



Digital Markets, Competition and Consumers Act 2024

2024 CHAPTER 13

PART 1

DIGITAL MARKETS

PROSPECTIVE

CHAPTER 1

OVERVIEW

1 Overview

- (1) [This Part](#)—
 - (a) confers functions on the CMA in relation to the regulation of competition in digital markets, and
 - (b) makes related provision.
- (2) [Chapter 2](#) makes provision about the designation of undertakings as having strategic market status in respect of a digital activity.
- (3) [Chapter 3](#) provides for the CMA to be able to impose conduct requirements on a designated undertaking.
- (4) [Chapter 4](#) provides for the CMA to take steps to promote competition where it considers that activities of a designated undertaking are having an adverse effect on competition.
- (5) [Chapter 5](#) makes provision about a duty to report certain possible mergers involving a designated undertaking.

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

- (6) [Chapter 6](#) makes provision about investigatory powers and compliance reports in relation to a designated undertaking.
- (7) [Chapter 7](#) makes provision about enforcement and appeals in relation to functions of the CMA under [this Part](#).
- (8) [Chapter 8](#) makes provision about administration and other matters in relation to functions of the CMA under [this Part](#).

Commencement Information

II S. 1 not in force at Royal Assent, see [s. 339\(1\)](#)

CHAPTER 2

STRATEGIC MARKET STATUS

Power to designate undertaking as having SMS

PROSPECTIVE

2 Designation of undertaking

- (1) The CMA may designate an undertaking as having strategic market status (“SMS”) in respect of a digital activity carried out by the undertaking where the CMA considers that—
 - (a) the digital activity is linked to the United Kingdom (see [section 4](#)), and
 - (b) the undertaking meets the SMS conditions in respect of the digital activity.
- (2) The SMS conditions are that the undertaking has—
 - (a) substantial and entrenched market power (see [section 5](#)), and
 - (b) a position of strategic significance (see [section 6](#)),
 in respect of the digital activity.
- (3) Subsection (1) is subject to [section 7](#) (the turnover condition).
- (4) The CMA may only designate an undertaking as having SMS in respect of a digital activity after carrying out an SMS investigation in accordance with this Chapter.

Commencement Information

I2 S. 2 not in force at Royal Assent, see [s. 339\(1\)](#)

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

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PROSPECTIVE

3 Digital activities

- (1) For the purposes of this Part, the following are “digital activities”—
 - (a) the provision of a service by means of the internet, whether for consideration or otherwise;
 - (b) the provision of one or more pieces of digital content, whether for consideration or otherwise;
 - (c) any other activity carried out for the purposes of an activity within paragraph (a) or (b).
- (2) For the purposes of this section, a service is provided by means of the internet even where it is provided by means of a combination of—
 - (a) the internet, and
 - (b) an electronic communications service (within the meaning given by section 32(2) of the Communications Act 2003).
- (3) The CMA may treat two or more activities within [subsection \(1\)](#) that are carried out by a single undertaking as a single digital activity where—
 - (a) the activities have substantially the same or similar purposes, or
 - (b) the activities can be carried out in combination with each other to fulfil a specific purpose.
- (4) In any notice or other document that the CMA is required to give or publish under or by virtue of this Part, the CMA may describe a digital activity by reference to the nature of the activity, brand names or both.

Commencement Information

I3 S. 3 not in force at Royal Assent, see [s. 339\(1\)](#)

PROSPECTIVE

4 Link to the United Kingdom

A digital activity is linked to the United Kingdom for the purposes of [section 2\(1\)\(a\)](#) if—

- (a) the digital activity has a significant number of UK users,
- (b) the undertaking that carries out the digital activity carries on business in the United Kingdom in relation to the digital activity, or
- (c) the digital activity or the way in which the undertaking carries on the digital activity is likely to have an immediate, substantial and foreseeable effect on trade in the United Kingdom.

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

Commencement Information

I4 S. 4 not in force at Royal Assent, see [s. 339\(1\)](#)

PROSPECTIVE

5 Substantial and entrenched market power

In order to assess whether an undertaking has substantial and entrenched market power in respect of a digital activity for the purposes of [section 2\(2\)\(a\)](#), the CMA must carry out a forward-looking assessment of a period of at least 5 years, taking into account developments that—

- (a) would be expected or foreseeable if the CMA did not designate the undertaking as having SMS in respect of the digital activity, and
- (b) may affect the undertaking's conduct in carrying out the digital activity.

Commencement Information

I5 S. 5 not in force at Royal Assent, see [s. 339\(1\)](#)

PROSPECTIVE

6 Position of strategic significance

An undertaking has a position of strategic significance in respect of a digital activity for the purposes of [section 2\(2\)\(b\)](#) where one or more of the following conditions is met—

- (a) the undertaking has achieved a position of significant size or scale in respect of the digital activity;
- (b) a significant number of other undertakings use the digital activity as carried out by the undertaking in carrying on their business;
- (c) the undertaking's position in respect of the digital activity would allow it to extend its market power to a range of other activities;
- (d) the undertaking's position in respect of the digital activity allows it to determine or substantially influence the ways in which other undertakings conduct themselves, in respect of the digital activity or otherwise.

Commencement Information

I6 S. 6 not in force at Royal Assent, see [s. 339\(1\)](#)

7 The turnover condition

- (1) The CMA may not designate an undertaking as having SMS in respect of a digital activity unless the turnover condition is met in relation to the undertaking.

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- (2) The turnover condition is met in relation to an undertaking if the CMA estimates that—
 - (a) the total value of the global turnover of an undertaking or, where the undertaking is part of a group, the global turnover of that group in the relevant period exceeds £25 billion, or
 - (b) the total value of the UK turnover of an undertaking or, where the undertaking is part of a group, the UK turnover of that group in the relevant period exceeds £1 billion.
- (3) The Secretary of State may by regulations amend either of the sums mentioned in [subsection \(2\)](#).
- (4) Regulations under [subsection \(3\)](#) are subject to the affirmative procedure.
- (5) The CMA must—
 - (a) keep under review the sums mentioned in [subsection \(2\)](#), and
 - (b) from time to time advise the Secretary of State as to whether the sums are still appropriate.
- (6) In this section—
 - (a) the “relevant period” means—
 - (i) the most recent period of 12 months (“period A”) in respect of which the CMA considers that it is able to make an estimate of the total value of the relevant turnover of the undertaking or group, or
 - (ii) if the CMA estimates that the relevant turnover of the undertaking or group in the period of 12 months ending immediately before period A was higher than the relevant turnover of the undertaking or group in period A, that earlier period of 12 months;
 - (b) the “relevant turnover” of the undertaking or group is the UK turnover or, as the case may be, global turnover of the undertaking or group.

Commencement Information

I7 S. 7 in force at Royal Assent for specified purposes, see [s. 339\(2\)\(c\)](#)

8 Turnover of an undertaking

- (1) [This section](#) applies for the purposes of the turnover condition.
- (2) The total value of the global turnover of an undertaking or group in the relevant period (as defined in [section 7\(6\)](#)) is, subject to regulations under [subsection \(4\)](#), the total value of the turnover of the undertaking or group arising in connection with any of its activities.
- (3) The total value of the UK turnover of an undertaking or group in the relevant period is, subject to regulations under [subsection \(4\)](#), the total value of the turnover of the undertaking or group—
 - (a) arising in connection with any of its activities, and
 - (b) relating to UK users or UK customers.
- (4) The Secretary of State may by regulations make provision about how the total value of the global turnover or UK turnover of an undertaking or group in a period is to be estimated for the purposes of the turnover condition.

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- (5) Regulations under [subsection \(4\)](#) may (among other things)—
- (a) make provision about amounts which are, or are not, to be regarded as comprising the turnover of an undertaking or group;
 - (b) confer on the CMA the power to determine matters specified in the regulations (including the matter mentioned in paragraph (a)).
- (6) Regulations under [subsection \(4\)](#) are subject to the negative procedure.

Commencement Information

18 S. 8 in force at Royal Assent for specified purposes, see [s. 339\(2\)\(c\)](#)

PROSPECTIVE

Procedure

9 Initial SMS investigations

- (1) The CMA may begin an initial SMS investigation where it has reasonable grounds to consider that it may be able to designate an undertaking as having SMS in respect of a digital activity in accordance with [section 2](#).
- (2) An “initial SMS investigation” is an investigation into whether to designate an undertaking as having SMS in respect of a digital activity where the undertaking is not already designated in respect of that activity (subject to [section 10\(4\)](#)).
- (3) The CMA may begin an initial SMS investigation into whether to designate an undertaking as having SMS in respect of a digital activity even if it has previously made a decision not to designate the undertaking as having SMS in respect of that activity.

Commencement Information

19 S. 9 not in force at Royal Assent, see [s. 339\(1\)](#)

10 Further SMS investigations

- (1) The CMA may begin a further SMS investigation in relation to the designation of a designated undertaking in respect of a relevant digital activity at any time during the designation period (see [section 18](#)) relating to that designation.
- (2) The CMA must begin a further SMS investigation in relation to the designation of a designated undertaking in respect of a relevant digital activity not later than 9 months before the end of the designation period relating to that designation, if it is not already carrying one out at that time under subsection (1).
- (3) A “further SMS investigation” is an investigation into whether—
 - (a) to revoke a designated undertaking’s designation in respect of the relevant digital activity or to designate the undertaking again in respect of that activity, and

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(b) to make provision under [section 17](#) (existing obligations).

- (4) A further SMS investigation may also include an investigation into whether to designate the designated undertaking in respect of a digital activity that the CMA considers to be similar or connected to the relevant digital activity (whether instead of, or in addition to, the relevant digital activity).

Commencement Information

I10 S. 10 not in force at Royal Assent, see [s. 339\(1\)](#)

11 Procedure relating to SMS investigations

- (1) When the CMA begins an SMS investigation it must give the undertaking to which the investigation relates a notice (an “SMS investigation notice”).
- (2) The SMS investigation notice must state—
- (a) in the case of an initial SMS investigation—
 - (i) the reasonable grounds mentioned in [section 9\(1\)](#);
 - (ii) that the CMA may close the investigation in accordance with [section 12](#);
 - (b) the purpose and scope of the SMS investigation;
 - (c) the period by the end of which the CMA must give the undertaking a notice setting out its decisions as a result of the investigation (see [section 14\(2\)](#));
 - (d) the circumstances in which that period may be extended (see [section 104](#)).
- (3) The statement of the purpose and scope of the investigation must include a description of the undertaking and digital activities to which the investigation relates.
- (4) The CMA must give the undertaking one or more revised versions of the SMS investigation notice if it changes its view of the purpose and scope of the investigation.
- (5) As soon as reasonably practicable after giving an SMS investigation notice or a revised version of an SMS investigation notice, the CMA must—
- (a) publish the notice, and
 - (b) give a copy of the notice to the FCA, OFCOM, the Information Commissioner, the Bank of England and the PRA.

Commencement Information

I11 S. 11 not in force at Royal Assent, see [s. 339\(1\)](#)

12 Closing an initial SMS investigation without a decision

- (1) The CMA may close an initial SMS investigation at any time before it has reached a final view on the matters mentioned in paragraphs (a) and (b) of [section 2\(1\)](#).
- (2) When the CMA decides to close an initial SMS investigation, the CMA must give the undertaking to which the investigation related a notice to that effect.
- (3) The notice must include the CMA’s reasons for closing the investigation.

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- (4) As soon as reasonably practicable after giving a notice under subsection (2), the CMA must publish the notice.

Commencement Information

I12 S. 12 not in force at Royal Assent, see [s. 339\(1\)](#)

13 Consultation on proposed decision

- (1) The CMA must—
- carry out a public consultation on any decision that it is considering making as a result of an SMS investigation (see [section 14\(1\)](#)), and
 - bring the public consultation to the attention of such persons as it considers appropriate.
- (2) Consultation under subsection (1) may be carried out at the same time as consultation under [section 24\(1\)](#) (consultation in relation to a conduct requirement).

Commencement Information

I13 S. 13 not in force at Royal Assent, see [s. 339\(1\)](#)

14 Outcome of SMS investigations

- (1) The CMA must—
- in the case of an initial SMS investigation which it does not close under [section 12](#), decide whether to designate the undertaking to which the investigation relates as having SMS in respect of a digital activity to which the investigation relates;
 - in the case of a further SMS investigation, make a decision on the matters mentioned in [section 10\(3\)](#) and, where relevant, [section 10\(4\)](#).
- (2) The CMA must give the undertaking a notice (an “SMS decision notice”) setting out its decisions under subsection (1) on or before the last day of the period (the “SMS investigation period”) of 9 months beginning with the day on which the SMS investigation notice is given.
- (3) The giving of a revised version of an SMS investigation notice under [section 11\(4\)](#) does not change the day on which the SMS investigation period begins.
- (4) [Sections 15](#) and [16](#) make provision about the content of an SMS decision notice.
- (5) As soon as reasonably practicable after giving an SMS decision notice, the CMA must publish the notice.
- (6) If the CMA does not give an SMS decision notice on or before the last day of the SMS investigation period, the CMA and the undertaking to which the investigation related are to be treated as if—
- in the case of an initial SMS investigation, the CMA had given the undertaking an SMS decision notice stating that it had decided not to designate the

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undertaking in respect of any digital activity to which the investigation related, and

- (b) in the case of a further SMS investigation, the CMA had given an SMS decision notice stating that it had decided to revoke the designated undertaking's designation in respect of the relevant digital activity with effect from the end of the SMS investigation period.

Commencement Information

I14 S. 14 not in force at Royal Assent, see [s. 339\(1\)](#)

15 Notice requirements: decisions about whether to designate

- (1) Where the CMA decides as a result of an initial SMS investigation not to designate the undertaking to which the investigation relates as having SMS in respect of a digital activity to which the investigation relates, the SMS decision notice must include the CMA's reasons for its decision.
- (2) [Subsections \(3\) to \(6\)](#) apply where the CMA decides to designate an undertaking as having SMS in respect of a digital activity (whether or not that undertaking is already a designated undertaking).
- (3) The SMS decision notice must include—
- a description of the designated undertaking,
 - a description of the digital activity with respect to which the designation has effect,
 - any provision that the CMA has decided to make in reliance on [section 17](#) (existing obligations),
 - the CMA's reasons for its decisions under [section 14\(1\)](#),
 - a statement of the period (the “designation period”) for which the designation has effect (see [section 18](#)),
 - a statement of the circumstances in which the designation period may be extended (see [section 104](#)), and
 - a statement of the circumstances in which the designation may be revoked before the end of the designation period (see [sections 10](#) and [14\(1\)\(b\)](#)).
- (4) The CMA may give one or more revised versions of an SMS decision notice if it changes its view of—
- the undertaking, or
 - the digital activity,
- provided that the undertaking or digital activity, as the case may be, remains substantially the same.
- (5) The giving of a revised SMS decision notice providing for the designation of an undertaking does not affect—
- the day on which the designation period in relation to that designation begins, or
 - anything done under this Part in relation to that undertaking.
- (6) As soon as reasonably practicable after giving a revised SMS decision notice, the CMA must publish the revised notice.

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Commencement Information

I15 S. 15 not in force at Royal Assent, see [s. 339\(1\)](#)

16 Notice requirements: decisions to revoke a designation

- (1) [This section](#) applies where the CMA decides, as a result of a further SMS investigation, to revoke the existing designation of a designated undertaking in respect of a digital activity without making a further designation in respect of that digital activity under [section 14\(1\)\(b\)](#).
- (2) The SMS decision notice must provide for the revocation of the existing designation—
 - (a) to have effect at the end of the day on which the notice is given, or
 - (b) to have effect from such earlier time as the CMA may specify in the notice.
- (3) The SMS decision notice must include—
 - (a) any provision that the CMA has decided to make in reliance on [section 17](#) (existing obligations);
 - (b) the CMA’s reasons for its decisions under [section 14\(1\)\(b\)](#).

Commencement Information

I16 S. 16 not in force at Royal Assent, see [s. 339\(1\)](#)

17 Existing obligations

- (1) Where the CMA decides, as a result of a further SMS investigation, to revoke a designated undertaking’s designation in respect of a relevant digital activity, the CMA may make transitional, transitory or saving provision in respect of any existing obligation.
- (2) Provision may be made in reliance on [subsection \(1\)](#) only for the purpose of managing the impact of the revocation—
 - (a) on any person who benefited from the existing obligation, and
 - (b) in a way that appears to the CMA to be fair and reasonable.
- (3) In [Chapters 6](#) (investigatory powers and compliance reports) and [7](#) (enforcement and appeals), references to a “designated undertaking” are to be read as including an undertaking to which an existing obligation applies by virtue of provision made in reliance on [subsection \(1\)](#).
- (4) [Subsection \(5\)](#) applies where the CMA decides, as a result of a further SMS investigation, to—
 - (a) designate an undertaking again in respect of a relevant digital activity, or
 - (b) designate an undertaking in respect of a different digital activity in reliance on [section 10\(4\)](#).
- (5) Where this subsection applies, the CMA may—
 - (a) apply any existing obligation, with or without modification, to the designated undertaking in respect of the new designation;

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(b) make transitional, transitory or saving provision in respect of any existing obligation.

(6) For the purposes of this section, an “existing obligation” is any—

- (a) conduct requirement (see [section 19](#)),
- (b) enforcement order (see [section 31](#)),
- (c) commitment (see [sections 36 and 56](#));
- (d) final offer order (see [section 41\(2\)](#)), or
- (e) pro-competition order (see [section 46\(3\)\(a\)](#)),

that is in force in relation to a designated undertaking in respect of the relevant digital activity before the revocation mentioned in [subsection \(1\)](#) or, as the case may be, the designation mentioned in [subsection \(4\)](#).

(7) Provision made in reliance on this section is to be included in an SMS decision notice.

Commencement Information

I17 S. 17 not in force at Royal Assent, see [s. 339\(1\)](#)

18 Designation period

(1) Where the CMA decides to designate an undertaking as having SMS in respect of a digital activity, the designation period is 5 years beginning with the day after the day on which the SMS decision notice is given.

(2) See—

- (a) [section 104](#) for circumstances in which the designation period may be extended, and
- (b) [sections 10 and 14\(1\)\(b\)](#) for circumstances in which a designation may be revoked before the end of the designation period.

Commencement Information

I18 S. 18 not in force at Royal Assent, see [s. 339\(1\)](#)

CHAPTER 3

CONDUCT REQUIREMENTS

Imposition of conduct requirements

PROSPECTIVE

19 Power to impose conduct requirements

(1) The CMA may impose one or more conduct requirements on a designated undertaking by giving the undertaking a notice containing the information set out in [section 21](#).

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

- (2) The CMA may vary a conduct requirement imposed on a designated undertaking by giving the undertaking a revised version of that notice.
- (3) “Conduct requirements” are requirements as to how the designated undertaking must conduct itself in relation to a relevant digital activity, and references in this Part to imposing conduct requirements include references to varying conduct requirements in reliance on [subsection \(2\)](#).
- (4) As soon as reasonably practicable after giving a notice under [subsection \(1\)](#) or [\(2\)](#), the CMA must publish the notice.
- (5) The CMA may only impose a conduct requirement or a combination of conduct requirements on a designated undertaking if it considers that it would be proportionate to do so for the purposes of one or more of the following objectives—
 - (a) the fair dealing objective,
 - (b) the open choices objective, and
 - (c) the trust and transparency objective,having regard to what the conduct requirement or combination of conduct requirements is intended to achieve.
- (6) The fair dealing objective is that users or potential users of the relevant digital activity are—
 - (a) treated fairly, and
 - (b) able to interact, whether directly or indirectly, with the undertaking on reasonable terms.
- (7) The open choices objective is that users or potential users of the relevant digital activity are able to choose freely and easily between the services or digital content provided by the undertaking and services or digital content provided by other undertakings.
- (8) The trust and transparency objective is that users or potential users of the relevant digital activity have the information they require to enable them to—
 - (a) understand the services or digital content provided by the undertaking through the relevant digital activity, including the terms on which they are provided, and
 - (b) make properly informed decisions about whether and how they interact with the undertaking in respect of the relevant digital activity.
- (9) A conduct requirement must be of a permitted type (see [section 20](#)).
- (10) Before imposing a conduct requirement or a combination of conduct requirements on a designated undertaking, the CMA must have regard in particular to the benefits for consumers that the CMA considers would likely result (directly or indirectly) from the conduct requirement or combination of conduct requirements.
- (11) A conduct requirement—
 - (a) comes into force at a time determined by the CMA, and
 - (b) ceases to have effect—
 - (i) in accordance with a decision of the CMA to revoke the requirement (see [section 22](#)), or
 - (ii) subject to provision made in reliance on [section 17](#) (existing obligations), when the designation to which the requirement relates ceases to have effect.

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Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

Commencement Information

119 S. 19 not in force at Royal Assent, see [s. 339\(1\)](#)

20 Permitted types of conduct requirement

- (1) Conduct requirements are of a permitted type if they are within subsection (2) or (3).
- (2) Requirements are within this subsection if they are for the purpose of obliging a designated undertaking to—
 - (a) trade on fair and reasonable terms;
 - (b) have effective processes for handling complaints by and disputes with users or potential users;
 - (c) provide clear, relevant, accurate and accessible information about the relevant digital activity to users or potential users;
 - (d) give explanations, and a reasonable period of notice, to users or potential users of the relevant digital activity, before making changes in relation to the relevant digital activity where those changes are likely to have a material impact on the users or potential users;
 - (e) present to users or potential users any options or default settings in relation to the relevant digital activity in a way that allows those users or potential users to make informed and effective decisions in their own best interests about those options or settings.
- (3) Requirements are within this subsection if they are for the purpose of preventing a designated undertaking from—
 - (a) applying discriminatory terms, conditions or policies to certain users or potential users or certain descriptions of users or potential users;
 - (b) using its position in relation to the relevant digital activity, including its access to data relating to that activity, to treat its own products more favourably than those of other undertakings;
 - (c) carrying on activities other than the relevant digital activity in a way that is likely to materially increase the undertaking's market power, or materially strengthen its position of strategic significance, in relation to the relevant digital activity;
 - (d) requiring or incentivising users or potential users of one of the designated undertaking's products to use one or more of the undertaking's other products alongside services or digital content the provision of which is, or is comprised in, the relevant digital activity;
 - (e) restricting interoperability between the relevant service or digital content and products offered by other undertakings;
 - (f) restricting whether or how users or potential users can use the relevant digital activity;
 - (g) using data unfairly;
 - (h) restricting the ability of users or potential users to use products of other undertakings.
- (4) The Secretary of State may by regulations amend this section so as to modify the permitted types of requirement.
- (5) Regulations under [subsection \(4\)](#) are subject to the affirmative procedure.

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Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

Commencement Information

I20 S. 20 in force at Royal Assent for specified purposes, see [s. 339\(2\)\(c\)](#)

PROSPECTIVE

21 Content of notice imposing a conduct requirement

A notice under section [19\(1\)](#) or [\(2\)](#) must include, in relation to each conduct requirement or, as the case may be, each conduct requirement as varied, a statement of—

- (a) the conduct requirement and the relevant digital activity to which it relates;
- (b) the CMA’s reasons for imposing the conduct requirement, including—
 - (i) the objective for the purposes of which the CMA considers it is proportionate to impose the conduct requirement (see [section 19\(5\)](#)),
 - (ii) the benefits that the CMA considers would likely result from the conduct requirement (see [section 19\(10\)](#)), and
 - (iii) the permitted type of requirement to which the CMA considers the conduct requirement belongs (see [section 20](#));
- (c) when the conduct requirement comes into force;
- (d) the last day of the designation period for the designation to which the conduct requirement relates;
- (e) how the conduct requirement interacts with any other conduct requirement that has been imposed on the undertaking.

Commencement Information

I21 S. 21 not in force at Royal Assent, see [s. 339\(1\)](#)

PROSPECTIVE

22 Revocation of conduct requirements

- (1) The CMA may revoke a conduct requirement with effect from such time as the CMA may determine.
- (2) Where the CMA decides to revoke a conduct requirement it must give the designated undertaking to which the requirement relates a notice specifying when the revocation is to have effect.
- (3) As soon as reasonably practicable after giving the notice, the CMA must publish the notice.

Commencement Information

I22 S. 22 not in force at Royal Assent, see [s. 339\(1\)](#)

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

PROSPECTIVE

23 Transitional provision relating to conduct requirements etc

- (1) A notice under [section 19\(1\)](#) or [\(2\)](#) (content of notice imposing a conduct requirement), or under [section 22\(2\)](#) (revocation of conduct requirements), may include transitional, transitory or saving provision.
- (2) The fact that a conduct requirement ceases to have effect does not affect the exercise of any digital markets functions in relation to a breach or possible breach of that requirement.

Commencement Information

I23 S. 23 not in force at Royal Assent, see [s. 339\(1\)](#)

PROSPECTIVE

24 Consultation in relation to a conduct requirement

- (1) Before imposing a conduct requirement on a designated undertaking, the CMA must—
 - (a) carry out a public consultation on the conduct requirement which it proposes to impose, and
 - (b) bring the public consultation to the attention of such persons as it considers appropriate.
- (2) For the purposes of the consultation, the CMA must publish—
 - (a) the conduct requirement which the CMA proposes to impose, or a description of that requirement, and
 - (b) a statement of the permitted type of requirement to which the CMA considers the proposed conduct requirement belongs.
- (3) Consultation under subsection [\(1\)](#) may be carried out at the same time as consultation under [section 13](#) (consultation on proposed decision).
- (4) Before revoking a conduct requirement, the CMA must—
 - (a) carry out a public consultation on the proposed revocation, and
 - (b) bring the public consultation to the attention of such persons as it considers appropriate.

Commencement Information

I24 S. 24 not in force at Royal Assent, see [s. 339\(1\)](#)

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

PROSPECTIVE

25 Duty to keep conduct requirements under review

The CMA must keep under review, in relation to a designated undertaking—

- (a) whether to impose, vary or revoke a conduct requirement;
- (b) the extent to which it is complying with each conduct requirement to which it is subject;
- (c) the effectiveness of each conduct requirement to which it is subject;
- (d) whether to take action in accordance with [sections 26 to 35](#) (enforcement of conduct requirements) or [Chapter 7](#) (enforcement and appeals) in respect of any breaches or suspected breaches of a conduct requirement.

Commencement Information

I25 S. 25 not in force at Royal Assent, see [s. 339\(1\)](#)

PROSPECTIVE

*Enforcement of conduct requirements***26 Power to begin a conduct investigation**

- (1) The CMA may begin an investigation (a “conduct investigation”) where it has reasonable grounds to suspect that an undertaking has breached a conduct requirement.
- (2) A conduct investigation is an investigation into—
 - (a) whether a breach has occurred, and
 - (b) if it has, what action, if any, the CMA should take in relation to the breach.
- (3) When the CMA begins a conduct investigation it must give a notice (a “conduct investigation notice”) to the undertaking which it suspects has breached a conduct requirement.
- (4) The conduct investigation notice must—
 - (a) state the conduct requirement which the CMA suspects has been breached;
 - (b) describe the conduct which the CMA suspects constituted the breach;
 - (c) state the period within which the undertaking may make representations in relation to the conduct investigation (see subsection (5));
 - (d) state the period by the end of which the CMA must give a notice to the undertaking setting out its findings as a result of the conduct investigation (see [section 30\(2\)](#));
 - (e) state the circumstances in which that period may be extended (see [section 104](#));
 - (f) state the effect of the following provisions—
 - (i) [section 28](#) (closing a conduct investigation without making a finding);
 - (ii) [section 30](#) (notice of findings);

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Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

(iii) [section 36](#) (commitments).

- (5) The period mentioned in [subsection \(4\)\(c\)](#) is such period as the CMA may determine.
- (6) As soon as reasonably practicable after giving a conduct investigation notice, the CMA must publish the conduct investigation notice.

Commencement Information

I26 S. 26 not in force at Royal Assent, see [s. 339\(1\)](#)

27 Consideration of representations

Before making a finding that an undertaking to which a conduct investigation relates has breached or is breaching a conduct requirement, the CMA must consider any representations that the undertaking makes in relation to the conduct investigation.

Commencement Information

I27 S. 27 not in force at Royal Assent, see [s. 339\(1\)](#)

28 Closing a conduct investigation without making a finding

- (1) The CMA may close a conduct investigation at any time without making a finding as to whether or not a breach of a conduct requirement has occurred.
- (2) When the CMA decides to close a conduct investigation, the CMA must give the undertaking to which the investigation related a notice to that effect.
- (3) The notice must—
 - (a) describe the undertaking in respect of which the CMA began the investigation,
 - (b) state the conduct requirement to which the investigation related, and
 - (c) include the CMA's reasons for closing the investigation.
- (4) As soon as reasonably practicable after giving a notice under subsection (2), the CMA must publish the notice.

Commencement Information

I28 S. 28 not in force at Royal Assent, see [s. 339\(1\)](#)

29 Countervailing benefits exemption

- (1) The CMA must close a conduct investigation under [section 28](#) where representations made by the undertaking to which the investigation relates lead the CMA to consider that the countervailing benefits exemption applies.
- (2) The countervailing benefits exemption applies where—
 - (a) the conduct to which the investigation relates gives rise to benefits to users or potential users of the digital activity in respect of which the conduct requirement in question applies,

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

- (b) those benefits outweigh any actual or likely detrimental impact on competition resulting from a breach of the conduct requirement,
 - (c) those benefits could not be realised without the conduct,
 - (d) the conduct is proportionate to the realisation of those benefits, and
 - (e) the conduct does not eliminate or prevent effective competition.
- (3) Where the CMA closes a conduct investigation as a result of [subsection \(1\)](#), the undertaking to which the decision relates is to be treated as if the CMA had found that the conduct did not constitute a breach of the conduct requirement.

Commencement Information

I29 S. 29 not in force at Royal Assent, see [s. 339\(1\)](#)

30 Notice of findings

- (1) The CMA must give a notice to the undertaking to which a conduct investigation relates setting out its findings as a result of the conduct investigation (subject to [subsection \(5\)](#)).
- (2) The notice must be given on or before the last day of the period (the “conduct investigation period”) of 6 months beginning with the day on which the conduct investigation notice is given to the undertaking.
- (3) The notice must—
- (a) state whether or not the CMA has found that a breach has occurred, and
 - (b) include reasons for the CMA’s findings.
- (4) As soon as reasonably practicable after giving the notice, the CMA must publish the notice.
- (5) [Subsection \(1\)](#) does not apply—
- (a) where the CMA closes the conduct investigation under [section 28](#), or
 - (b) in relation to any behaviour in respect of which the CMA has accepted a commitment from the undertaking (see [section 36](#)).

Commencement Information

I30 S. 30 not in force at Royal Assent, see [s. 339\(1\)](#)

31 Enforcement orders

- (1) Where the CMA finds, as a result of a conduct investigation, that an undertaking has breached a conduct requirement, it may make an order (an “enforcement order”) imposing on the undertaking such obligations as the CMA considers appropriate for one or more of the following purposes—
- (a) in a case where the breach is ongoing, stopping the breach;
 - (b) preventing the breach from happening again;
 - (c) addressing any damage caused by the breach.
- (2) The CMA may vary an enforcement order by making a revised version of that order.

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

- (3) An enforcement order may include transitional, transitory or saving provision.
- (4) An enforcement order must—
 - (a) specify the breach to which it relates;
 - (b) include the CMA’s reasons for imposing the obligations in the order.
- (5) The CMA may consult such persons as the CMA considers appropriate before making an enforcement order (including a revised version of an order).
- (6) Where the CMA decides to make an enforcement order (other than an interim enforcement order under section 32), it must do so as soon as reasonably practicable after giving the undertaking a notice of its findings under section 30(1).
- (7) As soon as reasonably practicable after making an enforcement order (including a revised version of an order), the CMA must publish the order.
- (8) The CMA may consent to an undertaking acting in a way that would otherwise constitute a breach of an enforcement order.

Commencement Information

I31 S. 31 not in force at Royal Assent, see [s. 339\(1\)](#)

32 Interim enforcement orders

- (1) The CMA may make an enforcement order on an interim basis (an “interim enforcement order”) in relation to a suspected breach of a conduct requirement where—
 - (a) the CMA has begun a conduct investigation in relation to the suspected breach, and
 - (b) the CMA considers that it is necessary to act on an interim basis—
 - (i) to prevent significant damage to a particular person or category of person,
 - (ii) to prevent conduct which could reduce the effectiveness of any other steps the CMA might take in relation to the conduct requirement which it suspects the undertaking has breached or is breaching, or
 - (iii) to protect the public interest.
- (2) An interim enforcement order must specify the suspected breach to which it relates.
- (3) Before making an interim enforcement order, the CMA must give the undertaking to which it would relate an opportunity to make representations to it about the order which it proposes to make.
- (4) But the duty in subsection (3) does not apply where the CMA considers that compliance would substantially reduce the effectiveness of the order.
- (5) Where the CMA makes an interim enforcement order in relation to an undertaking without complying with subsection (3), the CMA must, as soon as reasonably practicable, give the undertaking a notice including—
 - (a) the reasons for the CMA’s decision to make the interim enforcement order without complying with subsection (3), and

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Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

- (b) the period within which the undertaking may make representations in relation to the interim enforcement order (see [subsection \(7\)](#)).
- (6) As soon as reasonably practicable after giving a notice under [subsection \(5\)](#), the CMA must publish the notice.
- (7) The period mentioned in [subsection \(5\)\(b\)](#) is such period as the CMA may determine.
- (8) The CMA must consider representations which it receives following a notice under [subsection \(5\)](#) as soon as reasonably practicable.

Commencement Information

I32 S. 32 not in force at Royal Assent, see [s. 339\(1\)](#)

33 Duration of enforcement orders

- (1) An enforcement order (including a revised version of an order) comes into force at such time as the CMA may specify in the order.
- (2) An interim enforcement order ceases to have effect—
 - (a) when revoked under [section 34](#),
 - (b) subject to provision made in reliance on [section 17](#) (existing obligations), when the designation to which it relates ceases to have effect, or
 - (c) when one of the following events occurs in relation to the suspected breach to which the order relates—
 - (i) the CMA gives the undertaking a notice stating that the CMA has found that no breach has occurred (see [section 30](#));
 - (ii) the CMA accepts a commitment from the undertaking (see [section 36](#));
 - (iii) the CMA makes an enforcement order (see [section 31\(1\)](#));
 - (iv) the CMA notifies the undertaking that it has decided not to make an enforcement order that is not an interim enforcement order.
- (3) An enforcement order other than an interim enforcement order ceases to have effect—
 - (a) when revoked under [section 34](#), or
 - (b) subject to provision made in reliance on [section 17](#) (existing obligations), when the designation to which it relates ceases to have effect.
- (4) The fact that an enforcement order ceases to have effect does not affect the exercise of any functions in relation to a breach or possible breach of that order.

Commencement Information

I33 S. 33 not in force at Royal Assent, see [s. 339\(1\)](#)

34 Revocation of enforcement orders

- (1) The CMA may revoke an enforcement order by giving a notice to that effect to the undertaking to which the order applies.

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

- (2) The notice must include the reasons for the CMA’s decision to revoke the enforcement order.
- (3) The notice may include transitional, transitory or saving provision in relation to the revocation of the enforcement order.
- (4) As soon as reasonably practicable after revoking an enforcement order, the CMA must publish the notice.
- (5) The CMA may consult such persons as the CMA considers appropriate on any proposal to revoke an enforcement order.

Commencement Information

I34 S. 34 not in force at Royal Assent, see [s. 339\(1\)](#)

35 Duty to keep enforcement orders under review

The CMA must keep under review—

- (a) the extent to which an undertaking to which it has given an enforcement order is complying with that order,
- (b) the effectiveness of an enforcement order,
- (c) whether to vary or revoke an enforcement order,
- (d) where an enforcement order is revoked, whether to make a new enforcement order, and
- (e) whether to take action in accordance with [Chapter 7](#) (enforcement and appeals) in respect of an undertaking which does not comply with an enforcement order.

Commencement Information

I35 S. 35 not in force at Royal Assent, see [s. 339\(1\)](#)

PROSPECTIVE

Commitments relating to conduct requirements

36 Commitments

- (1) The CMA may accept an appropriate commitment from an undertaking subject to a conduct investigation as to its behaviour in respect of a conduct requirement to which the investigation relates.
- (2) A commitment is appropriate where the CMA considers that compliance with the commitment by the undertaking would mean that it would not be necessary to carry out a conduct investigation so far as relating to the behaviour to which the commitment relates.

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

- (3) Following the acceptance of a commitment by the CMA as to the behaviour of an undertaking—
- (a) the undertaking that gave the commitment must comply with it at all times when it is in force, and
 - (b) so far as relating to the behaviour, the CMA may not give a notice to the undertaking under [section 30](#) (notice of findings).
- (4) The acceptance of a commitment does not prevent—
- (a) a conduct investigation from continuing so far as it relates to other behaviour in relation to the same or a different conduct requirement, or
 - (b) the CMA beginning a new conduct investigation in relation to the behaviour to which the commitment relates where—
 - (i) it has reasonable grounds to believe that there has been a material change of circumstances since the commitment was accepted,
 - (ii) it has reasonable grounds to suspect that the undertaking has not complied with one or more of the terms of the commitment, or
 - (iii) it has reasonable grounds to suspect that information which led it to accept the commitment was incomplete, false or misleading in a material particular.
- (5) A commitment under [this section](#) comes into force when a notice of its acceptance is published by the CMA.
- (6) A commitment under this section ceases to have effect—
- (a) subject to provision made in reliance on [section 17](#) (existing obligations)—
 - (i) in accordance with any terms of the commitment about when it is to cease to have effect, or
 - (ii) when the conduct requirement to which the commitment relates ceases to have effect, or
 - (b) when the undertaking is released from the requirement to comply with the commitment.
- (7) The CMA may by notice accept a variation to a commitment from time to time provided the commitment as varied would still be appropriate.
- (8) The CMA may release an undertaking from the requirement to comply with a commitment where it considers that it would be appropriate to do so.
- (9) The fact that a commitment ceases to have effect does not affect the exercise of any functions in relation to a breach or possible breach of that commitment.
- (10) [Schedule 1](#) makes provision about—
- (a) accepting, or accepting a variation of, a commitment, and
 - (b) releasing an undertaking from the requirement to comply with a commitment, for the purposes of this Chapter and [Chapter 4](#) (pro-competition orders).

Commencement Information

I36 S. 36 not in force at Royal Assent, see [s. 339\(1\)](#)

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

37 Duty to keep commitments under review

The CMA must keep under review—

- (a) the appropriateness of a commitment or releasing an undertaking from a commitment,
- (b) the extent to which an undertaking which has given a commitment is complying with it, and
- (c) the appropriateness of taking further action in accordance with [Chapter 7](#) (enforcement and appeals) in respect of an undertaking which does not comply with a commitment which it has given.

Commencement Information

I37 S. 37 not in force at Royal Assent, see [s. 339\(1\)](#)

Final offer mechanism

PROSPECTIVE

38 Power to adopt final offer mechanism

- (1) Where the CMA considers that the following three conditions are met in relation to a transaction between a designated undertaking and a third party, the CMA may—
 - (a) require the undertaking, and
 - (b) invite the third party,
 to submit to the CMA terms as to payment (“final offer payment terms”) which the undertaking or, as the case may be, the third party regards as fair and reasonable for the transaction.
- (2) The first condition is that the transaction is a transaction in which the designated undertaking would—
 - (a) provide goods or services to the third party, or
 - (b) acquire goods or services from, or use goods or services of, the third party.
- (3) The second condition is that, by failing to agree fair and reasonable terms as to payment for the transaction, the designated undertaking has breached an enforcement order, other than an interim enforcement order, made in relation to a breach of a conduct requirement of the type permitted by [section 20\(2\)\(a\)](#) (requirement to trade on fair and reasonable terms).
- (4) The third condition is that the CMA could not satisfactorily address the breach within a reasonable time frame by exercising any of its other digital markets functions.
- (5) In subsection (1), “transaction” means—
 - (a) a future transaction, or
 - (b) the future performance of an ongoing transaction, whether in accordance with a contract or otherwise.
- (6) In sections [39](#) to [44](#)—

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

“the designated undertaking” means the undertaking mentioned in [subsection \(1\)](#);

“the transaction” means the transaction mentioned in [subsection \(1\)](#);

“the third party” means the third party mentioned in [subsection \(1\)](#).

Commencement Information

I38 S. 38 not in force at Royal Assent, see [s. 339\(1\)](#)

PROSPECTIVE

39 Collective submissions

(1) Where the CMA considers that—

- (a) the conditions in section [38\(2\)](#), [\(3\)](#) and [\(4\)](#) are met in relation to a single transaction between the designated undertaking and two or more third parties, and
- (b) the third parties are capable of acting jointly in relation to final offer payment terms relating to the transaction,

the CMA may exercise the power in section [38\(1\)](#) to invite the third parties (the “joined third parties”) to make a single submission to the CMA of final offer payment terms that the joined third parties collectively regard as fair and reasonable for the transaction.

(2) Where the CMA proceeds in reliance on [subsection \(1\)](#), sections [40](#) to [44](#) apply as if—

- (a) in section [40\(8\)](#) references to “the third party” were to any one or more of the joined third parties;
- (b) all other references to “the third party” were to the joined third parties.

(3) Where the CMA considers that—

- (a) the conditions in section [38\(2\)](#), [\(3\)](#) and [\(4\)](#) are met in relation to two or more transactions between the designated undertaking and two or more third parties,
- (b) the same terms as to payment are capable of applying to the transactions, and
- (c) the third parties are capable of acting jointly in relation to final offer payment terms relating to the transactions,

the CMA may exercise the power in section [38\(1\)](#) to invite the third parties (the “grouped third parties”) to make a single submission to the CMA of final offer payment terms that the grouped third parties collectively regard as fair and reasonable for the transactions (the “grouped transactions”).

(4) Where the CMA proceeds in reliance on [subsection \(3\)](#), sections [40](#) to [44](#) apply as if—

- (a) in the following provisions, references to “the third party” were to any one or more of the grouped third parties—
 - (i) section [40\(8\)](#);
 - (ii) section [41\(2\)\(b\)](#);
 - (iii) section [42\(1\)\(b\)](#);
 - (iv) section [43\(2\)](#);
- (b) all other references to “the third party” were to the grouped third parties;

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

- (c) in section 43(1) and (2), the reference to “the transaction” were to any one or more of the grouped transactions;
- (d) all other references to “the transaction” were to the grouped transactions.

Commencement Information

I39 S. 39 not in force at Royal Assent, see s. 339(1)

PROSPECTIVE

40 Final offer mechanism

- (1) The power conferred by section 38(1) is to be exercised by giving a notice (a “final offer initiation notice”) to the designated undertaking and the third party.
- (2) The final offer initiation notice must—
 - (a) specify the designated undertaking, the third party and the digital activity in respect of which the power is being exercised;
 - (b) describe the breach of the enforcement order in relation to which the second condition in section 38 is met;
 - (c) summarise the transaction;
 - (d) specify a date (the “submission date”) on or before which final offer payment terms are to be submitted to the CMA;
 - (e) state the period by the end of which the CMA must make any final offer order (see section 41(3));
 - (f) state the circumstances in which that period may be extended (see section 104).
- (3) As soon as reasonably practicable after giving a final offer initiation notice, the CMA must publish a statement which—
 - (a) includes the information mentioned in subsection (2), and
 - (b) if the CMA is considering taking any other action relating to any underlying cause of the breach of the enforcement order, includes a summary of, and explanation for considering, that action.
- (4) After giving a final offer initiation notice, the CMA may—
 - (a) change its view of the transaction or the third party, provided that the new transaction or third party remains substantially the same as the previous transaction or third party,
 - (b) revise any list of joined third parties or grouped third parties, or
 - (c) change the submission date.
- (5) The powers conferred by subsection (4) are to be exercised by giving a revised version of the final offer initiation notice to the designated undertaking and the third party.
- (6) Where the power conferred by subsection (4)(b) is being exercised, the reference in subsection (5) to “the third party” includes each person that was a joined third party or a grouped third party prior to the exercise of the power or that is to be a joined third party or a grouped third party after the exercise of the power.

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

- (7) As soon as reasonably practicable after giving a revised version of a final offer initiation notice, the CMA must publish a statement summarising the contents of the revised notice.
- (8) To facilitate the submission of final offer payment terms, the CMA may (among other things)—
- (a) use an information notice to require that the designated undertaking or the third party give information to the CMA (see section 69);
 - (b) share information between the designated undertaking and the third party in accordance with section 241 of EA 2002 (statutory functions);
 - (c) specify the form or manner in which final offer payment terms must be submitted.

Commencement Information

I40 S. 40 not in force at Royal Assent, see [s. 339\(1\)](#)

41 Final offers: outcome

- (1) This section applies where—
- (a) the CMA has exercised its power under [section 38\(1\)](#), and
 - (b) either—
 - (i) the CMA has received final offer payment terms from both the designated undertaking and the third party, or
 - (ii) the CMA has received final offer payment terms from either the designated undertaking or the third party (but not both), and the submission date has passed.
- (2) The CMA must, unless [section 43\(1\)](#) applies, make an order (a “final offer order”) requiring that final offer payment terms it has received from the designated undertaking or the third party are to be given effect for the purposes of—
- (a) the transaction, and
 - (b) any transaction between the designated undertaking and the third party which is substantially the same as the transaction.
- (3) The CMA must comply with subsection (2) on or before the last day of the period (the “final offer period”) of 6 months beginning with the day on which the final offer initiation notice is given to the designated undertaking and the third party.
- (4) The Secretary of State may by regulations amend this section so as to modify the length of the final offer period.
- (5) Regulations under [subsection \(4\)](#) are subject to the affirmative procedure.

Commencement Information

I41 S. 41 in force at Royal Assent for specified purposes, see [s. 339\(2\)\(c\)](#)

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

PROSPECTIVE

42 Final offer orders: supplementary

- (1) A final offer order must impose on the designated undertaking such obligations as the CMA considers appropriate for the purpose of—
 - (a) securing compliance with the requirement imposed by virtue of [section 41\(2\)](#), and
 - (b) preventing the designated undertaking from making an agreement with the third party which conflicts with that requirement.
- (2) At the same time as making a final offer order, the CMA must give the designated undertaking and the third party a notice—
 - (a) summarising the transaction,
 - (b) including the reasons for the order, and
 - (c) enclosing a copy of the order.
- (3) As soon as reasonably practicable after making a final offer order, the CMA must publish a statement summarising the contents of the final offer order and the notice given under subsection (2).

Commencement Information

I42 S. 42 not in force at Royal Assent, see [s. 339\(1\)](#)

PROSPECTIVE

43 Decision not to make final offer order

- (1) The CMA may decide not to make a final offer order in relation to the transaction where it has reasonable grounds to believe that there has been a material change of circumstances since the final offer initiation notice was given.
- (2) For the purposes of [this section](#) and [section 44\(3\)](#) a material change of circumstances includes an agreement between the designated undertaking and the third party with respect to terms as to payment in relation to the transaction.
- (3) Where the CMA decides not to make a final offer order, it must give a notice to that effect to the designated undertaking and the third party.
- (4) The notice must include the reasonable grounds referred to in subsection (1).
- (5) As soon as reasonably practicable after giving a notice under subsection (3), the CMA must publish a statement summarising the contents of the notice.

Commencement Information

I43 S. 43 not in force at Royal Assent, see [s. 339\(1\)](#)

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

PROSPECTIVE

44 Duration and revocation of final offer orders

- (1) A final offer order comes into force at such time as the CMA may specify in the order.
- (2) A final offer order ceases to have effect—
 - (a) when revoked under this section, or
 - (b) subject to provision made in reliance on [section 17](#) (existing obligations), when the designation to which it relates ceases to have effect.
- (3) The CMA may revoke, or partially revoke, a final offer order where it has reasonable grounds to believe that there has been a material change of circumstances since the final offer order was made.
- (4) Where the CMA decides to revoke, or partially revoke, a final offer order, it must give a notice to that effect to the designated undertaking and the third party.
- (5) The notice must include the reasons for the CMA's decision.
- (6) The notice may include transitional, transitory or saving provision in relation to the revocation, or partial revocation, of the final offer order.
- (7) As soon as reasonably practicable after revoking, or partially revoking, a final offer order, the CMA must publish a statement summarising the contents of the notice revoking, or partially revoking, the order.
- (8) The fact that a final offer order ceases to have effect does not affect the exercise of any digital markets functions in relation to a breach or possible breach of that order.

Commencement Information

I44 S. 44 not in force at Royal Assent, see [s. 339\(1\)](#)

PROSPECTIVE

45 Duty to keep final offer orders under review

The CMA must keep under review—

- (a) the extent to which an undertaking to which it has given a final offer order is complying with that order,
- (b) the effectiveness of the final offer order,
- (c) whether to revoke the final offer order, and
- (d) whether to take action in accordance with [Chapter 7](#) (enforcement and appeals) in respect of an undertaking which does not comply with a final offer order.

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

Commencement Information

I45 S. 45 not in force at Royal Assent, see [s. 339\(1\)](#)

PROSPECTIVE

CHAPTER 4

PRO-COMPETITION INTERVENTIONS

46 Power to make pro-competition interventions

- (1) The CMA may make a pro-competition intervention (a “PCI”) in relation to a designated undertaking where, following a PCI investigation (see section 47), the CMA considers that—
 - (a) a factor or combination of factors relating to a relevant digital activity is having an adverse effect on competition, and
 - (b) it would be proportionate to make the PCI for the purposes of remedying, mitigating or preventing the adverse effect on competition.
- (2) In considering whether to make a PCI, and the form and content of any PCI, the CMA may have regard to any benefits to UK users or UK customers that the CMA considers have resulted, or may be expected to result, from a factor or combination of factors that is having an adverse effect on competition.
- (3) A PCI may take the form of one or both of the following—
 - (a) an order imposing on the designated undertaking requirements as to how the undertaking must conduct itself, in relation to the relevant digital activity or otherwise (a “pro-competition order”: see section 51);
 - (b) recommendations made by the CMA to any person exercising functions of a public nature about steps which the CMA considers the person ought to take in respect of the designated undertaking or the digital activity, or otherwise.
- (4) A PCI may include provision for the purposes of remedying, mitigating or preventing any detrimental effect on UK users or UK customers that the CMA considers has resulted, or may be expected to result, from the adverse effect on competition to which the PCI relates.
- (5) A factor or combination of factors relating to a digital activity has an adverse effect on competition where it prevents, restricts or distorts competition in connection with the relevant digital activity in the United Kingdom.

Commencement Information

I46 S. 46 not in force at Royal Assent, see [s. 339\(1\)](#)

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

47 Power to begin a PCI investigation etc

- (1) The CMA may begin an investigation (a “PCI investigation”) in relation to a designated undertaking where it has reasonable grounds to consider that a factor or combination of factors relating to a relevant digital activity may be having an adverse effect on competition.
- (2) A PCI investigation is an investigation to enable the CMA to determine—
 - (a) whether to make a PCI, and
 - (b) if it concludes that it should make a PCI, the form and content of that PCI.
- (3) The CMA may begin a PCI investigation in relation to a designated undertaking even if it has previously made a decision not to make a PCI in respect of that undertaking.

Commencement Information

I47 S. 47 not in force at Royal Assent, see [s. 339\(1\)](#)

48 Procedure relating to PCI investigations

- (1) Where the CMA begins a PCI investigation it must give the designated undertaking to which the investigation relates a notice (a “PCI investigation notice”).
- (2) The PCI investigation notice must state—
 - (a) the reasonable grounds mentioned in [section 47\(1\)](#);
 - (b) the purpose and scope of the PCI investigation;
 - (c) the period by the end of which the CMA must give the undertaking a notice setting out its decision as a result of the investigation (see [section 50\(1\)](#));
 - (d) the circumstances in which that period may be extended (see [section 104](#)).
- (3) The CMA may give the undertaking one or more revised versions of the PCI investigation notice if it changes its view of the purpose and scope of the investigation, provided that the purpose and scope of the investigation remains substantially the same.
- (4) As soon as reasonably practicable after giving a PCI investigation notice or a revised version of the PCI investigation notice, the CMA must publish the notice or the revised version of the notice.

Commencement Information

I48 S. 48 not in force at Royal Assent, see [s. 339\(1\)](#)

49 Consultation on proposed PCI decision

- (1) Before making a final decision (a “PCI decision”) on whether to make a PCI as a result of a PCI investigation, the CMA must—
 - (a) carry out a public consultation on its proposed decision, and
 - (b) bring the public consultation to the attention of such persons as it considers appropriate.
- (2) For the purposes of the consultation the CMA must publish a statement setting out—

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Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

- (a) the CMA’s findings as a result of the investigation, and
- (b) a description of any PCI which the CMA is considering making.

Commencement Information

I49 S. 49 not in force at Royal Assent, see [s. 339\(1\)](#)

50 PCI decision

- (1) The CMA must give the designated undertaking to which a PCI investigation relates a notice of the PCI decision resulting from the investigation on or before the last day of the period (the “PCI investigation period”) of 9 months beginning with the day on which the PCI investigation notice is given to the undertaking.
- (2) The notice must—
 - (a) state the CMA’s findings as a result of the PCI investigation,
 - (b) describe any PCI which the CMA intends to make, and
 - (c) include reasons for the CMA’s findings and decision.
- (3) The giving of a revised version of the PCI investigation notice under [section 48\(3\)](#) does not change the day on which the PCI investigation period begins.
- (4) The CMA must make any PCI within the period of 4 months beginning with the day on which the CMA gives the notice under subsection (1).
- (5) The CMA may extend the period mentioned in subsection (4) by up to 2 months where it considers that there are special reasons for doing so.
- (6) Where the CMA decides not to make a PCI having previously indicated in a notice under subsection (1) that it intended to make a PCI, the CMA must give the undertaking a further notice—
 - (a) stating the CMA’s decision, and
 - (b) including reasons for the decision.
- (7) As soon as reasonably practicable after giving a notice under subsection (1) or (6), the CMA must publish a copy of the notice.

Commencement Information

I50 S. 50 not in force at Royal Assent, see [s. 339\(1\)](#)

51 Pro-competition orders

- (1) A pro-competition order may include any provision that may be included in an enforcement order under section 161 of EA 2002 (final orders following market investigation references; and see section 164 of and Schedule 8 to EA 2002 on the provision that may be included).
- (2) For the purposes of [subsection \(1\)](#), Schedule 8 to EA 2002 (provision that may be contained in certain enforcement orders) has effect as if—
 - (a) the reference in paragraph 8(2) to “the relevant report” were to the notice under [section 50\(1\)](#) of this Act;

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Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

- (b) paragraphs 20A to 20BA were omitted.
- (3) A pro-competition order may include provision imposing requirements on an undertaking on a trial basis for the purpose of assisting the CMA in establishing requirements that would be effective in remedying, mitigating or preventing—
- (a) the adverse effect on competition to which the order relates;
 - (b) any detrimental effect on UK users or UK customers resulting from, or expected to result from, the adverse effect on competition.
- (4) The provision that may be made in reliance on subsection (3) includes provision requiring an undertaking to act differently in respect of different users or customers (and such provision may be by reference to a description of users or customers, to absolute numbers of users or customers, or to a proportion of the undertaking's total number of users or customers).
- (5) A pro-competition order must contain provision in accordance with section 55(3) (duty to ensure order contains date of next review).
- (6) As soon as reasonably practicable after making a pro-competition order, the CMA must publish the order.

Commencement Information

I51 S. 51 not in force at Royal Assent, see [s. 339\(1\)](#)

52 Replacement of pro-competition orders

- (1) The CMA may, by making a further pro-competition order, replace a pro-competition order where it considers that it is appropriate to do so, having regard in particular to—
- (a) the effectiveness of the pro-competition order, or of particular provisions in the pro-competition order, in remedying, mitigating or preventing the adverse effect on competition and, where applicable, any detrimental effect on UK users or UK customers identified in the PCI investigation, and
 - (b) any change of circumstances since the pro-competition order was made.
- (2) The CMA may, in particular, replace a pro-competition order so as to—
- (a) replace requirements imposed by virtue of that order on a trial basis, or
 - (b) impose requirements on an undertaking that are similar to or informed by one or more requirements previously imposed on that undertaking, or on a different undertaking, by virtue of another pro-competition order on a trial basis.
- (3) In this Chapter—
- (a) references to making a replacement order are to revoking a pro-competition order (see section 53) made following a PCI investigation and making a new pro-competition order in reliance on the findings of that PCI investigation, and
 - (b) references to a “replacement order” are to a pro-competition order made in reliance on subsection (1).

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

Commencement Information

I52 S. 52 not in force at Royal Assent, see [s. 339\(1\)](#)

53 Duration and revocation etc of pro-competition orders

- (1) A pro-competition order comes into force at such time as the CMA may specify in the order.
- (2) A pro-competition order ceases to have effect—
 - (a) when revoked under this section, or
 - (b) subject to provision made in reliance on [section 17](#) (existing obligations), when the designation to which it relates ceases to have effect.
- (3) The CMA may revoke a pro-competition order where it considers that it is appropriate to do so, having regard in particular to any change of circumstances since the pro-competition order was made.
- (4) Where the CMA decides to revoke a pro-competition order, it must give a notice to that effect to the designated undertaking to which the order relates.
- (5) The notice may include transitional, transitory or saving provision in relation to the revocation of the pro-competition order.
- (6) The CMA must publish the notice as soon as reasonably practicable after giving it.
- (7) Where a pro-competition order resulting from a PCI investigation is revoked without being replaced, the CMA may not make a new pro-competition order in reliance on the same PCI investigation.
- (8) The fact that a pro-competition order ceases to have effect does not affect the exercise of any functions in relation to a breach or possible breach of that order.

Commencement Information

I53 S. 53 not in force at Royal Assent, see [s. 339\(1\)](#)

54 Consultation

- (1) The CMA must carry out a public consultation on the terms of any pro-competition order before making it (subject to [subsection \(4\)](#)).
- (2) The duty to consult imposed by [subsection \(1\)](#) may be satisfied by consultation on a proposed PCI decision in a case where—
 - (a) a draft pro-competition order was published for the purposes of that consultation, and
 - (b) the CMA proposes to make a pro-competition order that is the same or materially the same as the draft pro-competition order.
- (3) Before revoking a pro-competition order, the CMA must (subject to [subsection \(4\)](#))—
 - (a) carry out a public consultation on the proposed revocation, and

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Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

(b) bring the public consultation to the attention of such persons as it considers appropriate.

(4) The duties in subsections (1) and (3) do not apply in relation to the making of a replacement order which, in the opinion of the CMA, is not materially different from the order which it replaces.

Commencement Information

I54 S. 54 not in force at Royal Assent, see [s. 339\(1\)](#)

55 Duty to review pro-competition orders etc

(1) The CMA must carry out a review of a pro-competition order, including a replacement order, to determine whether to—

- (a) revoke it without making a replacement order, or
- (b) make a replacement order.

(2) Each time the CMA makes a pro-competition order, including a replacement order, it must identify a date by which it will carry out the review under subsection (1).

(3) The CMA must secure that the date is specified in the order.

(4) The CMA must keep under review—

- (a) the effectiveness of a pro-competition order;
- (b) the extent to which an undertaking subject to a pro-competition order is complying with it;
- (c) whether to take action in accordance with [Chapter 7](#) (enforcement and appeals) in respect of any undertaking that breaches a pro-competition order.

Commencement Information

I55 S. 55 not in force at Royal Assent, see [s. 339\(1\)](#)

56 Commitments

(1) The CMA may accept an appropriate commitment from a designated undertaking as to its conduct in respect of an adverse effect on competition or a detrimental effect on UK users or UK customers that the CMA considers has resulted, or may be expected to result, from an adverse effect on competition.

(2) A commitment is appropriate where the CMA considers that compliance with the commitment by the undertaking would contribute to or otherwise be of use in remedying, mitigating or preventing—

- (a) the adverse effect on competition, or
- (b) the detrimental effect on UK users or UK customers.

(3) Following the acceptance of a commitment by the CMA as to the conduct of an undertaking—

- (a) the undertaking that gave the commitment must comply with it at all times when it is in force, and

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Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

- (b) so far as relating to the conduct, the CMA may give a notice to the undertaking—
 - (i) ending a PCI investigation (if it has begun one) without making a PCI decision, or
 - (ii) changing the scope of a PCI investigation.
- (4) As soon as reasonably practicable after giving a notice under [subsection \(3\)\(b\)](#), the CMA must publish a statement summarising the contents of the notice.
- (5) The acceptance of a commitment does not prevent—
 - (a) a PCI investigation from continuing so far as it relates to conduct other than that to which the commitment relates, or
 - (b) the CMA beginning a new PCI investigation in relation to the conduct to which the commitment relates where it has reasonable grounds—
 - (i) to believe that there has been a material change of circumstances since the commitment was accepted,
 - (ii) to suspect that the undertaking has not complied with one or more of the terms of the commitment, or
 - (iii) to suspect that information which led it to accept the commitment was incomplete, false or misleading in a material particular.
- (6) A commitment under [this section](#) comes into force when a notice of its acceptance is published by the CMA.
- (7) A commitment under this section ceases to have effect—
 - (a) subject to provision made in reliance on [section 17](#) (existing obligations)—
 - (i) in accordance with any terms of the commitment about when it is to cease to have effect, or
 - (ii) when the designation to which the commitment relates ceases to have effect, or
 - (b) when the undertaking is released from the requirement to comply with the commitment.
- (8) The following provisions apply in relation to commitments under [this section](#) as they apply in relation to commitments under [section 36](#)—
 - (a) [subsections \(7\) to \(10\)](#) of [section 36](#);
 - (b) [section 37](#).

Commencement Information

I56 S. 56 not in force at Royal Assent, see [s. 339\(1\)](#)

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

CHAPTER 5

MERGERS

PROSPECTIVE

57 Duty to report possible mergers etc

- (1) A relevant person (in this Chapter, “P”) must report an event to which [subsection \(2\)](#) or [\(3\)](#) applies (a “reportable event”) to the CMA before the event takes place.
- (2) [This subsection](#) applies to an event where—
 - (a) the event results in P having qualifying status (see [section 58](#)) in respect of shares or voting rights in relation to a UK-connected body corporate, and
 - (b) the value of all consideration (see [section 59](#)) provided by P, whether before or as part of the event, for shares or voting rights in the UK-connected body corporate is at least £25 million.
- (3) [This subsection](#) applies to an event which consists of the formation by P and at least one other person of a body corporate (in this Chapter, a “joint venture vehicle”) where—
 - (a) P expects or intends that the joint venture vehicle will be a UK-connected body corporate,
 - (b) P has qualifying status in respect of shares or voting rights in relation to the joint venture vehicle, and
 - (c) the total value of—
 - (i) all capital and assets contributed by P to the joint venture vehicle when it is formed, and
 - (ii) all other consideration provided by P, whether directly or indirectly, in relation to the formation of the joint venture vehicle,
 is at least £25 million.
- (4) In this Chapter, “relevant person” means—
 - (a) a designated undertaking, or
 - (b) where a designated undertaking is part of a group, any member of that group.
- (5) In this Chapter, a “UK-connected body corporate” is any body corporate (wherever established or recognised) which—
 - (a) carries on activities in the United Kingdom, or
 - (b) supplies goods or services (whether for consideration or otherwise) to a person or persons in the United Kingdom.
- (6) For the purposes of [subsection \(5\)](#), anything done by a subsidiary of a body corporate is to be treated as being done by the body corporate.
- (7) The reference in [subsection \(3\)](#) to an “other person” is to a person who is not—
 - (a) the designated undertaking or part of the designated undertaking, or
 - (b) where the designated undertaking is part of a group, a member of that group.
- (8) The duty to report an event under [subsection \(1\)](#) is subject to provision made by or under regulations under [section 67](#).

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

- (9) For steps that the CMA may take in relation to a possible merger, see—
- (a) section 33 of EA 2002 (duty to make references in relation to anticipated mergers), and
 - (b) section 72 of that Act (initial enforcement orders).

Commencement Information

I57 S. 57 not in force at Royal Assent, see [s. 339\(1\)](#)

PROSPECTIVE

58 Qualifying status

- (1) For the purposes of section [57\(2\)](#), an event results in P having qualifying status in respect of shares or voting rights in relation to a UK-connected body corporate where the event results in the percentage of the shares or, as the case may be, the voting rights that P holds in the body corporate increasing—
 - (a) from less than 15% to 15% or more,
 - (b) from 25% or less to more than 25%, or
 - (c) from 50% or less to more than 50%.
- (2) For the purposes of section [57\(3\)](#), P has qualifying status in respect of shares or voting rights in relation to a joint venture vehicle where the event results in P holding at least 15% of the shares or, as the case may be, voting rights in the joint venture vehicle.
- (3) In subsections (1) and (2), references to holding a percentage of shares are—
 - (a) in the case of a body corporate that has a share capital, to holding shares comprised in the issued share capital of the body corporate of a nominal value (in aggregate) of that percentage of the share capital,
 - (b) in the case of a body corporate that does not have a share capital, to holding a right to a share of that percentage of the capital or profits of the body corporate, and
 - (c) in the case of a limited liability partnership, to holding a right to a share of that percentage of any surplus assets of the partnership on a winding up.
- (4) For the purposes of subsection (3)(c), to the extent that rights to share in any surplus assets of the limited liability partnership on a winding up are not expressly provided for, each member of the partnership is to be treated as holding the right to an equal share of such assets.
- (5) In subsections (1) and (2), references to voting rights are—
 - (a) in the case of a body corporate that has a share capital, to the rights conferred on shareholders in respect of their shares to vote at general meetings of the body corporate on all or substantially all matters, and
 - (b) in the case of a body corporate that does not have a share capital, to the rights conferred on members to vote at general meetings of the body corporate on all or substantially all matters,

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and, in the case of a body corporate that does not have general meetings at which matters are decided by such votes, include any rights in relation to the body corporate that have the equivalent effect.

- (6) A person is to be treated for the purposes of this Chapter as acquiring an interest or right (to the extent that the person would not otherwise be regarded as doing so) where the interest or right becomes treated as held by the person by virtue of [Schedule 2](#).

Commencement Information

I58 S. 58 not in force at Royal Assent, see [s. 339\(1\)](#)

59 Value of consideration

- (1) The references in section [57\(2\)\(b\)](#) to the value of all consideration provided by P for shares or voting rights in a UK-connected body corporate is a reference to the value of all consideration provided by P, whether directly or indirectly, for shares or voting rights in the body corporate in all transactions which result in P holding shares or voting rights in the body corporate (whether or not the transaction is an event within section [57\(2\)](#)).
- (2) In this Chapter, references to “consideration” are to fees, remuneration, assets of any description, liabilities assumed and any other kind of consideration, however provided, and include conditional and deferred consideration.
- (3) The Secretary of State may by regulations make further provision about how the value of—
- consideration,
 - capital, or
 - assets,
- is to be calculated for the purposes of this Chapter.
- (4) The Secretary of State must consult the CMA before making regulations under [subsection \(3\)](#).
- (5) Regulations under [subsection \(3\)](#) are subject to the negative procedure.

Commencement Information

I59 S. 59 in force at Royal Assent for specified purposes, see [s. 339\(2\)\(c\)](#)

PROSPECTIVE

60 Content of report etc

- (1) The CMA must by notice make provision setting out—
- the information which a report for the purposes of [section 57\(1\)](#) must contain;
 - the form in which such a report must be made.

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

- (2) The notice may not require a report to contain information other than information which the CMA considers necessary to allow it to determine whether to—
 - (a) begin an investigation for the purposes of deciding whether to make a reference under section 33 of EA 2002 in relation to a reportable event, or
 - (b) make an initial enforcement order under section 72 of that Act in relation to a reportable event.
- (3) The CMA may from time to time replace the notice.
- (4) The CMA must publish any notice or replacement notice which it makes under [this section](#).
- (5) The CMA must consult—
 - (a) the Secretary of State, and
 - (b) such other persons as it considers appropriate, before making or replacing a notice under [this section](#).

Commencement Information

160 S. 60 not in force at Royal Assent, see [s. 339\(1\)](#)

PROSPECTIVE

61 Application of the duty to report etc

- (1) Two or more persons may comply with the duty in [section 57\(1\)](#) by making a joint report to the CMA.
- (2) For the purposes of this Chapter, where a designated undertaking is part of a group—
 - (a) anything which a member of a group does or fails to do is to be treated as being done or not done by each member of the group;
 - (b) each member of a group is to be treated as providing the combined consideration provided by all members of the group;
 - (c) each member of a group is to be treated as holding the combined interests or rights of all members of the group.
- (3) Schedule 2 makes further provision about cases in which a person is to be treated for the purposes of this Chapter as holding an interest or right.
- (4) The duty to make a report under [section 57\(1\)](#) does not apply—
 - (a) in relation to a reportable event which does not differ in any material respect from an event which has already been reported under [section 57\(1\)](#);
 - (b) in relation to a reportable event so far as it consists of “notified arrangements” within the meaning of section 96(6) of EA 2002;
 - (c) in relation to a reportable event so far as the CMA has informed P that it has begun an investigation for the purposes of deciding whether it has to make a reference under section 33 of EA 2002 (duty to make references in relation to anticipated mergers) in relation to a matter that does not differ in any material respect from the reportable event;

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Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

- (d) in relation to a reportable event so far as the Secretary of State has given the CMA an intervention notice under section 42 of EA 2002 (intervention by the Secretary of State in certain public interest cases) in relation to a relevant merger situation that does not differ in any material respect from the reportable event;
 - (e) in relation to a reportable event so far as the Secretary of State has given the CMA a special intervention notice under section 59 of EA 2002 (intervention by the Secretary of State in special public interest cases) in relation to a special merger situation that does not differ in any material respect from the reportable event.
- (5) This Chapter does not require any steps to be taken in relation to an event where, after it has been reported to the CMA—
- (a) the Secretary of State gives the CMA an intervention notice under section 42 of EA 2002 in relation to a relevant merger situation that does not differ in any material respect from the event;
 - (b) the Secretary of State gives the CMA a special intervention notice under section 59 of EA 2002 in relation to a special merger situation that does not differ in any material respect from the event;
 - (c) the CMA makes an initial enforcement order under section 72 of EA 2002 imposing obligations, prohibitions or restrictions in relation to the event;
 - (d) the undertaking to which the event relates ceases to be a designated undertaking.

Commencement Information

I61 S. 61 not in force at Royal Assent, see [s. 339\(1\)](#)

PROSPECTIVE

62 Acceptance of report

- (1) Where the CMA receives a report under [section 57\(1\)](#), the CMA must, within the period of 5 working days beginning with the first working day after the day on which it receives the report, give a notice to the person that made the report confirming whether the CMA accepts that the report is sufficient.
- (2) Where the CMA does not accept that a report is sufficient it must, in its notice under [subsection \(1\)](#), include reasons for its decision.
- (3) The CMA may not decide that a report is not sufficient where the report—
 - (a) contains all information required by notice under [section 60\(1\)\(a\)](#), and
 - (b) is made in the form required by notice under [section 60\(1\)\(b\)](#).
- (4) A person who makes a report under [section 57\(1\)](#) may withdraw that report at any time before the CMA gives notice that it has accepted that the report is sufficient.
- (5) Where a report is withdrawn, this Chapter applies as if the event to which it related had not been reported to the CMA.

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

Commencement Information

I62 S. 62 not in force at Royal Assent, see [s. 339\(1\)](#)

PROSPECTIVE

63 Delay to possible mergers etc

- (1) A person to whom the duty in [section 57\(1\)](#) applies in relation to a reportable event must not allow the event to take place—
 - (a) without a report in relation to the event having been given to the CMA under [section 57\(1\)](#), or
 - (b) before the end of the waiting period in relation to the event.
- (2) The waiting period in relation to a reportable event is the period of 5 working days beginning with the first working day after the day on which the CMA gives the person that made a report a notice under [section 62\(1\)](#) confirming that the CMA accepts that the report relating to the event is sufficient.
- (3) If a reportable event takes place in contravention of [subsection \(1\)](#), each person to whom the duty in [section 57\(1\)](#) applied in relation to the event is to be treated as having breached [subsection \(1\)](#).
- (4) The CMA may—
 - (a) give its consent to a reportable event happening before the end of the waiting period;
 - (b) revoke that consent before the reportable event happens.
- (5) [Subsection \(1\)](#) does not apply in relation to a reportable event where the CMA gives and does not revoke consent under [subsection \(4\)](#) in relation to a reportable event.
- (6) Section 95 of EA 2002 (rights to enforce statutory restrictions) applies in relation to the obligation to comply with [subsection \(1\)](#) as it applies in relation to the obligation to comply with [section 77\(2\) or \(3\) or 78\(2\)](#) of that Act.

Commencement Information

I63 S. 63 not in force at Royal Assent, see [s. 339\(1\)](#)

PROSPECTIVE

64 Timing of a reportable event

Where a reportable event results from an agreement providing for P to acquire shares or voting rights, or to form a joint venture vehicle together with at least one other person, the event is to be treated as taking place for the purposes of [section 57\(1\)](#) and [section 63\(1\)](#) when P becomes unconditionally obliged to acquire the shares or voting rights, or to form the joint venture vehicle.

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

Commencement Information

I64 S. 64 not in force at Royal Assent, see [s. 339\(1\)](#)

PROSPECTIVE

65 Authorisation for one person to act for another

- (1) P may authorise another person to make a report under [section 57\(1\)](#) and receive the notice under [section 62\(1\)](#) which relates to the report on P’s behalf by giving a notice of the authorisation to the CMA.
- (2) P may revoke an authorisation made under this section by giving a notice to that effect to the CMA.
- (3) A notice under [subsection \(1\)](#) or [\(2\)](#) must be signed by an officer of P.
- (4) In this section, references to an “officer” of an undertaking are to an officer of a body corporate that is, or is comprised in, the undertaking.

Commencement Information

I65 S. 65 not in force at Royal Assent, see [s. 339\(1\)](#)

PROSPECTIVE

66 Applications for review of decisions relating to mergers

Section 120 of EA 2002 (review of decisions under Part 3 of EA 2002: mergers) applies in relation to a decision made by the CMA in connection with its functions under this Chapter, other than a decision about the imposition of a penalty under [section 85\(4\)](#) or [87](#), as it applies in relation to decisions listed in [subsection \(1A\)](#) of that section.

Commencement Information

I66 S. 66 not in force at Royal Assent, see [s. 339\(1\)](#)

67 Regulations about duty to report

- (1) The Secretary of State may by regulations make provision about the duty to report a reportable event.
- (2) The Secretary of State must consult the CMA before making regulations under [subsection \(1\)](#).
- (3) Regulations under [subsection \(1\)](#) may (among other things) make provision—

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

- (a) varying, adding or removing circumstances in which the duty to make a report applies;
 - (b) varying the period in [section 62\(1\)](#);
 - (c) varying the waiting period in [section 63](#);
 - (d) about exemptions from the duty to make a report;
 - (e) varying, adding or removing circumstances in which one person may act on behalf of another under [section 65](#);
 - (f) modifying how [section 332](#) applies for the purposes of this Chapter or [Schedule 2](#);
 - (g) conferring functions on the CMA in relation to the duty to report, including power to make provision by notice or general or specific directions about a matter mentioned in [paragraph \(d\)](#);
 - (h) amending this Chapter or [Schedule 2](#).
- (4) Regulations under [subsection \(1\)](#) that contain provision made in reliance on any of paragraphs (a), (b), (c), (d), (e) or (h) of [subsection \(3\)](#), whether alone or with other provision, are subject to the affirmative procedure.
- (5) Any other regulations under [subsection \(1\)](#) are subject to the negative procedure.

Commencement Information

I67 S. 67 in force at Royal Assent for specified purposes, see [s. 339\(2\)\(c\)](#)

PROSPECTIVE

68 Duty to keep compliance under review

The CMA must keep under review—

- (a) the extent to which persons comply with provisions made by, under or by virtue of this Chapter, and
- (b) the appropriateness of taking action—
 - (i) in accordance with section 95 of EA 2002 (rights to enforce statutory restrictions) in respect of any person to whom [section 63\(1\)](#) applies, and
 - (ii) in accordance with [Chapter 7](#) (enforcement and appeals) in respect of any person that does not comply with provisions made by, under or by virtue of this Chapter.

Commencement Information

I68 S. 68 not in force at Royal Assent, see [s. 339\(1\)](#)

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

PROSPECTIVE

CHAPTER 6

INVESTIGATORY POWERS ETC AND COMPLIANCE REPORTS

Investigatory powers etc

69 Power to require information

- (1) For the purpose of exercising, or deciding whether to exercise, any of its digital markets functions, the CMA may require a person (“P”) to give specified information to it where it considers that the information is relevant to a digital markets function.
- (2) The power conferred by [subsection \(1\)](#) is to be exercised by giving P a notice (an “information notice”).
- (3) The CMA must include in an information notice—
 - (a) the time and place at which the specified information must be given to the CMA;
 - (b) the manner and form in which the information must be given to the CMA;
 - (c) information about the possible consequences of not complying with the notice.
- (4) The power under [this section](#) to require P to give information to the CMA includes the power to—
 - (a) take copies of or extracts from information;
 - (b) require P to obtain or generate information;
 - (c) require P to collect or retain information that they would not otherwise collect or retain;
 - (d) if any specified information is not given to the CMA, require P to state, to the best of their knowledge and belief, both where that information is and why it has not been given to the CMA.
- (5) For the purposes of [subsection \(4\)\(b\)](#), the CMA may include in an information notice—
 - (a) a requirement for P to vary their usual conduct (whether in relation to some or all users or potential users of any service or digital content that P provides);
 - (b) a requirement for P to perform a specified demonstration or test.
- (6) In this section, “specified” means—
 - (a) specified, or described, in the information notice, or
 - (b) falling within a category which is specified, or described, in the information notice.
- (7) The powers conferred by this section are exercisable in relation to information whether it is stored within or outside the United Kingdom.

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

Commencement Information

I69 S. 69 not in force at Royal Assent, see [s. 339\(1\)](#)

70 Requirement to name a senior manager

- (1) Where the CMA gives an information notice to a designated undertaking or an undertaking that is the subject of a breach investigation, the CMA may include in the notice a requirement that the undertaking must name, in response to the notice, an individual who—
 - (a) the undertaking considers to be a senior manager of the undertaking, and
 - (b) may reasonably be expected to be in a position to ensure compliance with the requirements of the notice.
- (2) Where the CMA imposes a requirement to name an individual, the information notice must require the undertaking to inform the individual about the consequences for the individual of any failure by the undertaking to comply with the notice (see [section 87](#)).
- (3) An individual can be considered to be a senior manager of an undertaking only if the individual plays a significant role in—
 - (a) making decisions about how the undertaking’s relevant activities are to be managed or organised, or
 - (b) managing or organising the undertaking’s relevant activities.
- (4) An undertaking’s “relevant activities” are activities relating to the undertaking’s compliance with requirements imposed on it by or under this Part.

Commencement Information

I70 S. 70 not in force at Royal Assent, see [s. 339\(1\)](#)

71 Power of access

- (1) The CMA may exercise the powers in [this section](#) where it considers that a designated undertaking or an undertaking that is the subject of a breach investigation—
 - (a) has not complied with the requirements of an information notice (see [section 69](#)), or
 - (b) has not complied with the duty to assist a skilled person with the preparation of a report (see [section 79\(12\)](#)).
- (2) The CMA may access business premises, equipment, services, information or individuals in order to—
 - (a) supervise the obtaining, generation, collection or retention of information by the undertaking,
 - (b) observe the undertaking’s conduct in relation to users, or
 - (c) observe a demonstration or test performed by the undertaking,for the purpose of securing compliance with requirements imposed on the undertaking under [section 69](#) or [section 79\(12\)](#).

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

- (3) Where the CMA requires access under subsection (2), it must give the undertaking a notice specifying—
 - (a) the access that it requires,
 - (b) a date by which the access must be provided, and
 - (c) the manner in which the access must be provided (which may be remote).
- (4) The undertaking must give the CMA the access specified in the notice under subsection (3).
- (5) The powers conferred by this section are not exercisable in relation to premises, equipment or individuals outside the United Kingdom.
- (6) But the powers conferred by this section are exercisable in relation to information and services whether stored or provided within or outside the United Kingdom.
- (7) In this Chapter, “business premises” means premises (or any part of premises) not used as a dwelling.

Commencement Information

I71 S. 71 not in force at Royal Assent, see s. 339(1)

72 Power to interview

- (1) If the CMA considers that an individual (“X”) has information relevant to a digital markets investigation, the CMA may give a notice to X requiring X to answer questions with respect to any matter relevant to that digital markets investigation—
 - (a) at a place or in a manner (which may be remote) specified in the notice, and
 - (b) either at a time specified in the notice or on receipt of the notice.
- (2) The CMA must include in the notice—
 - (a) details of the digital markets investigation;
 - (b) information about the possible consequences of not complying with the notice.
- (3) Where X is connected to (see section 118(3)) the undertaking that is the subject of the digital markets investigation, the CMA must give a copy of the notice under subsection (1) to the undertaking.
- (4) The CMA must comply with the requirement under subsection (3)—
 - (a) at the time the notice is given to X, or
 - (b) where that is not practicable, as soon as reasonably practicable after the notice is given to X.
- (5) The CMA, or any person nominated by it, may take evidence in answer to questions under subsection (1) on oath, and for that purpose may administer oaths.
- (6) The powers conferred by this section are not exercisable in relation to an individual outside the United Kingdom.

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

Commencement Information

I72 S. 72 not in force at Royal Assent, see [s. 339\(1\)](#)

73 Use of interview statements in prosecution

- (1) A statement by X in response to a requirement imposed by virtue of [section 72](#) (a “[section 72](#) statement”) may only be used in evidence against X—
 - (a) on a prosecution for an offence under [section 93](#) or [94](#);
 - (b) on a prosecution for some other offence in a case falling within [subsection \(2\)](#).
- (2) A prosecution falls within [this subsection](#) if, in the proceedings—
 - (a) in giving evidence, X makes a statement inconsistent with the [section 72](#) statement, and
 - (b) evidence relating to the [section 72](#) statement is adduced, or a question relating to it is asked, by or on behalf of X.

Commencement Information

I73 S. 73 not in force at Royal Assent, see [s. 339\(1\)](#)

74 Power to enter business premises without a warrant

- (1) For the purposes of a breach investigation, the CMA may authorise an officer of the CMA (“an investigating officer”) to enter any business premises (see [section 71\(7\)](#)) and exercise the powers in [subsection \(5\)](#) if the CMA has reasonable grounds to suspect that information is on or accessible from the premises that is relevant to the breach investigation.
- (2) No investigating officer is to enter any premises in the exercise of their powers under [this section](#) unless they have given to the occupier of the premises a notice which—
 - (a) gives at least two working days’ notice of the intended entry,
 - (b) describes the subject matter and purpose of the breach investigation, and
 - (c) includes information about the possible consequences of not complying with the notice.
- (3) [Subsection \(2\)](#) does not apply if—
 - (a) the CMA has a reasonable suspicion that the premises are, or have been, occupied by the undertaking which is the subject of the breach investigation, or
 - (b) the investigating officer has taken all such steps as are reasonably practicable to give notice but has not been able to do so.
- (4) In a case falling within [subsection \(3\)](#), the power of entry conferred by [subsection \(1\)](#) is to be exercised by the investigating officer on production of—
 - (a) evidence of their authorisation, and
 - (b) a document containing the information referred to in paragraphs (b) and (c) of [subsection \(2\)](#).

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

- (5) An investigating officer may, in addition to entering any premises—
- (a) take with them such equipment as appears to them to be necessary;
 - (b) require any person on the premises to—
 - (i) give information to the officer which the officer considers relevant to the breach investigation;
 - (ii) if any required information is not given to the officer, state, to the best of the person’s knowledge and belief, where that information may be found;
 - (c) take copies of, or extracts from, any information given to an investigating officer;
 - (d) take any steps which appear to be necessary for the purpose of preserving or preventing interference with any information which the officer considers relevant to the breach investigation.
- (6) Any information which is given to an investigating officer under subsection (5) must be in a form—
- (a) in which it can be taken away, and
 - (b) which is visible and legible or from which it can be readily be generated in a visible and legible form.
- (7) The powers conferred by [this section](#) are not exercisable in relation to premises outside the United Kingdom.
- (8) But the powers conferred by this section are exercisable in relation to information whether it is stored within or outside the United Kingdom.

Commencement Information

I74 S. 74 not in force at Royal Assent, see [s. 339\(1\)](#)

75 Power to enter premises under a warrant

- (1) On an application made to it by the CMA for the purposes of a breach investigation, the court or the Tribunal may issue a warrant if it is satisfied that—
- (a) there are reasonable grounds for suspecting that there is information on or accessible from any premises which is relevant to the breach investigation (“information of the relevant kind”), and
 - (b) one or both of the following applies—
 - (i) the exercise by the CMA of another digital markets investigation power has not resulted in the CMA being given the information of the relevant kind;
 - (ii) there are reasonable grounds for suspecting that there is no other digital markets investigation power the exercise of which would result in the CMA being given the information of the relevant kind.
- (2) A warrant under [this section](#) authorises a named officer of the CMA (“the authorised officer”), and any other of the CMA’s officers whom the CMA has authorised in writing to accompany the authorised officer, to—
- (a) enter the premises specified in the warrant, using such force as is reasonably necessary;

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

- (b) take onto the premises such equipment as appears to the authorised officer to be necessary;
 - (c) search the premises for information appearing to be information of the relevant kind;
 - (d) operate any equipment found on the premises for the purpose of producing information;
 - (e) require any person on the premises to provide such assistance as the authorised officer may reasonably require (including providing passwords or encryption keys and operating equipment on the premises);
 - (f) require any person on the premises to give information to the authorised officer;
 - (g) require any person on the premises to state, to the best of their knowledge and belief, where information appearing to be of the relevant kind may be found;
 - (h) take copies of, or extracts from, any information appearing to be information of the relevant kind;
 - (i) take possession of any information appearing to be information of the relevant kind that is produced under paragraph (d) or given to the authorised officer under paragraph (f);
 - (j) take possession of any other information appearing to be information of the relevant kind if—
 - (i) such action appears to be necessary for preserving the information or preventing interference with it, or
 - (ii) it is not reasonably practicable to take copies of the information on the premises;
 - (k) take any other steps which appear to be necessary for the purpose of preserving any information appearing to be information of the relevant kind or preventing interference with it.
- (3) Any information which is given to an investigating officer under subsection (2) must be in a form—
- (a) in which it can be taken away, and
 - (b) which is visible and legible or from which it can be readily be generated in a visible and legible form.
- (4) A warrant under [this section](#) may authorise persons specified in the warrant to accompany the authorised officer who is executing it.
- (5) A warrant under [this section](#) continues in force until the end of the period of one month beginning with the day on which it is issued.
- (6) Any information which the CMA obtains under [subsection \(2\)](#) may be retained for a period of three months.
- (7) For the purposes of [this section](#) and section 76—
- “domestic premises” means premises (or any part of premises) that are used as a dwelling and are—
- (a) premises also used in connection with the affairs of an undertaking or, where the undertaking is part of a group, a member of that group, or
 - (b) premises where information relating to the affairs of an undertaking or, where the undertaking is part of a group, a member of that group, is located;

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

“occupier”, in relation to any premises, means a person whom the authorised officer reasonably believes is the occupier of those premises;

“premises” includes business premises (see section 71(7)) and domestic premises.

Commencement Information

I75 S. 75 not in force at Royal Assent, see [s. 339\(1\)](#)

76 Power to enter premises under a warrant: supplementary

- (1) A warrant under [section 75](#) must describe—
 - (a) the subject matter and purpose of the breach investigation, and
 - (b) the offence created by [section 95](#).
- (2) The powers conferred by [section 75](#) are to be exercised on production of the warrant issued under that section.
- (3) If there is no one at the premises when the authorised officer proposes to execute the warrant they must, before executing it—
 - (a) take reasonable steps to inform the occupier of the intended entry, and
 - (b) if the occupier is informed, afford them or their legal or other representative a reasonable opportunity to be present when the warrant is executed.
- (4) If the authorised officer is unable to inform the occupier of the intended entry they must, when executing the warrant, leave a copy of it in a prominent place on the premises.
- (5) On leaving any premises which they have entered by virtue of a warrant under [section 75](#), the authorised officer must, if the premises are unoccupied or the occupier is temporarily absent, leave them as effectively secured as they found them.
- (6) The powers conferred by [section 75](#) are not exercisable in relation to premises outside the United Kingdom.
- (7) But the powers conferred by [section 75](#) are exercisable in relation to information whether it is stored within or outside the United Kingdom.

Commencement Information

I76 S. 76 not in force at Royal Assent, see [s. 339\(1\)](#)

77 Amendments to the Criminal Justice and Police Act 2001

- (1) The Criminal Justice and Police Act 2001 is amended as follows.
- (2) In section 50 (additional powers of seizure from premises), at the end insert—
 - “(7) Without prejudice to any power conferred by this section to take a copy of any document, nothing in this section, so far as it has effect by reference to the power to take copies of, or extracts from, information under [section 75\(2\)\(h\)](#)

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

of the Digital Markets, Competition and Consumers Act 2024, is to be taken to confer any power to seize any information.”

- (3) In section 57 (retention of seized items), in subsection (1), at the end insert—
- “(v) section 75(6) of the Digital Markets, Competition and Consumers Act 2024.”
- (4) In section 63 (powers of seizure: copies), in subsection (1), at the end insert—
- “(d) for the purposes of this Part, except sections 50 and 51, the powers in section 75(2)(d) and (f) of the Digital Markets, Competition and Consumers Act 2024 are to be treated as powers of seizure, and references to seizure and to seized property are to be construed accordingly.”
- (5) In section 64 (meaning of “appropriate judicial authority”), in subsection (3), in paragraph (a), at the end insert—
- “(iv) section 75(2) of the Digital Markets, Competition and Consumers Act 2024.”
- (6) In section 65 (meaning of “legal privilege”), after subsection (3A) insert—
- “(3B) In relation to property which has been seized in exercise, or purported exercise, of—
- (a) the power of seizure conferred by section 75(2) of the Digital Markets, Competition and Consumers Act 2024, or
- (b) so much of any power of seizure conferred by section 50 as is exercisable by reference to that power,
- references in this Part to an item subject to legal privilege are to be read as references to a privileged communication within the meaning of section 81 (privileged communications) of that Act.”
- (7) In section 66 (general interpretation of Part 2), in subsection (5), after paragraph (i) insert—
- “(j) section 75(2)(j) of the Digital Markets, Competition and Consumers Act 2024;”
- (8) In Part 1 of Schedule 1 (powers of seizure to which section 50 of that Act applies), at the end insert—
- “73W Digital Markets, Competition and Consumers Act 2024
- Each of the powers of seizure conferred by section 75(2)(i) and (j) of the Digital Markets, Competition and Consumers Act 2024 (seizure of information for the purposes of a breach investigation).”

Commencement Information

I77 S. 77 not in force at Royal Assent, see s. 339(1)

78 Application for a warrant

- (1) An application for a warrant under section 75 must be made—
- (a) in the case of an application to the court, in accordance with rules of court;

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

(b) in the case of an application to the Tribunal, in accordance with Tribunal rules.

- (2) In Schedule 4 to EA 2002 (tribunal: procedure), in paragraph 10A, in subparagraph (1), after “the 1998 Act” insert “or [section 75](#) of the Digital Markets, Competition and Consumers Act 2024”.

Commencement Information

I78 S. 78 not in force at Royal Assent, see [s. 339\(1\)](#)

79 Reports by skilled persons

- (1) The CMA may exercise the powers in [this section](#) in relation to a designated undertaking, an undertaking that is the subject of a breach investigation or an undertaking that is the subject of an SMS investigation (in each case, “U”) for the purpose of exercising, or deciding whether to exercise, any of its digital markets functions.
- (2) The CMA may appoint a skilled person to provide it with a report in a specified form about matters relevant to the purposes for which the powers under [this section](#) are or may be exercised (“the relevant matters”).
- (3) Where the CMA makes such an appointment, the CMA must give a notice to U—
- confirming the appointment;
 - specifying the relevant matters.
- (4) A notice under [subsection \(3\)](#) may also make provision for U to be liable for payment, directly to the skilled person, of the skilled person’s remuneration and expenses relating to the preparation of the report.
- (5) As an alternative to [subsection \(2\)](#), the CMA may give a notice to U—
- requiring U to appoint a skilled person to provide the CMA with a report in such form as may be specified in the notice;
 - specifying the relevant matters to be explored in the report;
 - specifying the date by which the report must be provided.
- (6) Where the skilled person is to be appointed by U, U may not make an appointment unless the CMA has approved in writing—
- the identity of the skilled person, and
 - the terms on which they will be appointed, including in relation to their remuneration and expenses.
- (7) [Subsections \(8\) to \(10\)](#) apply in relation to an amount due to a skilled person from U under [this section](#).
- (8) In England and Wales, such an amount is recoverable—
- if the county court so orders, as if it were payable under an order of that court;
 - if the High Court so orders, as if it were payable under an order of that court.
- (9) In Scotland, such an amount may be enforced in the same manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

- (10) In Northern Ireland, such an amount is recoverable—
 - (a) if a county court so orders, as if it were payable under an order of that court;
 - (b) if the High Court so orders, as if it were payable under an order of that court.
- (11) References in [this section](#) to a skilled person are to a person appearing to the CMA to have the skills necessary to prepare a report about the relevant matters.
- (12) It is the duty of—
 - (a) U, and
 - (b) any person connected to (see [section 118\(3\)](#)) U,
to give a skilled person who has been appointed under this section all such assistance (including access to such business premises (see [section 71\(7\)](#)), equipment, services, information and individuals) as the skilled person may reasonably require to prepare the report.
- (13) The duty in [section 79\(12\)](#) does not include a duty to give access to premises, equipment or individuals outside the United Kingdom.
- (14) But the duty in [section 79\(12\)](#) does include a duty to give access to information and services whether stored or provided within or outside the United Kingdom.

Commencement Information

I79 S. 79 not in force at Royal Assent, see [s. 339\(1\)](#)

80 Duty to preserve information

- (1) A person to whom any of subsections (2), (3), (4) and (5) applies must not, without reasonable excuse—
 - (a) destroy, otherwise dispose of, falsify or conceal, or
 - (b) cause or permit the destruction, disposal, falsification or concealment of, any relevant information.
- (2) This subsection applies to a person where the person knows or suspects that a breach investigation or a PCI investigation is being or is likely to be carried out in relation to an undertaking.
- (3) This subsection applies to a person where the person is, or is connected to (see [section 118\(3\)](#)), an undertaking that is not a designated undertaking and knows that the undertaking is the subject of an initial SMS investigation.
- (4) This subsection applies to a person where the person is, or is connected to, a designated undertaking and knows that—
 - (a) the undertaking is required to produce a compliance report under [section 84](#), or
 - (b) the undertaking is the subject of a further SMS investigation.
- (5) This subsection applies to a person where the person is, or is connected to, an undertaking and knows or suspects that the CMA is assisting, or is likely to assist, an overseas regulator in carrying out, in relation to the undertaking, any of its functions which correspond or are similar to the functions of the CMA under this Part (see [Chapter 2](#) of [Part 5](#) (provision of investigative assistance to overseas regulators)).

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

- (6) For the purposes of this section, relevant information is information which the person knows or suspects is or would be—
- (a) relevant to the investigation mentioned in subsection (2), (3), (4) or (5), as the case may be,
 - (b) used by an undertaking to produce the compliance report, or
 - (c) relevant to the provision of assistance to the overseas regulator.

Commencement Information

I80 S. 80 not in force at Royal Assent, see [s. 339\(1\)](#)

81 Privileged communications

- (1) A person may not be required under any provision of this Chapter to produce, generate or give to the CMA or an officer of the CMA a privileged communication.
- (2) Nothing in this Chapter authorises the CMA or an officer of the CMA to produce or take possession of, or take copies of or extracts from, a privileged communication (but this is subject to Part 2 of the Criminal Justice and Police Act 2001, as amended by [section 77](#) of this Act).
- (3) A “privileged communication” is a communication—
 - (a) between a professional legal adviser and their client, or
 - (b) made in connection with, or in contemplation of, legal proceedings and for the purposes of those proceedings,
 which in proceedings in the High Court would be protected from disclosure on grounds of legal professional privilege.
- (4) In the application of this section to Scotland—
 - (a) the reference to the High Court is to be read as a reference to the Court of Session, and
 - (b) the reference to legal professional privilege is to be read as a reference to the confidentiality of communications.

Commencement Information

I81 S. 81 not in force at Royal Assent, see [s. 339\(1\)](#)

82 Power of CMA to publish notice of investigative assistance

- (1) Where the CMA assists an overseas regulator in carrying out any of its functions which correspond or are similar to the functions of the CMA under this Part (see [Chapter 2](#) of [Part 5](#) (provision of investigative assistance to overseas regulators)), the CMA may publish a notice of its decision to do so which may, in particular—
 - (a) identify the overseas regulator concerned;
 - (b) summarise the matter in respect of which the assistance is requested;
 - (c) identify the undertaking in respect of which the assistance is requested.
- (2) [Section 112](#) does not apply to a notice under subsection (1) to the extent that it includes information other than information mentioned in that subsection.

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

Commencement Information

I82 S. 82 not in force at Royal Assent, see [s. 339\(1\)](#)

Compliance reports etc

83 Nominated officer

- (1) An undertaking must ensure that, at all times when the undertaking is subject to a digital markets requirement, it has an officer with responsibility for carrying out the functions set out in [subsection \(2\)](#) in relation to that digital markets requirement (a “nominated officer”).
- (2) The functions are—
 - (a) monitoring the undertaking’s compliance with the digital markets requirement and all related requirements;
 - (b) cooperating with the CMA for the purposes of securing that the undertaking complies with the digital markets requirement and all related requirements to the satisfaction of the CMA;
 - (c) securing that the undertaking complies with [section 84](#) (compliance reports).
- (3) A “digital markets requirement” is any of the following—
 - (a) a conduct requirement under [section 19](#);
 - (b) a requirement imposed by virtue of a pro-competition order under [section 46](#);
 - (c) a requirement to comply with a commitment given under [section 56](#).
- (4) A “related requirement” is any of the following relating to a digital markets requirement—
 - (a) a requirement imposed by virtue of an enforcement order under [section 31](#) or [section 32](#);
 - (b) the requirement to comply with a commitment given under [section 36](#);
 - (c) a requirement imposed by virtue of a final offer order under [section 41\(2\)](#) or [section 42](#);
 - (d) a requirement in a direction under [section 87](#) of EA 2002 (delegated power of directions) given by virtue of a pro-competition order (see [section 51\(1\)](#)).
- (5) A nominated officer must be an individual who the undertaking—
 - (a) considers to be a senior manager of the undertaking, within the meaning of [section 70\(3\)](#), and
 - (b) reasonably expects to be in a position to fulfil the functions set out in [subsection \(2\)](#) in relation to the digital markets requirement.
- (6) An undertaking that is required to have a nominated officer under [subsection \(1\)](#) must, as soon as reasonably practicable, inform the CMA of the identity of the nominated officer (including any replacement officer).

Commencement Information

I83 S. 83 not in force at Royal Assent, see [s. 339\(1\)](#)

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

84 Compliance reports

- (1) An undertaking that is subject to a digital markets requirement (as defined in section 83(3)) must provide the CMA with a compliance report in relation to that digital markets requirement for each reporting period (as specified in a notice under subsection (3)).
- (2) A compliance report is a report setting out—
 - (a) the extent to which the nominated officer considers that the undertaking has complied with the digital markets requirement and each related requirement (see section 83(4)) during the reporting period;
 - (b) how the undertaking has complied, and intends to continue to comply, with the digital markets requirement and each related requirement;
 - (c) such other information as the CMA may direct in relation to compliance with the digital markets requirement and each related requirement.
- (3) At the same time as imposing a digital markets requirement on an undertaking, the CMA must give a notice to the undertaking specifying—
 - (a) the manner and form of the compliance report to be provided in relation to that digital markets requirement, and
 - (b) the reporting period for that digital markets requirement.
- (4) The CMA may amend the requirements specified in a notice under subsection (3) by giving a further notice to the undertaking.
- (5) The CMA may give a notice to an undertaking requiring it to publish a compliance report or a summary of a compliance report at such time, and in such manner and form, as the CMA may set out in the notice.

Commencement Information

I84 S. 84 not in force at Royal Assent, see s. 339(1)

CHAPTER 7

ENFORCEMENT AND APPEALS

Civil penalties

PROSPECTIVE

85 Penalties for failure to comply with competition requirements

- (1) Where the CMA considers that an undertaking has, without reasonable excuse, failed to comply with a requirement listed in subsection (2), it may impose a penalty on the undertaking.
- (2) The requirements are—
 - (a) a requirement imposed by virtue of an enforcement order under section 31 or section 32,

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

- (b) a requirement imposed by virtue of a final offer order under [section 41](#) (including a requirement imposed in reliance on [section 42](#)),
 - (c) a requirement imposed by virtue of a pro-competition order under [section 46](#), and
 - (d) the requirement to comply with a commitment given under [section 36](#) or [56](#).
- (3) The CMA may impose a penalty on an undertaking where the CMA considers that the undertaking has, without reasonable excuse, failed to comply with a conduct requirement under [section 19](#).
- (4) The CMA may impose a penalty on an undertaking or, where the undertaking is part of a group, the group, where the CMA considers that the undertaking or any member of the group has, without reasonable excuse, failed to comply with a requirement in [Chapter 5](#) (mergers).

Commencement Information

I85 S. 85 not in force at Royal Assent, see [s. 339\(1\)](#)

PROSPECTIVE

86 Amount of penalties under [section 85](#)

- (1) The amount of a penalty imposed on a person under [section 85](#) may be such amount as the CMA considers appropriate, provided it does not exceed the amounts set out in subsection (4).
- (2) The amount of a penalty under [section 85\(1\)](#) must be—
- (a) a fixed amount,
 - (b) an amount calculated by reference to a daily rate, or
 - (c) a combination of a fixed amount and an amount calculated by reference to a daily rate.
- (3) The amount of a penalty under [section 85\(3\)](#) or (4) must be a fixed amount.
- (4) The maximum amounts of a penalty that may be imposed are—
- (a) in the case of a fixed amount, an amount equal to 10% of the total value of the turnover of the undertaking or, where the undertaking is part of a group, the turnover of the group;
 - (b) in the case of an amount calculated by reference to a daily rate, for each day an amount equal to 5% of the total value of the daily turnover of the undertaking or, where the undertaking is part of a group, the daily turnover of the group;
 - (c) in the case of a combination of a fixed amount and an amount calculated by reference to a daily rate, the amounts mentioned in paragraph (a), in relation to the fixed amount, and paragraph (b), in relation to the amount calculated by reference to a daily rate.
- (5) In [subsection \(4\)](#), references to the total value of the turnover or daily turnover of an undertaking or group are to the total value of the turnover or daily turnover of the undertaking or, as the case may be, group, both inside and outside the United Kingdom.

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

Commencement Information

186 S. 86 not in force at Royal Assent, see [s. 339\(1\)](#)

PROSPECTIVE

87 Penalties for failure to comply with investigative requirements

- (1) The CMA may impose a penalty on a person where it considers that the person has, without reasonable excuse—
 - (a) failed to comply with a requirement imposed by or under [Chapter 6](#),
 - (b) given information which is false or misleading in a material particular in connection with any function of the CMA under this Part, or
 - (c) given information which is false or misleading in a material particular to another person knowing that the information was to be used for the purpose of giving information to the CMA in connection with any function of the CMA under this Part.
- (2) The CMA may impose a penalty on an individual named as a senior manager under [section 70](#) as well as on the undertaking that names the individual where—
 - (a) the CMA considers that the individual has failed, without reasonable excuse, to prevent a failure or an action by the undertaking of a sort mentioned in subsection (1), and
 - (b) the failure or action relates to an information notice in response to which the individual was named as a senior manager.
- (3) The CMA may impose a penalty on an individual who is appointed by an undertaking to be a nominated officer under [section 83](#) in relation to a digital markets requirement (within the meaning of that section), as well as on the undertaking that appoints the individual, where the CMA considers that the individual has failed, without reasonable excuse, to prevent the undertaking from failing to comply with a requirement in or under [section 84](#) (compliance reports) in relation to that digital markets requirement.
- (4) The CMA may impose a penalty on an individual where it considers that the individual has, without reasonable excuse, obstructed an officer of the CMA acting in the exercise of the officer's powers under—
 - (a) [section 74](#), or
 - (b) a warrant issued under [section 75](#).

Commencement Information

187 S. 87 not in force at Royal Assent, see [s. 339\(1\)](#)

88 Amount of penalties under section 87

- (1) The amount of a penalty imposed on a person under [section 87](#) may be such amount as the CMA considers appropriate, provided it does not exceed the amounts set out in subsections (3) and (5).

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

- (2) The amount of a penalty under section 87 must be—
- (a) a fixed amount,
 - (b) an amount calculated by reference to a daily rate, or
 - (c) a combination of a fixed amount and an amount calculated by reference to a daily rate.
- (3) The maximum amounts of a penalty that may be imposed on an undertaking that is not an individual are—
- (a) in the case of a fixed amount, an amount equal to 1% of the total value of the person’s turnover (both inside and outside the United Kingdom);
 - (b) in the case of an amount calculated by reference to a daily rate, for each day an amount equal to 5% of the total value of the person’s daily turnover (both inside and outside the United Kingdom);
 - (c) in the case of a combination of a fixed amount and an amount calculated by reference to a daily rate, the amounts mentioned in paragraph (a), in relation to the fixed amount, and paragraph (b), in relation to the amount calculated by reference to a daily rate.
- (4) Where a person is an undertaking that is part of a group, references in subsection (3) to the person’s turnover are to the turnover of that group.
- (5) The maximum amounts of a penalty that may be imposed on an individual or a person that is not an undertaking are—
- (a) in the case of a fixed amount, £30,000,
 - (b) in the case of an amount calculated by reference to a daily rate, £15,000 per day, or
 - (c) in the case of a combination of a fixed amount and an amount calculated by reference to a daily rate, the amounts mentioned in paragraph (a), in relation to the fixed amount, and paragraph (b), in relation to the amount calculated by reference to a daily rate.
- (6) The Secretary of State may by regulations amend the amounts mentioned in paragraphs (a) and (b) of subsection (5).
- (7) The Secretary of State must consult the CMA and such other persons as the Secretary of State considers appropriate before making regulations under subsection (6).
- (8) Regulations under subsection (6) are subject to the affirmative procedure.

Commencement Information

188 S. 88 in force at Royal Assent for specified purposes, see s. 339(2)(c)

PROSPECTIVE

89 Procedure and appeals etc

- (1) Sections 112 (penalties: main procedural requirements), 113 (payments and interest by instalments), 114 (appeals), and 115 (recovery of penalties) of EA 2002 apply in relation to a penalty imposed under section 85 or 87 as they apply in relation to a penalty imposed under section 110(1) of that Act.

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

(2) For the purposes of this section—

- (a) sections 112 to 115 of EA 2002 are to be read as if references to “the appropriate authority” were references to “the CMA” only;
- (b) section 114(5A) of that Act is to be read as if the words “In the case of a penalty imposed on a person by the CMA or OFCOM,” were omitted;
- (c) section 114(12) of that Act is to be read as if, for paragraph (b), there were substituted—

“(b) “the relevant guidance” means the statement of policy which was most recently published under section 91 of the Digital Markets, Competition and Consumers Act 2024 at the time of the act or omission giving rise to the penalty.”

Commencement Information

189 S. 89 not in force at Royal Assent, see [s. 339\(1\)](#)

90 Calculation of daily rates and turnover

- (1) In imposing a penalty by reference to a daily rate—
 - (a) no account is to be taken of any days before the service on the person concerned of the provisional penalty notice under section 112(A1) of EA 2002 (as applied by section 89), and
 - (b) unless the CMA determines an earlier day (whether before or after the penalty is imposed), the amount payable ceases to accumulate at the beginning of—
 - (i) the day on which the person first complies with the requirement in question, or
 - (ii) if earlier, where the requirement was imposed in connection with the provision by the CMA of assistance to an overseas regulator (see [section 319](#) (provision of investigative assistance to overseas regulators)), the day on which the overseas regulator no longer requires that assistance.
- (2) The Secretary of State may by regulations make provision for determining the turnover (both inside and outside the United Kingdom) of a person for the purposes of this Chapter.
- (3) The regulations may (among other things)—
 - (a) make provision about amounts which are, or are not, to be included in a person’s turnover;
 - (b) make provision about the date or dates by reference to which a person’s turnover is to be determined;
 - (c) confer on the CMA the power to determine and make provision about matters specified in the regulations (including the matters mentioned in paragraphs (a) and (b)).
- (4) Regulations under subsection (2) are subject to the negative procedure.

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

Commencement Information

190 S. 90 in force at Royal Assent for specified purposes, see [s. 339\(2\)\(c\)](#)

PROSPECTIVE

91 Statement of policy on penalties

- (1) The CMA must prepare and publish a statement of policy in relation to the exercise of powers to impose a penalty under sections [85](#) and [87](#).
- (2) The statement must include a statement about the considerations relevant to the determination of—
 - (a) whether to impose a penalty under section [85](#) or [87](#);
 - (b) the nature and amount of any such penalty.
- (3) The CMA may revise its statement of policy and, where it does so, must publish the revised statement.
- (4) In preparing or revising its statement of policy the CMA must consult—
 - (a) the Secretary of State, and
 - (b) such other persons as the CMA considers appropriate.
- (5) A statement of policy, or revised statement, may not be published under [this section](#) without the approval of the Secretary of State.
- (6) Subsection [\(7\)](#) applies where the CMA proposes to impose a penalty on a person.
- (7) The CMA must have regard to the statement of policy most recently published under [this section](#) at the time of the act or omission giving rise to the penalty when deciding—
 - (a) whether to impose the penalty, and
 - (b) if so, the amount of the penalty.

Commencement Information

191 S. 91 not in force at Royal Assent, see [s. 339\(1\)](#)

PROSPECTIVE

92 Monetary penalties: criminal proceedings and convictions

- (1) The CMA may not impose a penalty on a person under section [87](#) in relation to an act or omission which constitutes an offence under section [93](#), [94](#) or [95](#) if the person has, in relation to that act or omission, been found guilty of that offence.
- (2) A person may not be found guilty of an offence under section [93](#), [94](#) or [95](#) by virtue of an act or omission if the person has paid a penalty imposed under section [87](#) in relation to that act or omission.

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

Commencement Information

I92 S. 92 not in force at Royal Assent, see [s. 339\(1\)](#)

PROSPECTIVE

Offences

93 Destroying or falsifying information

- (1) A person (“P”) commits an offence if, having been required to give information to the CMA or any other person under a provision of [Chapter 6](#), P—
 - (a) intentionally or recklessly destroys or otherwise disposes of it, falsifies it or conceals it, or
 - (b) causes or permits its destruction, disposal, falsification or concealment.
- (2) See [section 97](#) for provision restricting the application of this section in relation to acts done by a person who is outside the United Kingdom.

Commencement Information

I93 S. 93 not in force at Royal Assent, see [s. 339\(1\)](#)

94 False or misleading information

- (1) A person (“P”) commits an offence if—
 - (a) P gives information to the CMA in connection with any of the CMA’s digital markets functions,
 - (b) the information is false or misleading in a material particular, and
 - (c) P knows that it is or is reckless as to whether it is.
- (2) A person (“P”) commits an offence if P gives information to another person which is false or misleading in a material particular and P—
 - (a) either—
 - (i) knows the information to be false or misleading in a material particular, or
 - (ii) is reckless as to whether the information is false or misleading in a material particular, and
 - (b) knows that the information will be given to the CMA in connection with any of its digital markets functions.
- (3) See [section 97](#) for provision restricting the application of this section in relation to acts done by a person who is outside the United Kingdom.

Commencement Information

I94 S. 94 not in force at Royal Assent, see [s. 339\(1\)](#)

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

95 Obstructing an officer

- (1) A person (“P”) commits an offence if P intentionally obstructs an officer of the CMA acting in the exercise of the officer’s powers under—
 - (a) section 74, or
 - (b) a warrant issued under section 75.
- (2) See section 97 for provision restricting the application of this section in relation to acts done by a person who is outside the United Kingdom.

Commencement Information

I95 S. 95 not in force at Royal Assent, see [s. 339\(1\)](#)

96 Offences by officers of a body corporate etc

- (1) If an offence under section 93, 94 or 95 committed by a body corporate is proved—
 - (a) to have been committed with the consent or connivance of an officer of the body corporate, or
 - (b) to be attributable to neglect on the part of an officer of the body corporate, the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.
- (2) If the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with the member’s functions of management as if the member were an officer of the body corporate.
- (3) If an offence under section 93, 94 or 95 committed by a partnership in Scotland is proved—
 - (a) to have been committed with the consent or connivance of a partner, or
 - (b) to be attributable to neglect on the partner’s part, the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.
- (4) In subsection (3), “partner” includes a person purporting to act as a partner.
- (5) See section 97 for provision restricting the application of this section in relation to acts done by a person who is outside the United Kingdom.

Commencement Information

I96 S. 96 not in force at Royal Assent, see [s. 339\(1\)](#)

97 Offences: limits on extra-territorial jurisdiction

A person does not commit an offence under section 93, 94 or 95 (including as those sections are applied by section 96) by virtue of an act done when the person is outside the United Kingdom unless one or more of the following applies at the time of the act—

- (a) the person is a United Kingdom national;
- (b) the person is an individual who is habitually resident in the United Kingdom;

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

- (c) the person is a body incorporated under the law of any part of the United Kingdom.

Commencement Information

I97 S. 97 not in force at Royal Assent, see [s. 339\(1\)](#)

98 Sentences

A person guilty of an offence under section [93](#), [94](#) or [95](#) is liable—

- (a) on summary conviction in England and Wales, to a fine;
- (b) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum;
- (c) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

Commencement Information

I98 S. 98 not in force at Royal Assent, see [s. 339\(1\)](#)

PROSPECTIVE

Further enforcement provisions etc

99 Director disqualification

- (1) In the Company Directors Disqualification Act 1986, in section 9A (competition disqualification order), in subsection (4)—
 - (a) in the words before paragraph (a), for “either” substitute “any”;
 - (b) at the end insert—
 - “(e) a requirement imposed by or under [Chapter 3](#) of Part 1 of the Digital Markets, Competition and Consumers Act 2024 (undertakings with strategic market status in respect of a digital activity: conduct requirements);
 - (f) a requirement imposed by or under [Chapter 4](#) of Part 1 of that Act (pro-competition interventions).”
- (2) In the Company Directors Disqualification (Northern Ireland) Order 2002 ([S.I. 2002/3150 \(N.I. 4\)](#)), in Article 13A (competition disqualification order), in paragraph (4)—
 - (a) in the words before paragraph (a), for “either” substitute “any”;
 - (b) at the end insert—
 - “(e) a requirement imposed by or under [Chapter 3](#) of Part 1 of the Digital Markets, Competition and Consumers Act 2024 (undertakings with strategic market status in respect of a digital activity: conduct requirements);

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Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

- (f) a requirement imposed by or under [Chapter 4](#) of Part 1 of that Act (pro-competition interventions).”

Commencement Information

I99 S. 99 not in force at Royal Assent, see [s. 339\(1\)](#)

100 Enforcement of requirements

- (1) If a person fails, without reasonable excuse, to comply with a requirement mentioned in [subsection \(2\)](#) (a “[subsection \(2\)](#) requirement”), the CMA may apply to the court for an order—
- (a) requiring the person to comply with the [subsection \(2\)](#) requirement within a time specified in the court’s order, or
 - (b) if the [subsection \(2\)](#) requirement related to anything to be done in the management or administration of an undertaking, requiring the undertaking, or any of its officers, members or partners, to do it.
- (2) The requirements are—
- (a) a requirement imposed by virtue of an enforcement order (see [section 31](#) and [section 32](#));
 - (b) a requirement to comply with a commitment given under [section 36](#) or [56](#);
 - (c) a requirement imposed by virtue of a final offer order (see [section 41\(2\)](#) and [section 42](#));
 - (d) a requirement imposed by virtue of a pro-competition order (see [section 46](#)).
- (3) An order of the court under [subsection \(1\)](#) may provide for all of the costs of, or incidental to, the application for the order to be borne by—
- (a) the person that failed to comply with the [subsection \(2\)](#) requirement, or
 - (b) where the person responsible for the failure is an undertaking, any officer of a body corporate that is or is comprised in that undertaking.
- (4) In the application of [subsection \(3\)](#) to Scotland, the reference to “costs” is to be read as a reference to “expenses”.
- (5) In [this section](#), references to an “officer”, “member” or “partner” of an undertaking are to an officer, member or partner of a body corporate or, as the case may be, partnership, that is, or is comprised in, the undertaking.

Commencement Information

I100 S. 100 not in force at Royal Assent, see [s. 339\(1\)](#)

101 Rights to enforce requirements of this Part

- (1) A relevant requirement is to be treated as a duty owed by the person that is subject to the requirement to any other person (“P”) who may be affected by a breach of the requirement.
- (2) Where a breach of a relevant requirement causes P to sustain loss or damage, P may bring civil proceedings against the person that has breached the requirement before

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Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

the appropriate court or the Tribunal for damages, an injunction or interdict or any other appropriate relief or remedy.

- (3) Subsections (1) and (2) are subject to the defences and other incidents applying to actions for breach of statutory duty.
- (4) For the purposes of this section and section 102, a relevant requirement is—
 - (a) a conduct requirement under section 19;
 - (b) a requirement imposed by virtue of a pro-competition order under section 46;
 - (c) a requirement to comply with a commitment given under section 36 or 56.
- (5) Rules of court and Tribunal rules may make provision about the transfer from the Tribunal to the appropriate court or from the appropriate court to the Tribunal of all or any part of a claim made in proceedings under subsection (2).
- (6) For the purposes of this section and section 102, the “appropriate court” means—
 - (a) in relation to England and Wales or Northern Ireland, the High Court, and
 - (b) in relation to Scotland, the Court of Session or a sheriff court of any sheriffdom.
- (7) In Schedule 4 to EA 2002 (tribunal: procedure), in paragraph 1A, in sub-paragraph (1) after “the 1998 Act” insert “or section 101 of the Digital Markets, Competition and Consumers Act 2024”.

Commencement Information

I101 S. 101 not in force at Royal Assent, see s. 339(1)

102 Treatment of CMA breach decisions etc

- (1) The appropriate court (see section 101) and the Tribunal are bound by a CMA breach decision once it has become final.
- (2) A CMA breach decision becomes final—
 - (a) when the time for applying for a review of that decision has passed without an application being made, or
 - (b) where an application has been made, when the application has been finally determined or has otherwise ended.
- (3) For the purposes of subsection (2)(b), an application is not finally determined until any appeal relating to it has been determined (ignoring any possibility of an appeal out of time with permission).
- (4) This section applies to the extent that the appropriate court or the Tribunal would not otherwise be bound by the CMA breach decision in question.
- (5) In this section, a “CMA breach decision” is a decision by the CMA in accordance with this Part that a person has breached a relevant requirement (as defined in section 101).
- (6) Rules of court or Tribunal rules may make provision in respect of assistance to be given by the CMA to the appropriate court or the Tribunal in proceedings brought otherwise than by the CMA in respect of a breach, or an alleged breach, of a relevant requirement.

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

Commencement Information

1102 S. 102 not in force at Royal Assent, see [s. 339\(1\)](#)

PROSPECTIVE

Applications for review

103 Applications for review etc

- (1) A person with a sufficient interest in any decision to which subsection (2) applies may apply to the Tribunal in accordance with Tribunal rules for a review of that decision.
- (2) This subsection applies to any decision made by the CMA in connection with its digital markets functions (including a decision not to exercise a function) apart from—
 - (a) a decision made by the CMA in connection with its functions under [Chapter 5](#) (but see section [66](#));
 - (b) a decision about the imposition of a penalty under section [85](#) or [87](#) (but see section [89\(1\)](#)).
- (3) The making of an application under [subsection \(1\)](#) does not suspend the effect of the decision to which the application relates except so far as a direction to the contrary is given by the Tribunal.
- (4) In determining an application under [this section](#), the Tribunal must apply the same principles as would be applied—
 - (a) in the case of proceedings in England and Wales or Northern Ireland, by the High Court in determining proceedings on judicial review;
 - (b) in the case of proceedings in Scotland, by the Court of Session on an application to the supervisory jurisdiction of that Court.
- (5) The Tribunal may—
 - (a) dismiss the application or quash the whole or part of the decision to which it relates, and
 - (b) where it quashes the whole or part of that decision, refer the matter back to the CMA with a direction to reconsider and make a new decision in accordance with the ruling of the Tribunal.
- (6) An appeal lies on any point of law arising from a decision of the Tribunal under [this section](#) to the appropriate court.
- (7) An appeal under subsection (6) requires the permission of the Tribunal or the appropriate court.
- (8) In [this section](#), “the appropriate court” means—
 - (a) in relation to England and Wales or Northern Ireland, the Court of Appeal, or
 - (b) in relation to Scotland, the Court of Session.

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

Commencement Information

I103 S. 103 not in force at Royal Assent, see [s. 339\(1\)](#)

CHAPTER 8

ADMINISTRATION ETC

Administration

PROSPECTIVE

104 Extension etc of periods

- (1) The CMA may publish a notice extending a relevant investigation period or a final offer period by a period of up to 3 months where it considers that there are special reasons for doing so.
- (2) A notice under [subsection \(1\)](#) must specify how long the extension is for.
- (3) The CMA may also publish a notice extending a relevant investigation period or a final offer period where it considers that—
 - (a) in relation to a relevant investigation period—
 - (i) a person has failed to comply with any requirement of a notice under [section 69](#) (power to require information) or under [section 72](#) (power to interview) which was given in relation to an SMS investigation, a conduct investigation or a PCI investigation, and
 - (ii) the failure is preventing the CMA from properly discharging the digital markets functions to which the investigation relates, or
 - (b) in relation to a final offer period—
 - (i) a person has failed to comply with any requirement of a notice under [section 69](#), and
 - (ii) the failure is preventing the CMA from properly discharging any of its functions under [sections 38 to 45](#) (final offer mechanism).
- (4) An extension under [subsection \(3\)](#) is for the period—
 - (a) beginning with the day on which it comes into force, and
 - (b) ending with the day on which the CMA publishes a notice of its decision to end the extension.
- (5) The CMA must publish a notice under [subsection \(4\)\(b\)](#) where the person who had failed to comply as mentioned in [subsection \(3\)](#) gives the information in question to the CMA or, as the case may be, answers questions and provides explanations to the satisfaction of the CMA.
- (6) An extension under [subsection \(1\)](#) or [\(3\)](#) begins with the day on which the notice under [subsection \(1\)](#) or [\(3\)](#), as the case may be, is published.
- (7) Where—

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

- (a) the CMA extends an SMS investigation period relating to a further SMS investigation under [subsection \(1\)](#) or [\(3\)](#),
 - (b) the extension means that the SMS investigation period would (apart from this subsection) continue after the end of the designation period for the existing designation which is the subject of the further SMS investigation, and
 - (c) in the case of an extension under [subsection \(3\)](#), the person who had failed to comply is, or is connected to, the designated undertaking,
- the designation period for the existing designation is extended until the end of the SMS investigation period.
- (8) In [this section](#) and in [section 105](#) references to a “relevant investigation period” are to—
- (a) an SMS investigation period;
 - (b) a conduct investigation period;
 - (c) a PCI investigation period.

Commencement Information

I104 S. 104 not in force at Royal Assent, see [s. 339\(1\)](#)

PROSPECTIVE

105 Extensions: supplementary

- (1) A period may be extended under both [section 104\(1\)](#) and [\(3\)](#).
- (2) No more than one extension is possible under [section 104\(1\)](#).
- (3) Where a relevant investigation period or a final offer period is extended or further extended under [section 104\(1\)](#) or [\(3\)](#), the period as extended or, as the case may be, further extended is, subject to [subsection \(4\)](#), to be calculated by taking the period being extended and adding to it the period of the extension (whether or not those periods overlap in time).
- (4) Where—
 - (a) a relevant investigation period or a final offer period is further extended under [section 104\(3\)](#), and
 - (b) the further extension overlaps with a previous extension under [section 104\(3\)](#),
 the period of overlap is to be disregarded in calculating the period of the further extension.

Commencement Information

I105 S. 105 not in force at Royal Assent, see [s. 339\(1\)](#)

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

106 Exercise and delegation of functions

- (1) The CMA may make a reference to the CMA chair for the constitution of a group under Schedule 4 to ERA 2013 in respect of any non-reserved digital markets function.
- (2) A reference under [this section](#) must specify the non-reserved digital markets function in respect of which the reference is made (“the referred function”).
- (3) A CMA group constituted under ERA 2013 for the purposes of a reference under [this section](#) must carry out the referred function.
- (4) For the purposes of [this section](#), a “non-reserved digital markets function” is any digital markets function other than a digital markets function that the CMA Board may not delegate—
 - (a) under paragraph 29(1) of Schedule 4 to ERA 2013, as a result of paragraph 29(2) of that Schedule as it has effect from time to time, or
 - (b) under paragraph 29(1)(a) of that Schedule, as a result of paragraph 29(2A) of that Schedule as it has effect from time to time.
- (5) In [subsection \(1\)](#), “CMA chair” means the person appointed under paragraph 1(1)(a) of Schedule 4 to ERA 2013.
- (6) In Schedule 4 to ERA 2013 (the Competition and Markets Authority), paragraph 29 (delegation) is amended as follows.
- (7) In sub-paragraph (2) (functions which cannot be delegated), at the end insert—
 - “(g) whether to begin an initial SMS investigation under [section 9](#) of the Digital Markets, Competition and Consumers Act 2024 (“the 2024 Act”);
 - (h) whether to begin a further SMS investigation under [section 10](#) of the 2024 Act;
 - (i) whether to begin a PCI investigation under [section 47](#) of the 2024 Act.”
- (8) After sub-paragraph (2) insert—
 - “(2A) Sub-paragraph (1)(a) does not apply to the functions of deciding—
 - (a) whether to make a designation under [section 2](#) of the 2024 Act;
 - (b) what, if any, provision to make in reliance on [section 17](#) of the 2024 Act;
 - (c) whether to impose a conduct requirement under [section 19](#) of the 2024 Act;
 - (d) whether to revoke a conduct requirement under [section 22](#) of the 2024 Act;
 - (e) whether to make, and the form of, an enforcement order, other than an interim enforcement order, under [section 31](#) of the 2024 Act;
 - (f) whether to accept a commitment under [section 36](#) or [section 56](#) of the 2024 Act;
 - (g) whether to exercise the power conferred by [section 38\(1\)](#) of the 2024 Act (power to adopt final offer mechanism);
 - (h) whether to make, and the form of, a pro-competition intervention under [section 46](#) of the 2024 Act;

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

- (i) the contents of a notice under [section 50](#) of the 2024 Act (notice of decision on pro-competition intervention);
 - (j) whether to replace a pro-competition order under [section 52](#) of the 2024 Act;
 - (k) whether to revoke a pro-competition order under [section 53](#) of the 2024 Act.
 - (l) whether to impose a penalty on a person under [section 85](#) or [section 87](#) of the 2024 Act;
 - (m) the amount of any such penalty.
- (2B) A committee or sub-committee of the CMA Board may not be authorised to carry out any of the functions listed in sub-paragraph (2A) unless—
- (a) the committee or sub-committee includes—
 - (i) at least two members of the Board who are not members of the CMA’s staff, or
 - (ii) the chair and at least one member of the Board who is not a member of the CMA’s staff, and
 - (b) at least half of the members of the committee or sub-committee are—
 - (i) members of the Board who are not members of the CMA’s staff, or
 - (ii) members of the CMA panel.”
- (9) After sub-paragraph (3) insert—
- “(4) The Secretary of State may by regulations made by statutory instrument amend sub-paragraphs (2) or (2A) so as to add or remove functions of the CMA under Part 1 of the 2024 Act.
- (5) The regulations may make incidental, transitional or saving provision.
- (6) A statutory instrument containing regulations under sub-paragraph (4) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

Commencement Information

I106 S. 106 in force at Royal Assent for specified purposes, see [s. 339\(2\)\(c\)](#)

PROSPECTIVE

Regulatory coordination and information sharing

107 Coordination with relevant regulators

- (1) The CMA must consult the FCA on a proposal to exercise a regulatory digital markets function in respect of a matter where the CMA considers the matter is a matter in relation to which the CMA and the FCA may have concurrent functions (see sections 234I (functions under Part 4 of EA 2002) and 234J (functions under CA 1998) of the Financial Services and Markets Act 2000 (as amended by this Act) (“FSMA”)).

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

- (2) The CMA must consult OFCOM on a proposal to exercise a regulatory digital markets function in respect of a matter where the CMA considers the matter is a matter in relation to which the CMA and OFCOM may have concurrent functions (see sections 370 (functions under Part 4 of EA 2002) and 371 (functions under CA 1998) of the Communications Act 2003 (as amended by this Act)).
- (3) The CMA must consult the Information Commissioner on a proposal to exercise a regulatory digital markets function in a manner that the CMA considers is likely to have a material adverse effect on the ability of the Information Commissioner to exercise functions under—
 - (a) the data protection legislation,
 - (b) the Privacy and Electronic Communications (EC Directive) Regulations 2003 (S.I. 2003/2426), or
 - (c) the Network and Information Systems Regulations 2018 (S.I. 2018/506).
- (4) The CMA must consult the Bank of England on a proposal to exercise a regulatory digital markets function in a manner that the CMA considers is likely to have a material adverse effect on the ability of the Bank of England to advance the Financial Stability Objective as defined in section 2A of the Bank of England Act 1998.
- (5) The CMA must consult the PRA on a proposal to exercise a regulatory digital markets function in a manner that the CMA considers is likely to have a material adverse effect on the ability of the PRA to advance—
 - (a) its general objective under section 2B of FSMA, or
 - (b) its insurance objective under section 2C of FSMA.
- (6) The duties in [subsections \(1\) to \(5\)](#) apply only to the extent that the CMA considers that compliance does not impose a burden on it that outweighs the benefits of compliance.

Commencement Information

I107 S. 107 not in force at Royal Assent, see [s. 339\(1\)](#)

108 Recommendations to the CMA

- (1) The FCA or OFCOM may make a recommendation to the CMA where they consider that the CMA should exercise a regulatory digital markets function in relation to an undertaking and a digital activity.
- (2) A recommendation under [subsection \(1\)](#) must—
 - (a) describe the undertaking, the digital activity, and the regulatory digital markets function to which it relates, and
 - (b) be given to the CMA in writing.
- (3) A recommendation under [this section](#) must be accompanied by a statement of reasons for the recommendation.
- (4) Within the period of 90 days beginning with the day on which it receives a recommendation, the CMA must—
 - (a) give notice to the regulator that made the recommendation—
 - (i) setting out the action that the CMA has taken or intends to take in response to the recommendation, and

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

- (ii) including the reasons for its decision, and
 (b) publish a summary of the notice.

Commencement Information

I108 S. 108 not in force at Royal Assent, see [s. 339\(1\)](#)

109 Information sharing

- (1) In Schedule 14 to EA 2002 (provisions about disclosure of information) at the appropriate place insert—
 “[Part 1](#) of the Digital Markets, Competition and Consumers Act 2024.”
- (2) In Schedule 15 to EA 2002 (provisions about disclosure of information) at the appropriate places insert—
 “Privacy and Electronic Communications (EC Directive) Regulations 2003 ([S.I. 2003/2426](#)).”;
 ““[Regulation \(EU\) No 910/2014](#) of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing [Directive 1999/93/EC](#).”;
 ““[Regulation \(EU\) 2016/679](#) of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (United Kingdom General Data Protection Regulation).”;
 ““Part 4 of the Network and Information Systems Regulations 2018 ([S.I. 2018/506](#)).”;
 ““Data Protection Act 2018.”;
 ““[Part 1](#) of the Digital Markets, Competition and Consumers Act 2024.”

Commencement Information

I109 S. 109 not in force at Royal Assent, see [s. 339\(1\)](#)

PROSPECTIVE

Miscellaneous

110 Power to charge levy

- (1) The CMA may require an undertaking to pay it a levy in respect of a chargeable year during the whole or part of which the undertaking is a designated undertaking.
- (2) The amount of the levy is to be calculated in accordance with rules made for the purposes of [this section](#) by the CMA (“the levy rules”).
- (3) The CMA may amend or replace the levy rules.
- (4) The levy rules must—

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

- (a) secure that the aggregate amount payable in respect of a chargeable year is not to exceed the costs which the CMA incurs in exercising its digital markets functions during that year;
 - (b) make provision about how the aggregate amount payable in respect of a chargeable year is to be divided between the undertakings which are designated undertakings for the whole or part of that year;
 - (c) secure that where an undertaking is a designated undertaking for only part of a chargeable year, the amount of the levy payable by that undertaking in respect of that chargeable year is proportionately reduced;
 - (d) set out how the CMA is to estimate the costs which it expects to incur in exercising its digital markets functions during a chargeable year;
 - (e) set out how the CMA is to calculate the costs which it actually incurs in exercising its digital markets functions during a chargeable year;
 - (f) make provision about the repayment or crediting of any amounts of levy paid in respect of a chargeable year on the basis of the CMA's estimate of the costs it would incur in exercising its digital markets functions during that year where the CMA's estimated costs exceed the CMA's actual costs of exercising those functions during that year;
 - (g) secure that any repayment or crediting in respect of a chargeable year in accordance with provision made under [paragraph \(f\)](#), so far as relating to an undertaking, is in proportion to the amount paid by that undertaking in respect of that year;
 - (h) make provision about the charging of amounts of levy in respect of a chargeable year where the CMA's actual costs of exercising its digital markets functions during that year exceed the costs which the CMA estimated it would incur;
 - (i) secure that, where an undertaking is required to pay an amount of levy in respect of a chargeable year in accordance with provision made under [paragraph \(h\)](#), the amount which the undertaking is required to pay is in proportion to the amount already paid by the undertaking in respect of that year;
 - (j) make provision about the administration and payment of the levy.
- (5) The levy rules may make provision for interest to be charged, at the rate specified for the time being in section 17 of the Judgments Act 1838, on any amount of levy not paid by the date on which it is due.
- (6) References in [subsection \(4\)](#) to an amount payable by an undertaking do not include interest charged in accordance with provision made under [subsection \(5\)](#).
- (7) The CMA must pay any amount that it receives in accordance with provision made under [subsection \(5\)](#) into the Consolidated Fund.
- (8) The CMA must consult such persons as it considers appropriate before making the levy rules, including any amended or replacement levy rules (see [section 113](#)).
- (9) The consultation must include a draft of the proposed levy rules.
- (10) The CMA must, at the same time as beginning consultation under [subsection \(8\)](#), arrange for the draft of the proposed levy rules to be laid before Parliament.
- (11) The CMA must publish the levy rules, including amended or replacement rules.

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

- (12) An amount payable by an undertaking in accordance with [this section](#) and the levy rules is recoverable as a civil debt due to the CMA.
- (13) For the purposes of [this section](#)—
- (a) a chargeable year is a period of 12 months ending with 31 March;
 - (b) the CMA’s costs of exercising its digital markets functions do not include costs incurred by the CMA for the purposes of litigation.

Commencement Information

I110 S. 110 not in force at Royal Assent, see [s. 339\(1\)](#)

111 Extra-territorial application

- (1) Unless otherwise stated, this Part applies in relation to persons outside the United Kingdom.
- (2) A power to give a notice to a person outside the United Kingdom by virtue of [this Part](#) is exercisable only if the person is within [subsection \(3\)](#), [\(4\)](#) or [\(5\)](#).
- (3) A person is within [this subsection](#) if the person is, or is part of—
- (a) a designated undertaking or an undertaking to which an obligation applies by virtue of provision made in reliance on [section 17\(1\)](#) (existing obligations);
 - (b) an undertaking that is the subject of a digital markets investigation.
- (4) A person is within this subsection if the person is an individual—
- (a) who is named as a senior manager under [section 70](#) or appointed as a nominated officer under [section 83](#), and
 - (b) on whom the CMA has imposed or is considering imposing a penalty under [section 87\(2\)](#) or [87\(3\)](#), as the case may be.
- (5) A person is within [this subsection](#) if the person—
- (a) is a United Kingdom national,
 - (b) is an individual who is habitually resident in the United Kingdom,
 - (c) is a body incorporated under the law of any part of the United Kingdom, or
 - (d) carries on business in the United Kingdom.
- (6) Nothing in [this section](#) is to be taken to limit any other power of the CMA to give a notice to a person outside the United Kingdom.

Commencement Information

I111 S. 111 not in force at Royal Assent, see [s. 339\(1\)](#)

112 Defamation

For the purposes of the law relating to defamation, absolute privilege attaches to anything done by the CMA in the exercise of any of its functions under [this Part](#).

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

Commencement Information

I112 S. 112 not in force at Royal Assent, see [s. 339\(1\)](#)

113 Consultation and publication of documents

- (1) The CMA must comply with any duty to consult under [this Part](#) in such manner as it considers practicable, having regard in particular to—
 - (a) any need to keep information confidential, and
 - (b) the timetable for making a final decision or taking any action following the consultation.
- (2) Any consultation which the CMA carries out under [this Part](#) must include—
 - (a) reasons for the finding, decision or proposal to which the consultation relates, and
 - (b) such other information as the CMA considers necessary to allow a proper understanding of those reasons (subject to [subsection \(1\)\(b\)](#)).
- (3) The CMA must comply with any duty to publish a notice or any other document under [this Part](#) by publishing the notice or document online, having regard to any need to keep information confidential.
- (4) In order to give effect to any need to keep information confidential, the CMA may publish the notice or other document in a redacted form.

Commencement Information

I113 S. 113 not in force at Royal Assent, see [s. 339\(1\)](#)

114 Guidance

- (1) The CMA must publish guidance on how it will exercise its functions under [this Part](#).
- (2) The CMA may revise or replace guidance published under [this section](#).
- (3) The CMA must publish any revised or replacement guidance.
- (4) Before publishing guidance (including any revised or replacement guidance) under [this section](#), the CMA must—
 - (a) consult such persons as it considers appropriate, and
 - (b) obtain the approval of the Secretary of State.
- (5) When the CMA seeks the approval of the Secretary of State for guidance, the Secretary of State must—
 - (a) approve the guidance, or
 - (b) give reasons to the CMA for not approving it.
- (6) The Secretary of State must comply with [subsection \(5\)](#) before the end of the 30th working day after the day on which the CMA seeks the Secretary of State's approval.

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

Commencement Information

I114 S. 114 not in force at Royal Assent, see [s. 339\(1\)](#)

115 Protected disclosures

In the Public Interest Disclosure (Prescribed Persons) Order 2014 ([S.I. 2014/2418](#)), in the table in the Schedule, in the entry for the Competition and Markets Authority, in the right hand column, after “Kingdom” insert “, including matters relating to Part 1 of the Digital Markets, Competition and Consumers Act 2024 (digital markets)”.

Commencement Information

I115 S. 115 not in force at Royal Assent, see [s. 339\(1\)](#)

116 Restriction on disclosure orders

- (1) This section applies for the purposes of—
 - (a) digital markets proceedings, or
 - (b) competition proceedings.
- (2) A court or the Tribunal must not make a disclosure order requiring the CMA to disclose or produce information where the court or the Tribunal is satisfied that another person would be reasonably able to provide the information.
- (3) A court or the Tribunal must not make a disclosure order requiring the disclosure or production of digital markets investigation information before the CMA gives notice of the closure or outcome of each investigation to which the information relates.
- (4) In this section—

“competition proceedings” has the meaning given by paragraph 2(4) of Schedule 8A to the Competition Act 1998 (further provision about claims in respect of loss or damage before a court or the Tribunal);

“digital markets investigation information” means information—

 - (a) prepared by a person other than the CMA for the purpose of a digital markets investigation;
 - (b) sent by the CMA in connection with such an investigation to a person that is the subject of the investigation;

“digital markets proceedings” means proceedings under [section 101](#) (rights to enforce requirements of [Part 1](#)) or proceedings on appeal from such proceedings.
- (5) Paragraphs 7 and 27 of Schedule 8A to the Competition Act 1998 (other definitions; disclosure orders) apply for the purposes of this section as they apply for the purposes of Part 6 of that Schedule.
- (6) In Schedule 8A to the Competition Act 1998—
 - (a) in paragraph 7 (other definitions), after sub-paragraph (2) insert—

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

- “(2A) “Digital markets proceedings” means proceedings under [section 101](#) of the Digital Markets, Competition and Consumer Act 2024 (rights to enforce requirements of [Part 1](#)).”;
- (b) in paragraph 28, after “competition proceedings” insert “or digital markets proceedings”;
 - (c) in paragraph 29, after “competition proceedings” insert “or digital markets proceedings”;
 - (d) in paragraph 30(1), after “competition proceedings” insert “or digital markets proceedings”.

Commencement Information

I116 S. 116 not in force at Royal Assent, see [s. 339\(1\)](#)

PROSPECTIVE

Interpretation

117 Groups

- (1) [This section](#) makes provision about groups for the purposes of [this Part](#).
- (2) An undertaking is part of a group if one or more bodies corporate which are comprised in the undertaking are members of the same group as one or more other bodies corporate.
- (3) For the purposes of [this Part](#), two bodies corporate are members of the same group if—
 - (a) one is the subsidiary of the other, or
 - (b) both are subsidiaries of the same body corporate.

Commencement Information

I117 S. 117 not in force at Royal Assent, see [s. 339\(1\)](#)

118 General interpretation

- (1) In [this Part](#)—
 - “breach investigation” means an investigation (including a conduct investigation) into whether an undertaking is breaching or has breached a requirement imposed on the undertaking under this Part by virtue of the undertaking being, or having been, a designated undertaking;
 - “conduct investigation” has the meaning given by [section 26\(1\)](#);
 - “conduct investigation notice” has the meaning given by [section 26\(3\)](#);
 - “conduct investigation period” has the meaning given by [section 30\(2\)](#);
 - “conduct requirements” has the meaning given by [section 19\(3\)](#);
 - “consumer” has the meaning given by [section 129\(1\)](#) of EA 2002;
 - “the court”, except where otherwise stated, means—

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

- (a) in relation to England and Wales or Northern Ireland, the High Court, and
 - (b) in relation to Scotland, the Court of Session;
- “customer” includes a customer who is not a consumer;
- “designated undertaking” means an undertaking which the CMA has designated as having SMS in respect of a digital activity;
- “designation” means the designation of an undertaking as having SMS in respect of a relevant digital activity;
- “designation period” has the meaning given by [section 15\(3\)\(e\)](#);
- “digital activity” has the meaning given by [section 3\(1\)](#);
- “digital content” has the meaning given by [section 330](#);
- “digital markets functions” means—
- (a) the functions that the CMA has under [this Part](#), and
 - (b) the CMA’s power to do anything that is calculated to facilitate, or is conducive or incidental to, the performance of those functions (see paragraph 20 of Schedule 4 to ERRA 2013 (additional powers));
- “digital markets investigation” means—
- (a) an SMS investigation;
 - (b) a breach investigation (including a conduct investigation);
 - (c) a PCI investigation;
- the “digital markets investigation powers” are the powers that the CMA has under—
- (a) [section 69](#) (power to require information);
 - (b) [section 71](#) (power of access);
 - (c) [section 72](#) (power to interview);
 - (d) [section 74](#) (power to enter business premises without a warrant);
 - (e) [section 75](#) (power to enter premises under a warrant);
 - (f) [section 79](#) (reports by skilled persons);
- “enforcement order” has the meaning given by [section 31\(1\)](#);
- “the FCA” means the Financial Conduct Authority;
- “final offer initiation notice” has the meaning given by [section 40\(1\)](#);
- “final offer order” has the meaning given by [section 41\(2\)](#);
- “final offer payment terms” has the meaning given by [section 38\(1\)](#);
- “final offer period” has the meaning given by [section 41\(3\)](#);
- “further SMS investigation” has the meaning given by [section 10\(3\)](#);
- “grouped third parties” has the meaning given by [section 39\(3\)](#);
- “grouped transactions” has the meaning given by [section 39\(3\)](#);
- “information” includes—
- (a) information in the form of a document, whether in draft or final form;
 - (b) information in any other form;
 - (c) data, code, algorithms, estimates, forecasts, returns and explanations;
- “information notice” has the meaning given by [section 69\(2\)](#);
- “initial SMS investigation” has the meaning given by [section 9\(2\)](#);
- “interim enforcement order” has the meaning given by [section 32\(1\)](#);
- “joined third parties” has the meaning given by [section 39\(1\)](#);
- “OFCOM” means the Office of Communications;

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

“officer”, in relation to a body corporate, means a director, manager, secretary or other similar officer of the body;

“PCI” stands for “pro-competition intervention”;

“PCI decision” has the meaning given by [section 49\(1\)](#);

“PCI investigation” has the meaning given by [section 47\(1\)](#);

“PCI investigation notice” has the meaning given by [section 48\(1\)](#);

“PCI investigation period” has the meaning given by [section 50\(1\)](#);

“person”, in addition to the meaning given by the Interpretation Act 1978, includes an undertaking;

“the PRA” means the Prudential Regulation Authority;

“pro-competition order” has the meaning given by [section 46\(3\)\(a\)](#);

“product” means—

- (a) goods;
- (b) services;
- (c) digital content;

the “regulatory digital markets functions” are—

- (a) the power to open an SMS investigation under [section 9\(1\)](#) (initial SMS investigation) or [section 10\(1\)](#) or (2) (further SMS investigation);
- (b) the power to designate an undertaking as having SMS under [Chapter 2](#) (strategic market status);
- (c) the power to revoke a designation under [Chapter 2](#) (strategic market status);
- (d) the power to impose or revoke conduct requirements under [Chapter 3](#) (conduct requirements);
- (e) the power to make, replace or revoke PCIs under [Chapter 4](#) (pro-competition interventions);

“relevant digital activity” in relation to a designated undertaking means a digital activity in respect of which the undertaking has been designated as having SMS;

the “relevant service or digital content” in relation to a digital activity means the service or digital content the provision of which constitutes (together with any other activity carried out for the purposes of that provision) the digital activity;

“SMS” stands for “strategic market status”;

“SMS conditions” are the conditions set out in [section 2\(2\)](#);

“SMS decision notice” has the meaning given by [section 14\(2\)](#);

“SMS investigation” means an initial SMS investigation and a further SMS investigation;

“SMS investigation notice” has the meaning given by [section 11\(1\)](#);

“SMS investigation period” has the meaning given by [section 14\(2\)](#);

“submission date” has the meaning given by [section 40\(2\)\(d\)](#);

“subsidiary” has the meaning given by section 1159 of the Companies Act 2006;

“the Tribunal” means the Competition Appeal Tribunal;

“Tribunal rules” means rules under section 15 of EA 2002;

“the turnover condition” has the meaning given by [section 7](#);

Status: Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1. (See end of Document for details)

“UK user” and “UK customer” mean any user or, as the case may be, customer who it is reasonable to assume—

- (a) in the case of an individual, is normally in the United Kingdom, and
- (b) in any other case, is established in the United Kingdom;

“undertaking” has the same meaning as it has for the purposes of Part 1 of CA 1998 (competition: agreements, abuse of dominant position etc);

“user” includes any person, legal or natural, and, in relation to a digital activity, means any user of the relevant service or digital content.

(2) In [this Part](#)—

- (a) references to “giving notice” or “giving a notice” are to giving notice or giving a notice in writing;
- (b) references to “using” include, in relation to a service or digital content, interacting, or carrying out activities that interact, in any way, directly or indirectly, with the service or digital content;
- (c) references to the supply, provision, acquisition or use of goods or services include the supply, provision, acquisition or use of digital content.

(3) In this Part, a person is “connected to” an undertaking if that person—

- (a) is concerned in the management or control of the undertaking,
- (b) is employed by the undertaking, or
- (c) works for the undertaking in any other capacity.

Commencement Information

I118 S. 118 not in force at Royal Assent, see [s. 339\(1\)](#)

Status:

Point in time view as at 24/05/2024. This version of this part contains provisions that are prospective.

Changes to legislation:

There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Part 1.