition regime for tech giants to give consumers more choice and control over their data, and ensure businesses are fairly treated

- Government to set up Digital Markets Unit to oversee a pro-competition regime for platforms including those funded by digital advertising, such as Google and Facebook
- new statutory code of conduct will mean consumers will be given more choice and control over how their data is used, and small businesses will be able to better promote their products online
- code will support the sustainability of the news publishing industry, helping to rebalance the relationship between publishers and online platforms

Tech giants will be subject to a new regime to give consumers more choice and control over their data, help small businesses thrive, and ensure news outlets are not forced out by their bigger rivals.

A dedicated Digital Markets Unit, which will be set up within the Competition and Markets Authority (CMA), will work closely with regulators including Ofcom and the Information Commissioner's Office to introduce and enforce a new code to govern the behaviour of platforms that currently dominate the market, such as Google and Facebook, to ensure consumers and small businesses aren't disadvantaged.

Online platforms bring huge benefits for businesses and society. Their services are making work easier and quicker and help people stay in touch with one another. Millions of people share creative content or advertise their small business' goods online.

But there is growing consensus in the UK and abroad that the concentration of power amongst a small number of tech companies is curtailing growth in the tech sector, reducing innovation, and potentially having negative impacts on the people and businesses that rely on them.

The new code will set clear expectations for platforms that have considerable market power – known as strategic market status – over what represents acceptable behaviour when interacting with competitors and users.

Under the new code, platforms including those funded by digital advertising could be required to be more transparent about the services they provide and how they are using consumers' data, give consumers a choice over whether to receive personalised advertising, and prevented from placing restrictions on their customers that make it hard for them to use rival platforms.

The new unit, which will begin work in April, could be given powers to

suspend, block and reverse decisions of tech giants, order them to take certain actions to achieve compliance with the code, and impose financial penalties for non-compliance.

Business Secretary Alok Sharma said:

Digital platforms like Google and Facebook make a significant contribution to our economy and play a massive role in our day-to-day lives – whether it's helping us stay in touch with our loved ones, share creative content or access the latest news.

But the dominance of just a few big tech companies is leading to less innovation, higher advertising prices and less choice and control for consumers.

Our new, pro-competition regime for digital markets will ensure consumers have choice, and mean smaller firms aren't pushed out.

Digital Secretary Oliver Dowden said:

I'm unashamedly pro-tech and the services of digital platforms are positively transforming the economy – bringing huge benefits to businesses, consumers and society.

But there is growing consensus in the UK and abroad that the concentration of power among a small number of tech companies is curtailing growth of the sector, reducing innovation and having negative impacts on the people and businesses that rely on them. It's time to address that and unleash a new age of tech growth.

Today's proposals could also help give small businesses fair access to platform services including digital advertising, allowing them to grow their business' online presence. The code could be used to ensure platforms are not applying unfair terms, conditions or policies to certain business customers, including news publishers.

Currently, dominant online platforms can impose terms on news publishers that limit their ability to monetise their content – severely impacting their ability to thrive.

The new code will govern commercial arrangements between publishers and platforms to help keep publishers in business – helping enhance the sustainability of high-quality online journalism and news publishing in the UK.

It will form a major part of the government's work to support the sustainability of the UK's world leading news publishing sector and make sure, as news moves ever more online, publishers get a fair deal from the platforms on which they rely.

The government has set out its plans to take forward the development of the new unit and code of conduct in its response to the market study it asked the CMA to produce on online platforms and digital marketing.

The Unit will be informed by the work of the Digital Markets Taskforce, which was set up earlier this year to provide advice to the government on the potential design and implementation of pro-competitive measures – including the methodology which will determine what companies should be designated as having strategic market status, and how a regime would work in practice.

The digital sector contributed nearly £150 billion to the UK economy in 2018 – driving opportunity, productivity and creativity in every corner of the UK.

Through its study, the CMA found that, among other things, a lack of competition in digital markets prevents the development of new, valuable services for consumers, and results in higher prices for businesses using the platforms – which are then passed on to consumers.

The CMA's market study was commissioned by the government as part of a series of steps to promote competition in this area. In 2018, the government commissioned the Digital Competition Expert Panel, chaired by Professor Jason Furman, which proposed a new pro-competition regime for digital platform markets in its final report, the Furman Review. The Government accepted the Furman Review's six strategic recommendations, including the establishment of a new Digital Markets Unit (DMU), earlier this year.

The government will consult on the form and function of the Digital Markets Unit in early 2021 and legislate as soon as parliamentary time allows.

- building on the work of the Furman Review, the government established the Digital Markets Taskforce in March. The Taskforce is due to report later this year
- the Digital Markets Unit will build on the work of the Taskforce and begin to operationalise the key elements of the regime
- measures to promote competition in digital markets will form part of wider work to reform the UK's approach to competition policy, which will be consulted on in 2021
- the proposed approach to the regulation of digital markets complements the objectives of wider digital policy and regulatory interventions, including the National Data Strategy and the Online Harms Bill
- the CMA market study says Google has significant market power in the general search market and in search advertising, and Facebook has significant market power in the social media market and in display advertising
- around £14 billion was spent on digital advertising in the UK in 2019, around 80% of which was spent on Google and Facebook, and the CMA notes the number of adverts that consumers are exposed to on digital platforms is increasing, with adverts seen per hour on Facebook rising from 40-50 in 2016 to 50-60 in 2019. Its average revenue per user is now more than ten times higher than competitors
- In 2016, Google increased the maximum number of adverts displayed following a search query and moved these to the centre of the page above

organic results. In the UK its prices for advertising on desktop and mobile are also 30 to 40 per cent higher than Bing's, its main competitor

The CMA also provides evidence that a lack of competition in these markets leads to harms to consumers and businesses through:

1. Reduced innovation. The report argues that a lack of competitive pressure on Google and Facebook results in reduced innovation and inhibits the development of new, valuable services for consumers.
2. Higher prices for goods and services. The report provides evidence that businesses are facing higher prices on the dominant platforms (which are passed through to consumers). CMA analysis shows that in the UK both Google and Facebook are consistently earning profits well above what is required to reward investors with a fair return. Google earned £1.7 billion more profit in 2018 than the benchmark level of profits. For Facebook, the comparable figure for 2018 was £650 million.
3. Reduced quality. The number of adverts that consumers are exposed to on digital platforms is increasing. Adverts seen per hour on Facebook rose from 40-50 in 2016 to 50-60 in 2019. In 2016, Google increased the maximum number of adverts displayed following a search query and moved these to the centre of the page above organic results.
4. Lack of consumer control. The report argues that consumers would have more control over the collection and use of their data if there was more competition in digital advertising markets. The CMA highlights that search and social media markets are characterised by "take it or leave it" terms that mean consumers have to share their data with platforms to use services. In a competitive market, one would expect services to compete to offer better terms to consumers who prefer not to share their data.
5. Broader social harm. The CMA also set out evidence of broader harms due to weak competition, such as the negative impact on the quality of journalism, in line with the findings of the Cairncross Review.