



# Digital Markets, Competition and Consumers Act 2024

## 2024 CHAPTER 13

### PART 1

#### DIGITAL MARKETS

#### CHAPTER 3

#### CONDUCT REQUIREMENTS

#### *Enforcement of conduct requirements*

### 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,
  - (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.