



# Digital Markets, Competition and Consumers Act 2024

## 2024 CHAPTER 13

### PART 1

#### DIGITAL MARKETS

#### 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.
- (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.

*Status: This version of this cross heading contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Cross Heading: Imposition of conduct requirements. (See end of Document for details)*

- (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.

#### Commencement Information

**II** 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).

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- (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.

#### Commencement Information

**I2** S. 20 in force at Royal Assent for specified purposes, see [s. 339\(2\)\(c\)](#)

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## 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

**I3** 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

**I4** S. 22 not in force at Royal Assent, see [s. 339\(1\)](#)

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## 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**

**I5** 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**

**I6** S. 24 not in force at Royal Assent, see [s. 339\(1\)](#)

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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.

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### Commencement Information

**I7** S. 25 not in force at Royal Assent, see [s. 339\(1\)](#)

**Status:**

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**Changes to legislation:**

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