

techUK's Response to the CMA Draft Annual Plan 2025/26

About techUK

techUK represents the companies and technologies that are defining today, the world that we will live in tomorrow. The tech industry is creating jobs and growth across the UK. Over 1000 companies are members of techUK. Collectively, they employ more than 700,000 people, about half of all tech sector jobs in the UK. These companies range from leading FTSE 100 companies to new and innovative start-ups. techUK is responding to this consultation on behalf of its members.

Introduction: Competition and Consumer Protection to drive economic growth, opportunity, and prosperity for the UK

techUK is glad to see the CMA's annual plan's focus on how the CMA can drive economic growth and opportunities, as a central pillar of its strategy. We welcome insights into the CMA's direction on how it will support the delivery of the government's industrial strategy.

We also welcome the CMA's commitment to ensuring proportionality, predictability, procedural effectiveness, and pace in its work, which techUK has called for and has been echoed in the Strategic Steer given to the CMA by the Department for Business and Trade with the Authority being asked to ensure its actions promote competition, investment, innovation and economic growth. We are keen to see a stronger articulation from the CMA on how its focus on growth and innovation works for all market participants considering its new powers granted by the digital markets competition regime (DMCR) in the final Annual Plan Draft.

techUK has recently accepted the CMA's invitation to contribute to its Growth & Investment Council alongside other leading trade associations and will seek to provide recommendations on how the CMA can carry out its duties in a way that drives innovation, economic growth and better outcomes for consumers. To transparently demonstrate its commitment to promoting growth, we would encourage the CMA Growth and Investment Council to publish the agenda, attendance and notes of each meeting.

We encourage the CMA to further detail on how it will work to enable innovating businesses to invest and compete on a level playing field.

Updates to the CMA Strategic and Annual Plan

Do you agree with the CMA's proposed Medium-Term Priorities and Areas of Focus for 2025 to 2026?

- techUK welcomes the CMA's focus on supporting sectors that offer the greatest potential impact on the UK's innovation, productivity and growth to develop competitively and to their full potential.
- In the context of mergers, the CMA's new draft Remedies Guidance proposing that remedies discussions occur earlier in the merger review process and the suggestion that the CMA will consider the appropriateness of behavioural remedies, including whether this differs in regulated sectors, are positive developments that should help unlock growth in key sectors.
- However, the CMA is alive to concerns that its actions could give rise to negative perceptions of the UK technology market. techUK has raised these concerns in our input into [Strategic Steers](#) and [the CMA's annual plan](#). These points have been echoed in the [Strategic Steer given to the CMA by the Department for Business and Trade](#) with the Authority being asked to ensure its actions promote competition, investment, innovation and economic growth.
- To address concerns about the impact its work programme has on economic growth in the UK, the CMA could initiate a review of all open cases to ensure that all files promote growth and aligned with government policy and market developments.

Emerging technologies

- In its current draft, the CMA does not expand on or update on its programme of work taking an exploratory and horizon scanning approach to emerging markets such as foundation models. We encourage the CMA to provide an update on its programme of work and approach to emerging technologies, including foundation models.

Evolving the way the CMA works

What aspects of the CMA's processes do you believe work well? What areas do you believe need improving, and how?

- The CMA has a mature framework for engaging companies of all sizes and publishing updates on its work. The CMA is particularly mindful of its impact on smaller firms and takes care to exercise its powers (such as information gathering) in a proportionate and targeted way.

- The CMA's stakeholder engagement on DMCCA Part 1 implementation has been helpful for many of our members so far.
- While we appreciate the brevity of this call for views, it is worth noting, the timing of the CMA's Annual Plan consultation has come at a time where tech firms are focused on responses to mandatory RFIs until March 2025. This has reduced the amount of time and resources businesses have to understand and formulate their responses to consultations. There have been some concerns regarding the pace and volume of RFIs, as well as instances where the CMA has limited opportunities for industry consultation on guidance. In some cases, these consultations occur within tight timelines, which can make it challenging for stakeholders to provide meaningful input.
- We would therefore encourage the CMA to check-in with its business stakeholders and trade groups at other times during the year to report on progress in implementing its Annual Plan.

Proportionality, predictability, procedural effectiveness, and pace

Do you see opportunities for the CMA to further strengthen the proportionality, predictability, procedural effectiveness, and pace of our work, consistent with meeting our statutory obligations.

- techUK welcomed Sarah Cardell's Chatham House Speech which outlined the CMA's commitment to proportionality, predictability, process and pace. As the CMA carries out new responsibilities to regulate digital markets via powers in the DMCC Act, we believe greater clarity is needed on how the CMA will deliver on its commitment to proportionality and predictability.
 - It is important, that as soon as it is able, the CMA commits to publicly outlining to the market where it plans to focus its activities. This will help raise awareness among businesses regarding digital activity areas of focus and will provide reassurance for others that the DMU does not have immediate plans to regulate those markets.
- Central to the CMA's renewed focus on growth, we also encourage a regulatory framework that focuses on fostering investment and growth while keeping pace with technological advancements and market developments. Achieving this requires an approach that not only drives growth but also embodies a joined up and unified strategy between DRCF participants, that ensures government priorities are upheld through a stable and predictable regulatory environment. This unified approach should be even more of a focus now, considering the rise of new regulations that overlap to some extent.

- In a similar vein, the CMA should review its joint memorandum with the ICO on the intersection between data protection and competition regulation to ensure both frameworks align in driving growth and investment. The CMA and ICO should consult with stakeholders as part of this review. Given the frequent reinterpretations and unexpected guidance from the ICO—despite the ICO25 commitment to pipeline transparency—this has made it challenging for companies to rely on a stable and predictable framework for long-term investment decisions. Addressing this uncertainty is essential, particularly as the CMA continues its examination of related digital markets.
- We recommend that the CMA leverages the flexibility afforded by the DMCCA to adopt a more cohesive approach to enforcement in digital markets. Given the global nature of tech companies, fragmented regulatory frameworks across the UK, EEA/EU, and US are creating significant challenges and potential disadvantages for UK consumers, such as limited access to features or differential treatment compared to other jurisdictions. A balanced and targeted approach by the CMA can help mitigate these risks and ensure a more level playing field for UK consumers.

What relevant examples of international best practice in merger control, competition enforcement or other areas could we learn from (bearing in mind legal and operational differences in regimes around the world)?

- techUK welcome and await the review of the CMA’s approach to mergers and remedies as announced in November 2024.
- There is currently a wide range of firms who have raised concerns that the CMA’s actions are sending a signal to the market that the UK has a more hostile environment for mergers and acquisitions than many of our international competitors. This is a significant concern, given that mergers and acquisitions are a crucial and legitimate part of many business models, from SMEs to global companies.
- There are several key areas where feedback will be needed:
 - **Length of pre-notification:** The CMA has publicly argued that relatively few cases progress to phase one, and even fewer proceed to phase two. While this is correct, the lengthy pre-notification periods mean significant resources are tied up in cases that often do not pose a genuine market concern. Similarly, although the CMA suggests the average pre-notification time has decreased, it’s crucial to examine sector-specific averages, as the overall average can mask exceptionally long pre-notification periods in certain cases. What are the modal and median averages? What is the longest pre-notification period, and is it increasing?
 - **Transparency during pre-notification:** We urge the CMA to give greater visibility to decision-making timetables during the pre-notification period.

This helps foster greater business confidence in the CMA's predictability as a regulator which feeds into investment decisions.

- We encourage the CMA to adopt a more collaborative approach, fostering earlier and more frequent engagement with merging parties. Increased early interaction with the Panel could help address concerns sooner in the process and enhance transparency.
- This should be complemented with opportunities for affected parties to comment. Pre-notification ensures the CMA has sufficient time to offer reasonable deadlines for response by third parties, supporting those most affected by a transaction which raises concerns.
- Two other factors could, if implemented, also help address concerns about process and enhance transparency: access to the CMA's file of evidence and scrutiny of the CMA activities.
 - The UK process does not provide merging parties with access to the file of information the CMA relies on when making its decision, unlike the EU or the US. Therefore, the only opportunity for merging parties to stress test the regulators' (and complainant's) concerns, whether justified or not, is the in-depth phase two investigation. This makes the access to the file even more important. Without it, merging parties are at a disadvantage, they do not know what concerns the CMA has and it is harder to address these and moreover, provides an impression that the odds are stacked against the parties.
 - The introduction of specialist staff within government departments, including those involved in the industrial strategy and the Department for Business and Trade, who have expertise in competition and mergers, would strengthen the Government's ability to independently review the CMA's recommendations on growth. This would enhance the robustness of outcomes and build trust in the regulator by providing an additional layer of accountability and informed oversight.
- It is therefore important that in its final annual plan and upcoming review into Mergers and Remedies, sets out clearly how the CMA views its approach to M&A as supporting the shared policy objective of a growing the UK economy.

Do you see opportunities for the CMA to further strengthen the proportionality, predictability, procedural effectiveness, and pace of our work, consistent with meeting our statutory obligations.

- We welcome the CMA's commitment to addressing the predictability of regulation. techUK encourages the CMA to expand on its intention to deliver the benefits of its focus on to predictability, pace of work and to a degree procedural effectiveness. Greater clarity and definitions from the CMA to define clear projects

and timescales associated with those projects, specifically regarding the DMCCA Implementation.

- It is important that the CMA maintain the right level of business engagement during the implementation of the DMCCA. During information gathering stages of the new DMCCA regime, techUK has previously advocated for the DMU to explore novel methods for market monitoring, such as panels, sector networks, and stakeholder engagement. These approaches can enhance evidence collection while reducing burdens on all firms.
- **However, we are deeply concerned about the CMA's business engagement on Part 4 of DMCCA Implementation.** Specifically, there is a concern about the proposed April 2025 implementation date for Part 4, Chapter 1 of the DMCCA due to the late release of Draft guidance, which was expected earlier than December 2024, leaving an impractically short window between the finalised guidance and implementation of the protection from unfair trading provisions in the DMCCA.
 - While many of our members already have robust content moderation and risk identification processes, the proposed timeline does not allow sufficient time to align with the CMA's expectations. For businesses needing operational changes, this timeframe is unrealistic, especially where CMA guidance may inadvertently lead to negative outcomes for consumers and businesses.
 - We strongly recommend delaying implementation to one year after final guidance is published, aligning with the timeline for subscription contract changes in the DMCCA. Alternatively, we urge the CMA to adopt a non-punitive approach for the first year, adopting an approach like Ofcom's regarding the deferred enforcement of the Online Safety Act (OSA), ensuring that businesses have adequate time to understand and comply with new regulatory requirements while maintaining effective oversight.
 - Failing to extend the timeline risks unnecessary breaches, undermines business confidence in the CMA, and could harm the UK's reputation as a business-friendly market, ultimately impacting economic growth.

What options should we consider as we monitor, evidence, and report on our positive impact on economic growth, including in our Annual Report and Accounts.

- techUK welcomes the CMA's decision to include in its Annual Report and Accounts, a new review of the impact of the CMA's work on economic growth. As well as sharing this with government, ahead of publication, we would encourage the CMA to share the review with relevant parliamentary bodies.
- It is important for the Government and regulators to develop a clearer understanding of the costs that regulation imposes on businesses. The cumulative burden is significant and should be carefully considered when assessing the impact of existing or proposed regulations.