

UK Digital Markets, Competition and Consumers Act

A practical guide for clients

April 2025

The landmark **Digital Markets, Competition and Consumers Act 2024 (DMCCA)** significantly strengthens the powers of the Competition and Markets Authority (**CMA**) to investigate mergers that raise potential competition concerns and take enforcement action against behaviour that breaches **competition** or **consumer protection** laws. It also introduces a new ex ante regulatory regime for **digital markets**, with the CMA as regulator through its Digital Markets Unit (**DMU**), and makes a number of important changes to the CMA’s powerful **markets** regimes.

The **competition** and **digital** parts of the DMCCA came into force on **1 January 2025**. The CMA has published [guidance as to how it will exercise its enhanced competition powers \(including updated guidance for merger reviews\)](#) and its new [digital markets functions](#). The CMA has also been publicly consulting on [draft markets guidance](#), which closed on 3 December 2024 – we expect final markets guidance to be published shortly.

The CMA’s new powers to directly enforce **consumer** law came into force on **6 April 2025**. The CMA has published guidance on unfair commercial practices ([here](#)), fake reviews ([here](#)), the new consumer protection enforcement regime ([here](#)) and the CMA’s direct enforcement regime ([here](#)). Further guidance on drip pricing is expected to be published in Autumn 2025 (following consultation over the summer).

We have summarised below the key areas of reform introduced by this significant and lengthy piece of legislation. Please get in touch for more details.

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In brief

Competition – New merger thresholds, changes to the markets regime and stronger investigation and enforcement powers in force from 1 January 2025

- **New acquirer-focused jurisdictional threshold:** transactions involving any party with a share of supply of goods or services of any description in the UK of at least 33% and UK turnover in excess of £350m could be subject to CMA review – further widening its already expansive jurisdictional reach to capture deals where the parties do not directly compete (vertical and conglomerate deals) and deals involving potential or dynamic competition where the target has no UK turnover.
- **A more flexible approach to market inquiries** with binding commitments possible at any stage of a market study or investigation, and new powers for the CMA to conduct implementation trials before remedies are accepted or imposed, and to vary remedies for a period of up to 10 years following a market investigation report, if it considers them to be ineffective.
- **Enhanced investigative and enforcement powers**, with additional powers for the CMA to gather evidence and impose higher penalties for failure to comply with investigative measures, as well as new turnover-based penalties for non-compliance with CMA orders, undertakings and commitments.

Digital Markets – A new *ex ante* regulatory framework in force from 1 January 2025

- **Enforceable conduct requirements** for firms designated as having 'strategic market status' (**SMS**) based on the objectives of fair trading, open choices and trust and transparency.
- **Targeted pro-competition interventions** to address factors that are the source of SMS firms' perceived market power in a particular activity.
- **Mandatory and suspensory merger reporting requirement** applying to SMS firms for all deals meeting certain (lower) thresholds.

Consumer – A new regime for direct enforcement by the CMA of consumer protection laws in force from 6 April 2025 (with new requirements relating to subscriptions expected to come into force in spring 2026)

- **A new administrative enforcement model** for consumer law enforcement, which allows the CMA (rather than the courts) to determine directly whether consumer laws have been breached and impose significant penalties of up to 10% of global turnover – mirroring, for the first time, the CMA's competition law-based enforcement powers and penalties. This will in turn increase the risk of follow-on damages litigation.
- **Enhanced investigative and enforcement powers**, with additional powers for the CMA to gather evidence, impose higher penalties for failure to comply with investigative measures, as well as new turnover-based penalties for non-compliance with CMA orders or undertakings and commitments.
- **Expanded scope of prohibited commercial practices** – including, for example, with respect to fake reviews, subscription contracts, drip pricing, and consumer savings schemes.

1. Competition (in force from 1 January 2025)

Jurisdictional and procedural changes to merger control rules:

DMCCA provision	What this means in practice and what you need to look out for
1. New acquirer-focused test <ul style="list-style-type: none"> One party (likely to be the acquirer) supplies or acquires at least 33% of goods or services (of any description) in the UK (or a substantial part of the UK) and has UK turnover exceeding £350m; and The other party (likely to be the target) meets the UK nexus test (a low bar). 	<ul style="list-style-type: none"> Stronger jurisdictional basis for the CMA to intervene in vertical and conglomerate deals and acquisitions of targets with no/low UK turnover. Expect the CMA to apply the 33% 'share of supply' test as flexibly as it does its existing test. Businesses with UK turnover exceeding £350m should prepare for more acquisitions falling in scope of CMA review. The UK nexus test is met if a party (likely to be the target) carries out part of its activities in the UK. Future activities do not satisfy this requirement, but current activities aimed at future supply may. There is no need for the target to be supplying any goods or services in the UK – any preparatory step taken within the UK (e.g. obtaining a licence or IP rights) is relevant. The test aims to capture transactions involving start-ups and businesses in the development stage that may not yet generate turnover in the UK. Steps taken outside the UK must, however, go beyond mere feasibility studies to be considered. The CMA may use this new power to review deals that have not completed – or where it has not started its 40 working day phase 1 review – by 1 January. <u>CMA guidance</u> includes worked examples to illustrate the application of the new acquirer-focused test.
2. Increased UK-turnover test <ul style="list-style-type: none"> Target turnover greater than £100m (up from £70m). 	<ul style="list-style-type: none"> Unlikely to have a meaningful effect given the unpredictability of the share of supply test and the introduction of the new acquirer-focused threshold, which could be triggered even if the target has no UK turnover (provided it meets the low UK nexus test).
3. New safe harbour for 'small mergers' <ul style="list-style-type: none"> UK turnover of each of the parties less than £10m. 	<ul style="list-style-type: none"> Applies even if the share of supply test is met. Only likely to apply to a very small minority of mergers and not where either party has material UK turnover.
4. New statutory fast-track to Phase 2 <ul style="list-style-type: none"> Parties can request a fast-track to Phase 2 without having to concede that their transaction gives rise to a substantial lessening of competition. 	<ul style="list-style-type: none"> Timing of requests for fast-track is key – forgoing all/part of the Phase 1 review means the CMA may need to make up time during Phase 2 for its substantive analysis/public consultation. The CMA is able to extend pre-notification (e.g. more information requests), extend the Phase 2 timetable by up to 11 weeks for 'special reasons', or extend the review through the new 'stop the clock' mechanism. <u>CMA guidance</u> notes that it has full discretion to determine what qualifies as a "special reason" and is entitled to rely on the 11-week statutory extension if appropriate.

DMCCA provision	What this means in practice and what you need to look out for
5. New mutual 'stop the clocks' <ul style="list-style-type: none"> Parties can agree with the CMA to suspend the statutory timetable. 	<ul style="list-style-type: none"> Adds more flexibility to the Phase 2 timetable. May help in cases where further time is needed for remedy negotiations, or to align discussions with regulatory processes in other jurisdictions. There is no limit to the duration of any extension, or the number of extensions that can be agreed.
6. Remedies offers earlier in Phase 2 <ul style="list-style-type: none"> Binding commitments can be offered earlier in the Phase 2 process. 	<ul style="list-style-type: none"> Most likely to be used in 'near miss' cases where parties are timed out during Phase 1 remedy discussions. Unclear whether the Panel will meaningfully engage in early Phase 2 remedy discussions in fast-track cases without a SLC concession.
7. New UK Government amendment to prevent foreign state ownership of newspapers <ul style="list-style-type: none"> Secretary of State will issue a "foreign state intervention notice" to the CMA if they have reasonable grounds to believe that a merger involving a UK newspaper or magazine has given or would give a foreign state (or body connected with a foreign state) ownership, influence or control. The notice will require the CMA to investigate and, if the thresholds are met, make an order blocking or unwinding the merger. 	<ul style="list-style-type: none"> The new regime works in parallel to the existing public interest intervention regime, and took effect immediately on Royal Assent in May 2024. Notable exclusions from the new regime include digital media and television and radio broadcasters. The government is planning to create secondary legislation which will preserve the opportunity of "legitimate foreign investment" in news media (such as a sovereign wealth fund of a democratic state up to a very low threshold).

Any business with **UK turnover exceeding £350m** should assess whether they could meet the flexible 33% 'share of supply' test and prepare for more acquisitions falling in scope of CMA review. **Businesses should think strategically** about the flexibility of fast-track and stop-the-clock requests as part of a "smart" approach to M&A.

A more flexible approach to market inquiries:

DMCCA provisions	What this means in practice and what you need to look out for
1. Binding commitments possible at any stage of a market study or market investigation	<ul style="list-style-type: none"> Parties under investigation have the opportunity and more flexibility to engage with the case team and decision makers earlier in the process. Better insight into the CMA's thinking throughout the process. Only likely to be appropriate in a small number of cases, eg, few/limited number of market participants, non-complex competition issues.
2. New penalties for non-compliance with undertakings <ul style="list-style-type: none"> For individuals who own or control an enterprise, up to 5% of annual global turnover and/or daily penalty up to 5% of global daily turnover while non-compliance continues, and For individuals who do not own or control an enterprise, £30,000 fixed and £15,000 daily penalties. 	<ul style="list-style-type: none"> Significant increase in penalties. Note: Breaches <u>will not</u> be subject to the new penalties in relation to undertakings, orders or commitments agreed or imposed <i>before</i> 1 January; neither will they be imposed in relation to breaches of undertakings, orders or commitments entered into or imposed <i>on or after</i> 1 January to the extent that they vary undertakings, orders or commitments entered into <i>before</i> 1 January.
3. Imposition of remedies implementation trials <ul style="list-style-type: none"> To test the effectiveness of proposed remedies before agreeing to them. 	<ul style="list-style-type: none"> Initially, trials will be limited to consumer-facing remedies. Remedy implementation trials can only be imposed where the CMA publishes its report on a market investigation <i>on or after</i> 1 January (the CMA <u>will not</u> be able to impose a remedy implementation trial in respect of final undertakings or orders where a report was published <i>before</i> 1 January).
4. New powers to amend remedies <ul style="list-style-type: none"> Where existing remedies (imposed no less than two years ago and relating to a report published in the previous 10 years) are ineffective at remedying the adverse effect on competition. 	<ul style="list-style-type: none"> The CMA <u>will not</u> be able to vary an undertaking or order on the basis that it is ineffective if the undertakings or orders were agreed or imposed <i>before</i> 1 January, or if the undertakings or orders were made <i>on or after</i> 1 January but they vary an undertaking or order made <i>before</i> 1 January. Query whether this signals a shift to a quasi-regulatory framework, and opens up the risk of 'remedies purgatory'.

With the prospect of remedies implementation trials to test efficacy even before remedies are implemented, as well as the new power to vary or amend 'ineffective' remedies, parties to an inquiry will need to **be mindful of the quasi-regulatory nature of market inquiries** and the **reduced certainty** brought about by the reforms, as well as **new stringent penalties for breach** of undertakings or orders.

Stronger investigative and enforcement powers:

DMCCA provisions	What this means in practice and what you need to look out for
<p>1. Expanded jurisdictional scope of Chapter I</p> <ul style="list-style-type: none"> To cover agreements implemented outside the UK that are likely to have an immediate, substantial and foreseeable effect on trade within the UK. 	<ul style="list-style-type: none"> Not yet clear what is meant by an '<i>immediate, substantial and foreseeable effect</i>' on trade within the UK – look out for CMA Guidance on this point. Potential for an increase in parallel investigations with the European Commission and national competition authorities, as well as follow-on claims in English Courts.
<p>2. Broader evidence gathering powers</p> <ul style="list-style-type: none"> CMA will be able to: <ul style="list-style-type: none"> share information with and obtain information on behalf of overseas authorities, subject to reciprocity and confidentiality/public interest safeguards; issue requests for information (RFIs) to businesses outside the UK that have a sufficient UK connection; and require production of cloud data and other forms of electronically stored evidence. Individuals subject to a duty to preserve any evidence where they know or suspect that an infringement has taken place. CMA to be designated as a specified prosecutor able to enter immunity agreements with assisting offenders. 	<ul style="list-style-type: none"> Increased information sharing between foreign regulators and the CMA - expect additional cooperation agreements between regulators and more coordinated requests for information. Significant additional burdens on individuals – including directors – to preserve evidence where they know/suspect that an infringement has taken place - be prepared to be interviewed by the CMA at its request. The CMA's new 'duty to expedite' may provide a gateway for the CMA to justify shorter timeframes for responses to RFIs – placing a significant burden on respondents, particularly when coupled with increased penalties for non-compliance.
<p>3. Tougher penalties</p> <ul style="list-style-type: none"> For businesses: fixed penalties of up to 1% of annual worldwide turnover; and/or daily penalties of up to 5% of daily worldwide turnover while any non-compliance continues. For individuals: fixed penalties of up to £30,000; and/or daily penalties of up to £15,000 while any non-compliance continues 	<ul style="list-style-type: none"> Significantly increases the upper limits for penalties across the CMA's competition functions (competition investigations, mergers, and market studies and investigations) and allows the CMA to issue higher penalties more easily, both on businesses and individuals. Note: Breaches will not be subject to the new penalties where the breach occurred before 1 January; neither will they be imposed where the breach occurred on or after 1 January in relation to requirements imposed before 1 January. Consequences of non-compliance, in particular, with information requests, could be very serious and is particularly concerning for businesses located outside the UK where they may be served with an information request for example to a UK subsidiary. Expect the CMA to be aggressive in respect of these new powers – it has handed out substantial penalties for breaches of interim enforcement orders in merger control cases, where maximum fines are already 5% of global turnover. Businesses should revisit their internal processes in relation to information request responses and ongoing compliance with CMA orders/commitments.

DMCCA provisions	What this means in practice and what you need to look out for
<p>4. Enhanced court enforcement</p> <ul style="list-style-type: none"> • Appeals against interim measures imposed by the CMA assessed by judicial review principles, rather than on a merits-based approach. • New powers for CAT to order declaratory relief in competition damages claims and collective proceedings. • Discretion to award exemplary damages in private damages claims, but not collective proceedings. 	<ul style="list-style-type: none"> • The new judicial review threshold for challenging the CMA's interim decisions presents a higher bar for appellants. • The additional power to grant declaratory relief creates further potential reputational challenges for businesses. • The restoration of the CAT's power to grant exemplary damages is aimed at deterring potential infringements, although it will only be available for 'ordinary' competition damages claims rather than collective actions.

Businesses will need to have robust procedures in place to ensure they remain on the right side of the line when it comes to complying with a CMA investigation, especially in relation to document preservation and provision of information, or deal with the consequences of tougher penalties for non-compliance.

2. Digital Markets (in force from 1 January 2025)

New ex ante regulatory regime for designated firms in digital markets.

DMCCA provision	What this means in practice and what you need to look out for
<p>1. Strategic market status (SMS) designations</p> <p>New regulatory framework that will enable the CMA to impose ex ante regulation on firms designated as having SMS.</p>	<ul style="list-style-type: none"> The CMA will be able to designate businesses as having '<i>strategic market status</i>' where it considers the firm to have: <ul style="list-style-type: none"> 'substantial and entrenched market power'; and a 'position of strategic significance' in respect of a digital activity or activities. SMS investigations (which precede a designation) can ordinarily last up to 9 months, including a public consultation. The CMA can extend this period by up to 3 months where it considers that there are special reasons for doing so. The CMA has initiated SMS investigations into general search and search advertising services and mobile ecosystems on 14 and 23 January 2025 respectively. We expect any further investigations to also focus on digital activities that have recently been the subject of market studies and investigations. Businesses that interact with SMS firms and those with the potential to be designated in the future should pay close attention to how the new regulatory regime unfolds in practice.
<p>2. Imposition of conduct requirements for SMS firms</p> <p>Ex-ante conduct requirements to manage the effects of market power in relation to the designated digital activities of each SMS firm – requiring or restricting the SMS firm from carrying out certain activities.</p>	<ul style="list-style-type: none"> The CMA will have the power to impose '<i>conduct requirements</i>' on SMS firms which govern how those companies interact with consumers and other businesses in relation to the activities for which they have been designated. A consultation on conduct requirements may be conducted alongside an SMS investigation. The CMA is only able to impose conduct requirements which are '<i>proportionate</i>' for the purpose of achieving fair dealing, open choices or trust and transparency. Conduct requirements could impact business relationships between SMS and non-SMS firms. There are certain grounds where an exemption could apply for breaches of conduct requirements, namely where the benefits outweigh the negative effects. A conduct investigation can be launched if the conduct required is breached at the time of imposition. The CMA must conclude its investigation into a breach of conduct requirement within 6 months (extendable by 3 months).
<p>3. Pro-competition interventions (PCIs)</p> <p>The CMA will have the power to address perceived competition problems by making so-called '<i>pro-competition interventions</i>' where it considers doing so would '<i>remedy an adverse effect on competition</i>', and</p>	<ul style="list-style-type: none"> PCIs are potentially more far-reaching remedies intended to tackle the source of SMS firms' perceived market power. A PCI investigation can take up to 9 months (extendable by 3 months). Following a PCI

DMCCA provision	What this means in practice and what you need to look out for
which can result in a pro-competition order (PCO) or recommendation.	decision, the CMA has 4 months (extendable by 2 months) to issue either a pro-competition order or a recommendation.
4. High penalties for breaches of conduct requirements and PCOs The CMA will be able to enforce conduct requirements and pro-competition orders by imposing penalties on businesses for non-compliance.	<ul style="list-style-type: none"> • Fines of up to 10% of a company's global turnover. • Ability to impose penalties on senior managers and director disqualification orders for up to 15 years.
5. Merger reporting requirements. Additional mandatory and suspensory reporting requirement for SMS firms relating to any transactions meeting certain (low) thresholds.	<ul style="list-style-type: none"> • SMS firms must report a merger prior to it taking place, where it: <ul style="list-style-type: none"> – results in the SMS firm having 'qualifying status' in respect of shares or voting rights in a target that carries on activities in the UK or supplies goods or services to a person or persons in the UK; and – the value of all consideration provided by the designated firm for shares or voting rights in the UK-connected body corporate is at least £25m. • The CMA can take 5 working days to confirm whether a report is sufficient (or request further information). This is followed by a further 5 working day waiting period, after which the undertaking can proceed with the merger (if the CMA has taken no further action). • The '<i>qualifying status</i>' condition is met where the transaction results in the percentage of shares or voting rights that the designated firm holds passing through any one of the statutory thresholds: less than 15% to 15% or more; 25% or less to more than 25%; or 50% or less to more than 50%. • A similar notification requirement also applies to the formation of joint ventures that carry on business in the UK or supply goods and services to persons in the UK, where the total value of capital and assets and all other consideration provided by designated firms is at least £25m.
6. Appeals Merits standard for penalty decisions, but judicial review standard for other decisions.	<ul style="list-style-type: none"> • Penalties imposed by the CMA under the digital markets regime can be challenged on a full merits standard. • However, other decisions taken by the CMA (including an SMS designation or a decision to impose conduct requirements) will only be reviewable on judicial review grounds – in other words, any appeal will be limited to grounds of legality, rationality and procedural fairness.
7. Litigation Claimants to have power to bring private claims against SMS designated firms.	<ul style="list-style-type: none"> • Third parties will be able to bring civil claims against SMS-designated firms following any breach of a conduct requirement, PCO, or commitment. • These can be brought on a 'standalone' basis (i.e. absent any infringement decision from the CMA)

DMCCA provision	What this means in practice and what you need to look out for
	<p>or on a 'follow-on' basis (i.e. relying on a CMA infringement decision).</p> <ul style="list-style-type: none"> Given recent trends, it is possible claimants may look to deploy parallels between 'SMS' status and 'dominance' concepts to use the collective actions regime in the UK for breaches of DMU requirements.

Think broadly about compliance planning across the DMU and other regulatory regimes (such as the EU Digital Markets Act), including considering whether **commercial strategies can be future-proofed** by taking into account DMU requirements, and whether more personnel ought to be trained for DMU-specific requirements.

3. Consumer (in force from 6 April 2025)

Stronger CMA enforcement powers, investigative tools and penalties:

DMCCA provision	What this means in practice and what you need to look out for
1. Direct enforcement of consumer law <ul style="list-style-type: none">New power to establish consumer law breaches directly and to impose significant fines of up to 10% of global turnover without having to go to court.	<ul style="list-style-type: none">The CMA's consumer law enforcement powers will, for the first time, mirror its competition enforcement powers.This greatly strengthens the CMA's enforcement toolkit, as the current regime for the civil enforcement of consumer law under Part 8 Enterprise Act 2002 has been criticised as cumbersome, given it requires the CMA to go to court to get orders for redress in consumer cases.The passage of the Act is therefore likely to lead to a significant uptick in CMA consumer law enforcement.
2. Stronger investigative tools and tougher penalties <ul style="list-style-type: none">Enhanced information gathering and enforcement powers intended to enable investigations and remedies to be conducted more swiftly.The CMA can impose significant penalties in a wide range of scenarios:<ul style="list-style-type: none">fixed penalties of up to 1% of a business's annual turnover for: failing to comply with an information request or other investigative notice; for concealing, destroying, or falsifying evidence; or for providing false or misleading information to the CMA;daily penalty of up to 5% of daily turnover while any such non-compliance continues;higher civil penalties for companies that fail to comply with CMA orders or remedies/commitments accepted by the CMA of up to 5% of annual turnover, again with a daily penalty of 5% of daily turnover whilst non-compliance persists.	<ul style="list-style-type: none">We expect the CMA to use its enhanced powers and impose fines at the new, higher levels.Businesses need to ensure compliance with the CMA's information requests and other investigative notices – not doing so may be significantly more costly than under the current regime.CMA decisions to impose monetary penalties and to give directions will be subject to merits review by the High Court (in England, Wales and Northern Ireland) and the Outer House of the Court of Session (in Scotland).

Direct enforcement and higher penalties in line with competition law infringements brings **consumer law enforcement** to the **top of the CMA's agenda**.

Substantive consumer law reforms:

DMCCA provision	What this means in practice and what you need to look out for
1. General prohibition on 'unfair commercial practices' and list of automatically infringing conduct <ul style="list-style-type: none">As previously, the new regime contains broad, outcome-focused prohibitions on misleading and	<ul style="list-style-type: none">Businesses will need to be especially careful to ensure that they do not carry out any of the automatically prohibited practices (such as e.g., falsely stating that a product will only be available (at a particular price) for a limited time, or

DMCCA provision	What this means in practice and what you need to look out for
<p>aggressive practices towards consumers (such as the omission of information which consumers need in order to make informed decisions about entering into a contract) and bans commercial practices which contravene the 'requirements of professional diligence' (i.e., what a reasonable person should expect from a fair-dealing business)</p> <ul style="list-style-type: none"> The DMCCA also carries across the list of practices from the Consumer Protection from Unfair Trading Regulations (CPUT) which will always be deemed to be unfair and thus to breach the law. The Act supplements these with new practices, including in respect of fake reviews. 	<p>making persistent and unwanted solicitations by phone, email, messaging apps etc.) when dealing with UK consumers.</p> <ul style="list-style-type: none"> More generally, the combined effect of the core unfair trading offences (together with the removal of the transactional decision test – e.g., for hidden fees and drip pricing) comes close to creating a general 'fair dealing' obligation on all businesses which deal with UK consumers. There is likely to be some overlap here with the digital markets regime. For example, the CMA has previously expressed the view that websites or marketing practices which 'nudge' consumers to act in a way that is not really in their interests, or which put barriers in consumers' way to make it harder for them to e.g., exit a contract ('sludge') will breach the prohibition on acting contrary to the requirements of professional diligence.
<p>2. New requirements for subscription contracts (expected to enter into force in Spring 2026)</p> <ul style="list-style-type: none"> Clear requirements on the information that needs to be provided to consumers before they enter into a subscription contract. New requirements designed to ensure that it is as easy to exit a subscription as to sign up for it – e.g.: consumers must receive reminders before: (a) the expiry of free trials / introductory offers, and (b) the auto-renewal of contracts; consumers must be able to exit a subscription contract in an easy, cost-effective and timely manner. 	<ul style="list-style-type: none"> The CMA has long been concerned about auto-renewing subscription contracts. The changes in the DMCCA are broadly consistent with the Compliance Principles that the CMA published in October 2021 for the anti-virus software sector. All businesses that operate consumer subscription contracts will need to review existing terms and practices – this may require operational/design changes (e.g., in terms of providing reminders ahead of renewal and making it easy for consumers to cancel a subscription online) as well as just changes to Ts&Cs.
<p>3. Drip pricing</p> <ul style="list-style-type: none"> The DMCCA prohibits the use of headline prices which do not include fixed and variable mandatory fees that are added later in the purchase flow – i.e., drip pricing practices. In relation to drip pricing and other material information omitted from an invitation to purchase, the Act removes the need for an enforcer to show that a misleading omission caused or was likely to cause the average consumer to take a transactional decision they would not have taken otherwise. 	<ul style="list-style-type: none"> Given media coverage and statements by the Government in relation to so-called 'hidden fees' in recent months, we expect this type of behaviour to be near the top of the CMA's enforcement agenda. The removal of the 'transactional decision' requirement will make it easier for the CMA and other enforcers to establish breaches of these key consumer law obligations.
<p>4. Fake reviews</p> <ul style="list-style-type: none"> Certain commercial practices related to fake and misleading reviews and concealed incentivised content are automatically prohibited (i.e. considered unfair in all circumstances.) 	<ul style="list-style-type: none"> While the Government decided against the imposition of criminal liability for practices related to fake reviews, they are subject to civil liability. Traders are expected to take a number of steps to prevent fake reviews, which are likely to include processes/mechanisms for: (i) proactive detection; (ii) removing fake reviews; (iii) imposing sanctions for users and traders in response to fake reviews; (iv) assessing the risk

DMCCA provision	What this means in practice and what you need to look out for
	that fake reviews will appear on traders' websites; and (v) reporting suspicious activity and regular evaluations of the effectiveness of such system.
5. New rights of redress? <ul style="list-style-type: none"> Consumers can seek compensation in the courts where traders engage in misleading actions or aggressive practices towards them (but not misleading omissions) and such actions or practices are a significant factor in the consumer's decision to enter into a B2C contract or to make payment for the supply of a product. Heightened litigation risk for businesses can be expected as a corollary of the CMA's new powers and its enforcement of consumer law. 	<ul style="list-style-type: none"> The Government is continuing to consider evidence as to whether consumers should receive private rights of redress for other commercial practices (e.g., the automatically unfair practices in schedule 20) through civil court action. We are already seeing claims (including large collective actions) with consumer law elements being brought in the CAT as competition claims. High Court group litigation on consumer protection issues is also common. In an increasingly litigious environment with an ever more aggressive and well-funded claimant bar, we expect this trend to continue. More CMA enforcement is likely to fuel civil litigation against businesses found to have breached consumer law, with claimants drawing on arguments and evidence in enforcement decisions to support claims, absent a bespoke private damages regime as exists for competition claims.
6. Consumer saving schemes <ul style="list-style-type: none"> Consumers making advance payments to consumer saving scheme contracts (e.g., Christmas saving clubs) will enjoy additional protections. 	<ul style="list-style-type: none"> Businesses offering consumer saving scheme contracts will be required to protect payments via a trust arrangement or insurance and provide consumers with detailed information on how their payments are protected.
7. Online interface orders <ul style="list-style-type: none"> All public designated enforcers (i.e., not just the CMA) will be enabled to apply for online interface orders and interim online interface orders. 	<ul style="list-style-type: none"> By applying for (interim) online interface orders, all public designated enforcers will now be able to require a trader operating an online interface that infringes consumer law to remove or modify content; disable or restrict access to the online interface; display a warning to consumers; or delete a fully qualified domain name.
8. Alternative Dispute Resolution (ADR) <ul style="list-style-type: none"> ADR service providers for consumer contract disputes must be accredited or have an exemption, and the fees that ADR service providers can charge will be capped. 	<ul style="list-style-type: none"> Businesses will need to ensure that their ADR service provider/s for consumer disputes meet/s the new requirements.

Businesses should review the way they interact with UK consumers, both face to face and online – which could involve more fundamental changes than just adjusting terms and conditions.

What happens next?

The majority of the DMCCA is now in force. This significantly strengthens the CMA's powers to take action – have you prepared?

- Deal planning.** Make sure you know where your current and future deals stand based on the changes and build this into deal planning considerations.

- **Compliance.** Make sure that you are set up to comply and you are thinking broadly about compliance planning across regulatory regimes.
- **Personnel.** Consider whether more personnel ought be trained for DMCCA-specific requirements. Make sure deal teams are aware of the reporting requirements as well as supporting CMA guidance available to assist with assessments.

Please get in touch with your usual Freshfields contact if you want to be kept updated with further developments as the CMA starts to use its new powers.

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