



HL Bill 12 of 2023–24

Digital Markets, Competition and Consumers Bill

Author: Charley Coleman

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The [Digital Markets, Competition and Consumers Bill](#) is a substantial piece of proposed legislation with 335 clauses and 27 schedules. It is structured in 6 parts. It is scheduled to have its second reading in the House of Lords on 5 December 2023.

The government is concerned that competition in the UK's markets may have weakened in several sectors since the 2008 financial crisis. The bill, a government bill carried over from the 2022–23 session, would:

- create a new regime to increase competition in digital markets by conferring powers and duties on the Competition and Markets Authority (CMA) to regulate competition in these markets
- update powers to investigate and enforce competition law
- update and enhance powers to investigate and enforce consumer protection law and resolve consumer disputes
- give consumers protections in respect of unfair commercial practices, subscription traps and prepayments to savings schemes

A large number of government amendments and 18 government new clauses were agreed and added to the bill at report stage in the House of Commons. They included new clauses to implement the recommendations of a CMA market study report on road fuel published in July 2023.

The bill has cross-party support. The Labour Party has said it broadly welcomes the bill but has expressed concerns about the effectiveness of some proposed measures, particularly provisions on subscription traps.

This briefing focuses on providing a summary of the bill's proceedings at report stage in the House of Commons.





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I. Background

The bill would make a number of reforms across: the regulation of digital markets, competition law, enforcement of consumer protection law, and the enforcement of consumer rights and disputes. It would:¹

- create a new regime to increase competition in digital markets by conferring powers and duties on the Competition and Markets Authority (CMA) to regulate competition in these markets
- update powers to investigate and enforce competition law
- update and enhance powers to investigate and enforce consumer protection law and resolve consumer disputes
- give consumers protections in respect of unfair commercial practices, subscription traps and prepayments to savings schemes

The bill would also make changes to the UK's merger control regime.

The government has set out three high-level objectives for the bill which it describes as the key pillars of the proposed reforms:

- strengthen the competition and consumer regime so that it can effectively promote competition and pro-consumer outcomes in the UK in increasingly dynamic and globalised markets
- improve UK consumer welfare through tackling identified areas of consumer detriment
- ensure the competition regime is focused on the most prominent harms, with the identified harms being remediated quickly so that the costs to businesses under investigation and consumers ['consumers' refers to both end users and business customers] is minimised²

The government has published several documents to support the bill, including:

¹ [Explanatory notes](#), para 1.

² Department for Business and Trade, '[Digital Markets, Competition and Consumers Bill impact assessment](#)', November 2023, para 39.



- [explanatory notes](#)
- a delegated powers memorandum³
- a summary impact assessment and a further four impact assessments on the new digital markets regime, reforms to merger control, the bill's subscription measures and an assessment of its wider measures⁴
- a series of policy summaries on different areas of the bill⁵
- a human rights memorandum⁶

I.1 Why has the government introduced the bill?

The government is concerned that competition in the UK's markets may have weakened in several sectors since the 2008 financial crisis. The CMA's ['State of UK competition report April 2022'](#) argued that weak or ineffective competition reduces the pressure on companies to keep prices down, maintain quality, operate efficiently or innovate. The CMA said that this came at a cost to the wider economy as well as to consumers and other businesses. It said that effective competition happened when businesses competed to win customers by offering them a better deal. In competitive markets companies "cannot raise prices, or cut quality and service, without losing business".⁷ The 2022 study was commissioned by the government and followed a previous study published in November 2020.⁸

The CMA said its 2022 report was designed to examine an apparent global trend of weakening competition in advanced economies, with the aim of understanding the situation in the UK:

In recent years competition concerns have been brought into sharp focus in international academic and policy debates with a number of studies suggesting that competitive pressure across advanced economies could be weakening. The most high-profile of these have been focused on the US, with some extending the analysis to

³ Department for Business and Trade and Department for Science, Innovation and Technology, ['Delegated powers memorandum: Digital Markets, Competition and Consumers Bill 2023'](#), 22 November 2023.

⁴ Department for Business and Trade and Department for Science, Innovation and Technology, ['Digital Markets, Competition and Consumers Bill: Supporting documentation'](#), last updated 23 November 2023.

⁵ As above.

⁶ As above.

⁷ Competition and Markets Authority, ['State of UK competition report April 2022'](#), 29 April 2022.

⁸ Competition and Markets Authority, ['State of UK competition report 2020'](#), 30 November 2020.



Europe, including the UK. In our first assessment of the state of competition within the UK, we found evidence to support some of these concerns, with a rise in concentration⁹ across UK industries and an increase in markups amongst already profitable firms. The rationale for undertaking our assessment is to build a better understanding of what has happened in the UK.¹⁰

The government has said the CMA's report "evidences a decline in the level of UK competition". Its impact assessment on the bill said:

It shows that there was a marked increase in concentration in the years after the 2008 financial crisis. Since then, concentration has fallen, but it remains above levels seen prior to 2008. Furthermore, the CMA estimate that average markups have increased since 2008 from just over 20% to about 35%. It also shows that the increase in markup has been higher for the 10% most profitable firms, with evidence on rank persistence suggesting that the largest and most profitable firms are able to maintain a dominant status for longer than in the past.¹¹

The impact assessment argues this has also been supported by academic analyses:

Academics have arrived at similar findings in comparable timeframes. Bell and Tomlinson (2018) find broad increases in concentration across sectors of the UK economy between 2003 and 2016, particularly in the years following the financial crisis. Additionally, Aquilante et al (2019) estimate that average UK mark-ups rose from 1.23 in 1987 to 1.55 in 2017.¹²

Digital markets are a specific area where the government has expressed concern about levels of competition. It has argued that firms which at one point competed to gain market share "are in many cases now the largest and most powerful global firms".¹³

The government believes that existing regulatory tools do not work well in digital markets and are not good at quickly identifying and addressing competition concerns which arise

⁹ The extent to which industries are dominated by a small number of large firms.

¹⁰ Competition and Markets Authority, '[State of UK competition report April 2022](#)', 29 April 2022.

'Concentration' is the extent to which industries are dominated by a small number of large firms.

¹¹ Department for Business and Trade, '[Digital Markets, Competition and Consumers Bill impact assessment](#)', November 2023, para 25.

¹² As above, para 26.

¹³ As above, p 2.



from the specific features of digital markets.¹⁴ The government has proposed an ‘ex-ante’, or ‘before the event’ approach for the new regime provided for in the bill:

The proposed digital markets regime is one which uses ‘ex-ante’ regulation, whereby the regulator aims to identify problems beforehand and shape market behaviour through clear requirements. For instance, the conduct requirements (which fall under the preferred policy option) seek to manage the harmful effects of substantial and entrenched market power, by setting out how firms with strategic market status (SMS) are expected to behave, and thus protecting consumers and competing businesses. Utilising ex-ante regulation will, by setting expectations in advance, mitigate the consumer harm that stems from a lack of effective competition.¹⁵

The bill would also make provision in many areas beyond competition in digital markets which the government believes are beneficial to consumers. The government’s impact assessment set out reforms in the following areas with associated benefits:

- **Reforms to merger control.** Consumer savings arising from additional interventions in harmful mergers by the CMA. This includes lower prices, more choice and improved quality of goods and services.
- **Reforms to markets and competition enforcement.** Whilst unquantified, the reforms are expected to deliver consumer benefits through faster and more effective resolution of identified competition concerns or illegal anti-competitive conduct in markets. Extended information gathering powers in the road fuel market are also expected to deliver lower prices and more choice for consumers.
- **Subscription traps.** Unwanted subscription costs saved by consumers who choose to cancel subscriptions.
- **CMA administrative process and new civil monetary penalty powers for the courts.** Direct consumer benefits arising from stronger enforcement of consumer law. This includes lower prices, more choice and improved quality of goods and services.

¹⁴ For a summary of these features, see: Department for Science, Innovation and Technology, ‘[Impact assessment: A new pro-competition regime for digital markets](#)’, 21 April 2023, pp 17–18, table 1.

¹⁵ Department for Business and Trade, ‘[Digital Markets, Competition and Consumers Bill impact assessment](#)’, November 2023, para 28. To designate a firm with SMS, the digital market unit (DMU), an administrative unit within the CMA, will have to assess whether the firm has substantial and entrenched market power in relation to a digital activity, giving rise to a strategic position.



- **Wider consumer measures.** Whilst unquantified, the reforms are expected to deliver consumer benefits through:
 - higher quality ADR [alternative dispute resolution] provision
 - improved protections provided by prepayment schemes
- **Cross-cutting reforms.** Whilst unquantified, the reforms are expected to deliver consumer benefits through:
 - swifter investigations
 - enhanced international cooperation
 - improved compliance with CMA procedures
 - improved information gathering powers¹⁶

The government's summary impact assessment states that the measures in the bill are expected to deliver a "consumer benefit" of £9.70bn over a ten-year period as consumers "gain from improved control over their data, cancelling unwanted subscriptions, improved merger control and consumer protection enforcement".

The government has introduced the bill following a number of consultations and CMA reports. These included government consultations on:

- a new pro-competition regime for digital markets, which ran from July to October 2021¹⁷
- reforming competition and consumer policy, which ran from July to October 2021¹⁸
- improving price transparency and product information for consumers, which ran from September to October 2023¹⁹

The CMA has also conducted a number of relevant market studies, including on:

¹⁶ Department for Business and Trade, '[Digital Markets, Competition and Consumers Bill impact assessment](#)', November 2023, pp 22–3, table 2.

¹⁷ Department for Digital, Culture, Media and Sport and Department for Business, Energy and Industrial Strategy, '[A new pro-competition regime for digital markets](#)', last updated May 2022.

¹⁸ Department for Business, Energy and Industrial Strategy, '[Reforming competition and consumer policy](#)', updated 20 April 2022.

¹⁹ Department for Business and Trade, '[Smarter regulation: Improving price transparency and product information for consumers](#)', updated 21 September 2023.



- online platforms and digital advertising²⁰
- mobile ecosystems²¹
- road fuel²²

2. Overview of the bill

The Digital Markets, Competition and Consumers Bill is a substantial piece of proposed legislation with 335 clauses and 27 schedules. It is structured in 6 parts.

Table I below sets out the bill's arrangement at the part and chapter level, together with a summary of each part's provisions.

Table I. Summary of the bill's parts, chapters and provisions

Part	Chapters	Summary of provisions ²³
Part I: Digital markets (including schedules 1–2)	Overview (clause 1) Strategic market status (clauses 2 to 18) Conduct requirements (clauses 19 to 45) Pro-competition interventions (clauses 46 to 56) Mergers (clauses 57 to 68) Investigatory powers etc and compliance reports (clauses 69 to 84)	<ul style="list-style-type: none"> • Provides for the designation of undertakings as having strategic market status in respect of a digital activity. • Gives the CMA powers to impose conduct requirements on a designated undertaking and to take steps to promote competition through pro-competition interventions where it finds an adverse effect on competition in respect of a designated activity. • Introduces a duty to report certain possible mergers involving a designated undertaking or larger corporate group. • Introduces a series of investigatory powers and

²⁰ Competition and Markets Authority, '[Online platforms and digital advertising market study](#)', updated 1 July 2020.

²¹ Competition and Markets Authority, '[Mobile ecosystems market study](#)', updated 10 June 2022.

²² Competition and Markets Authority, '[Road fuel market study](#)', updated 10 August 2023.

²³ Reproduced from the table in paragraph 2 of the bill's [explanatory notes](#).



Part	Chapters	Summary of provisions ²³
	Enforcement and appeals (clauses 85 to 103) Administration etc (clauses 104 to 117)	requirements to produce compliance reports in respect of a designated activity. <ul style="list-style-type: none"> • Provides for enforcement, appeals and administrative matters relating to the CMA's powers and duties under the digital markets regime.
Part 2: Competition (including schedules 3–13)	Anti-trust (clauses 118 to 126) Mergers (clauses 127 to 132) Markets (clauses 133 to 139) Cartels (clause 140) Miscellaneous (clauses 141 to 145)	<ul style="list-style-type: none"> • Amends powers to investigate and enforce against (suspected) infringements of the Competition Act 1998 chapter I and II prohibitions. • Makes changes to the Enterprise Act 2002 merger jurisdictional thresholds, as well as providing for some procedural changes to merger reviews. • Makes changes to the procedures for market studies and investigations under the Enterprise Act 2002, including provision for a new power to conduct trials of certain remedies to determine their final format. • Amends the CMA's power to require the production of information held electronically and accessible from a premises when acting under a warrant during an investigation under section 192 of the Enterprise Act 2002. • Sets out miscellaneous provisions, including with regards to civil penalties and the extra-territorial reach of information notices in connection with competition matters.
Part 3: Enforcement of consumer protection law (including schedules 14–18)	Overview (clause 146) Relevant infringements (clauses 147 to 149) Consumer protection orders and undertakings (clauses 150 to 178)	<ul style="list-style-type: none"> • Sets out the infringements that are in scope of the enforcement regimes provided by part 3. • Replaces, simplifies and enhances the civil, court-based enforcement regime for consumer protection law currently set out in part 8 of the Enterprise Act 2002. This part gives the courts powers to make consumer protection orders or



Part	Chapters	Summary of provisions ²³
	<p>Direct enforcement powers of CMA (clauses 179 to 200)</p> <p>Monetary penalties: General provisions (clauses 202 to 206)</p> <p>Investigatory powers (clause 207)</p> <p>Miscellaneous (clauses 208 to 214)</p> <p>Interpretation of part (clauses 215 to 221)</p>	<p>for undertakings to be accepted as an alternative to these orders. It also gives the courts new powers to impose monetary penalties.</p> <ul style="list-style-type: none"> • Gives the CMA new powers in respect of infringements of certain consumer protection laws, breach of undertakings and noncompliance with CMA directions, including powers to impose monetary penalties. • Amends schedule 5 of the Consumer Rights Act 2015 to enhance the enforceability of statutory information notices given to a person under paragraph 14 of schedule 5 and to clarify enforcers' ability, during onsite inspections, to access material which is held remotely.
<p>Part 4: Consumer rights and disputes (including schedules 19–25)</p>	<p>Protection from unfair trading (clauses 222 to 250)</p> <p>Subscription contracts (clauses 251 to 279)</p> <p>Consumer savings schemes (clauses 280 to 288)</p> <p>Alternative dispute resolution for consumer and contract disputes (clauses 289 to 308)</p>	<ul style="list-style-type: none"> • Prohibits unfair commercial practices, replacing the Consumer Protection from Unfair Trading Regulations 2008, subject to transitional provisions. • Imposes duties on traders in relation to subscription contracts, provides rights for consumers if those duties are breached and provides rights for consumers to cancel subscription contracts during cooling-off periods. • Gives protections to consumers in respect of payments to consumer saving scheme contracts. • Prohibits alternative dispute resolution procedures for consumer contracts where the provider is not accredited nor exempt and makes provision for accreditation and exemption, related requirements and enforcement.
<p>Part 5: Miscellaneous (including schedules 26–27)</p>	<p>Competition in connection with motor fuel (clauses 309 to 316)</p>	<ul style="list-style-type: none"> • Provides the CMA with new information gathering powers for it to obtain specified information from undertakings involved in or



Part	Chapters	Summary of provisions ²³
	Provision of investigative assistance to overseas regulators (clauses 317 to 323) Miscellaneous (clauses 324 to 327)	connected with the distribution, supply or retail of motor fuel. <ul style="list-style-type: none"> • Sets out miscellaneous provisions, including in respect of the provision of investigative assistance to overseas regulators; disclosing information overseas; and a duty of expedition on the CMA and sectoral regulators.
Part 6: General	(clauses 328 to 335)	<ul style="list-style-type: none"> • Sets out general provisions, including interpretation; financial provision; power to make consequential provision; regulations; extent; commencement; and short title.

The Department for Business and Trade and the Department for Science, Innovation and Technology have published a number of policy summaries which provide an overview of the bill's provisions in the following areas:

- [‘A new pro-competition regime for digital markets: Policy summary briefing’](#), updated 23 November 2023
- [‘Final offer mechanism: Policy summary briefing’](#), updated 23 November 2023
- [‘Competition reform: Policy summary briefing’](#), updated 23 November 2023
- [‘Strengthening consumer enforcement and dispute resolution: Policy summary briefing’](#), updated 23 November 2023
- [‘Enhancing consumer rights: Policy summary briefing’](#), updated 23 November 2023

Digital markets

On the bill's provisions on digital markets, the government describes these as pro-competition and that they would address the market power “of a small number of tech firms”.²⁴

²⁴ Department for Business and Trade and Department for Science, Innovation and Technology, [‘A new pro-competition regime for digital markets: Policy summary briefing’](#), updated 23 November 2023, para 1.



Under the bill, firms which exert significant control over digital markets could be designated as having ‘strategic market status’ (SMS) in respect of specific digital activities. The digital markets unit (DMU) is an administrative unit established within the CMA and would enforce and oversee the new regime. The government has said the regime has been designed to take account of the interaction between the new regime and the existing functions of other regulators that operate in digital markets.²⁵ It does this by requiring the CMA to consult the other regulators in certain circumstances “where there may be an effect on or in relation to their relevant functions”.²⁶

Under the new regime the DMU would have two tools, the setting of competition requirements and pro-competition interventions:

- **Conduct requirements to manage the effects of market power and ensure markets are open to competition and innovation.** The DMU will be able to set tailored rules for each firm on how they should treat consumers and other businesses in relation to their designated digital activities. These rules will prevent SMS firms from:
 - treating users unfairly and interacting with them on unreasonable terms (‘fair dealing’)
 - limiting choices available to users (‘open choices’)
 - restricting information needed to make informed choices (‘trust and transparency’)
- **Pro-competition interventions to tackle the sources of SMS firms’ market power.** The DMU will be given powers to design targeted interventions to address the root causes of competition issues in digital markets. For example, they might require designated firms to allow greater interoperability or data access.²⁷

The DMU’s enforcement powers would include being able to fine firms up to 10% of their global turnover and making senior managers responsible for ensuring that firms complied with information requests. Conduct requirements could also be enforced through a ‘backstop’ called the ‘final offer mechanism’, “where this is needed to resolve breaches

²⁵ [Explanatory notes](#), para 24.

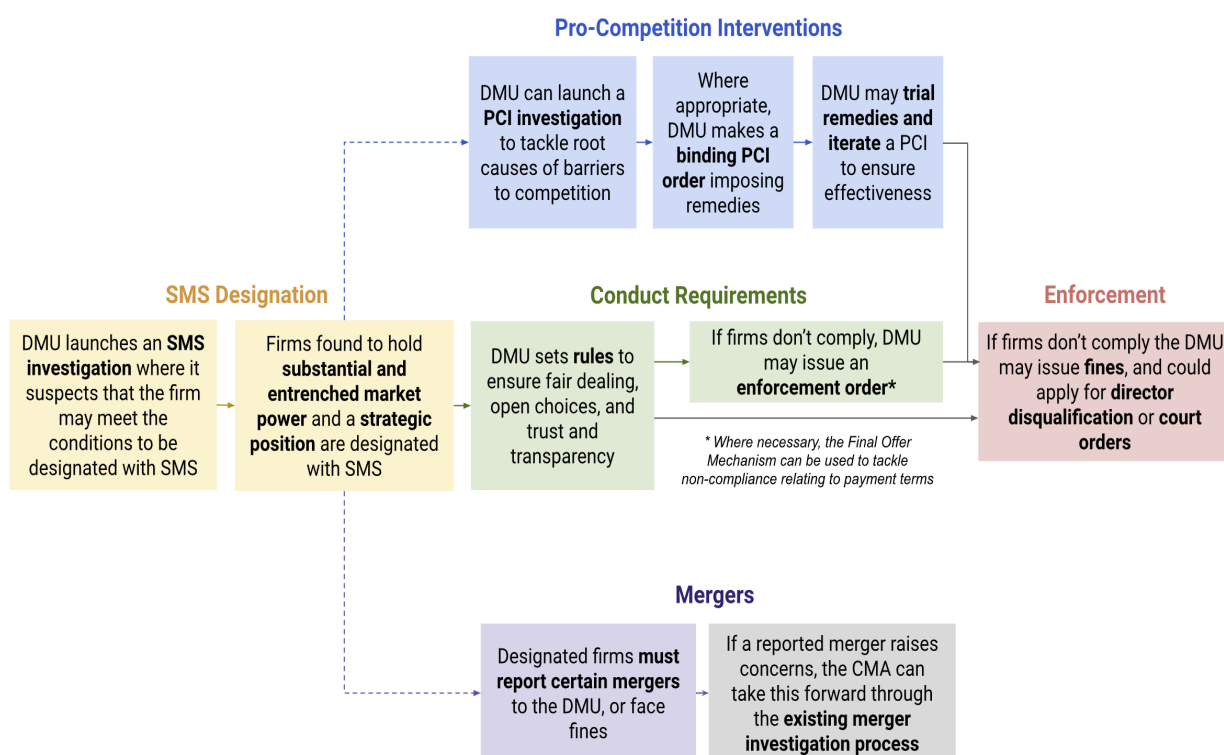
²⁶ As above.

²⁷ Department for Business and Trade and Department for Science, Innovation and Technology, ‘[A new pro-competition regime for digital markets: Policy summary briefing](#)’, updated 23 November 2023, para 3.



relating to complex payment terms”.²⁸ DMU decisions could be appealed to the Competition Appeal Tribunal which would apply judicial review principles. The government amended the bill at its report stage in the House of Commons so that appeals on decisions to issue fines could be appealed ‘on the merits’. The minister said that the DMU’s “other decisions, including the decision as to whether a breach of the regime occurred, would remain subject to an appeal on judicial review principles”.²⁹ These amendments are discussed in further detail in section 4.1.2 of this briefing.

The government has published the following flowchart outlining how the new regime could work in practice.³⁰



Competition

On the bill’s competition provisions, the government has argued that the existing

²⁸ As above, para 5. For further information on the final offer mechanism, see: Department for Business and Trade and Department for Science, Innovation and Technology, ‘[Final offer mechanism: Policy summary briefing](#)’, updated 23 November 2023.

²⁹ [HC Hansard, 20 November 2023, col 53](#).

³⁰ Department for Business and Trade and Department for Science, Innovation and Technology, ‘[A new pro-competition regime for digital markets: Policy summary briefing](#)’, updated 23 November 2023. PCI means ‘pro-competition interventions’.



competition regime works well, therefore:

The bill [...] refines the CMA's Competition Act 1998 mergers and markets tools, ensuring that its investigation of competition problems is better targeted at the areas of greatest potential harm and that enforcement action will be faster and more effective. It minimises business burdens where possible and safeguards rights of defence.³¹

The bill's reforms to the competition regime include:

- rebalanced merger controls
- more efficient, flexible, and proportionate market inquiries
- stronger powers to investigate illegal anticompetitive conduct
- faster and more effective investigation and enforcement³²

The government has said that the reforms would mean that fewer businesses would be involved in CMA investigations, there would be greater scope for firms involved in an investigation be freed up sooner and the majority of business that “play by the rules” would be able to “compete on a level playing field, flourish and grow”.³³

Consumer protection law

On the enforcement of consumer protection law, the government states that the bill “toughens enforcement against breaches of consumer protection law, and improves alternative dispute resolution (ADR) services to support speedier redress for consumers without the need for litigation”.³⁴ The bill would protect UK consumers through:

Strengthen[ing] enforcement by boosting the toolkit of corrective measures available against traders who do not comply with their legal obligations to consumers or specified third parties. It will deter practices harming consumers through a more

³¹ Department for Business and Trade and Department for Science, Innovation and Technology, ‘[Competition reform: Policy summary briefing](#)’, updated 23 November 2023.

³² As above.

³³ As above.

³⁴ Department for Business and Trade and Department for Science, Innovation and Technology, ‘[Strengthening consumer enforcement and dispute resolution: Policy summary briefing](#)’, updated 23 November 2023, para 2.



efficient enforcement process and meaningful monetary penalties which unscrupulous businesses cannot delay or avoid. It will also strengthen ADR services standards and ensure consistency across the sector, which should bring faster and fairer redress to consumers.³⁵

The bill would grant the CMA new administrative powers to “act faster” and take on more cases on behalf of the public:

The new CMA ‘administrative model’ will give the CMA authority to decide if certain consumer laws have been breached, require compliance, include remedies such as compensation, and impose monetary penalties, without having to go through the courts. There will also be new penalties for those who frustrate consumer protection investigations by failing to comply with CMA information requests, or those who renege on voluntarily given undertakings to change their practices.³⁶

The bill would also provide new powers to civil courts to:

[...] impose civil monetary penalties, to boost the regime’s deterrence effect, which the government anticipates will result in more businesses complying with consumer protection law, thus lowering levels of consumer harm.

Enforcers such as the CMA and Ofgem as well as local authority trading standards will be able to apply to the courts to impose penalties when dealing with procedural and consumer law breaches. For example, penalties of up to 10% of the total value of a business’s turnover (plus the turnover of anyone that controls or is controlled by that business) could be imposed on those breaching consumer protection laws.

This puts maximum penalties in the UK roughly in the middle of the pack internationally, with counterparts such as Canada fining up to 3% of annual worldwide gross revenues and Australia up to 30% of the business’s adjusted turnover during the breach period.³⁷

On enhancing consumer rights, the government has said that the bill would introduce

³⁵ As above, para 17.

³⁶ As above, para 20.

³⁷ As above, paras 24–6.



measures to provide consumers with greater control over their spending by:

- dealing with unfair ‘subscription traps’
- protecting those that pay into savings clubs
- taking a power that can be used to tackle emerging harms such as fake reviews online³⁸

Chapter 1 of part 4 of the bill would replace, with some amendments, the Consumer Protection from Unfair Trading Regulations 2008, which impose a general prohibition on traders across sectors from engaging in unfair commercial practices.³⁹ Part 3 of the bill would provide for the civil enforcement of chapter 1 of part 4 “by authorised enforcers in order to prevent harm to the collective interests of consumers”.⁴⁰ The bill’s explanatory notes state:

The Consumer Protection from Unfair Trading Regulations 2008 prohibit unfair commercial practices. A commercial practice is unfair if it contravenes the requirements of professional diligence so as to materially distort the behaviour of the average consumer, is a misleading action, misleading omission, aggressive commercial practice or is listed in schedule 1 to the regulations. The Consumer Protection from Unfair Trading Regulations 2008 implemented Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market. Notwithstanding the repeal of the European Communities Act 1972, the Consumer Protection from Unfair Trading Regulations 2008 continue in force, as a result of section 2 of the European Union (Withdrawal) Act 2018.⁴¹

The bill would carry over the general prohibition on engaging in unfair commercial practices, but also enable the list of banned practices in the regulations to be updated through secondary legislation. The government has argued that this will allow it to respond to new and emerging issues such as fake reviews, an issue it intends to consult on during the passage of the bill:

This will allow the law to reflect new business practices and emerging consumer harms.

³⁸ Department for Business and Trade and Department for Science, Innovation and Technology, ‘[Enhancing consumer rights: Policy summary brief](#)’, updated 23 November 2023, para 2.

³⁹ [Consumer Protection from Unfair Trading Regulations 2008, SI 2008/1277](#).

⁴⁰ [Explanatory notes](#), para 57.

⁴¹ As above, para 58.



Subject to parliamentary approval, the government plans to use the power to tackle fake reviews and will be consulting on the detail of commercial practices around 'fake reviews' during the passage of the bill.⁴²

Regulation making powers

The delegated powers memorandum sets out the bill's delegated powers under five categories:

- First, there are provisions which create new delegated powers to ensure that the regimes can respond to developments in markets, particularly in fast moving digital markets, and remain effective.
- Second are those to give effect to the new or amended regimes and set out technical details to support their operation.
- Third are powers which modify, or are based upon, existing delegated powers.
- Fourth are powers related to the new or amended powers for the CMA to issue civil sanctions which arise across its digital markets, competition and consumer regimes.
- Fifth are general provisions which are required for the Bill to have effect.⁴³

The bill contains 43 Henry VIII powers.⁴⁴ Henry VIII powers allow for the amendment of primary legislation through secondary legislation. The House of Lords Delegated Powers and Regulatory Reform Committee has argued that Henry VIII powers are contentious because of their implications for parliamentary scrutiny:

Henry VIII powers have always been contentious because of the disparity in the quality of parliamentary scrutiny of primary and delegated legislation. We acknowledge that they are, on occasion, appropriate but reject their inclusion 'just in case' and reassert our view that there should be a presumption that regulations made under Henry VIII powers should be subject to the affirmative resolution procedure.⁴⁵

⁴² Department for Business and Trade and Department for Science, Innovation and Technology, '[Enhancing consumer rights: Policy summary brief](#)', updated 23 November 2023, para 15.

⁴³ Department for Business and Trade and the Department for Science, Innovation and Technology, '[Delegated powers memorandum: Digital Markets, Competition and Consumers Bill 2023](#)', 22 November 2023, para 7.

⁴⁴ As above, para 13.

⁴⁵ House of Lords Delegated Powers and Regulatory Reform Committee, '[Democracy denied? The urgent need](#)



In the case of the Digital Markets, Competition and Consumers Bill the government has said it has proposed these Henry VIII powers to keep the statute book up to date and where the powers could permit “major changes” to primary legislation they would be subject to the draft affirmative procedure:

These Henry VIII powers are proposed in order to ensure that legislation continues to operate effectively and the statute book is kept up-to-date regularly. Where the powers to amend primary legislation would permit major changes to the legislation concerned, they are subject to the draft affirmative procedure. Where the powers are to amend a minor or technical provision only or involves amendment of an existing power already subject to the negative procedure, they are subject to the negative procedure.⁴⁶

The table in annex A of the delegated powers memorandum provides a summary of the bill’s delegated legislation powers.⁴⁷ Annex B presents the bill’s non-legislative powers.⁴⁸

3. House of Commons stages: Second reading and committee

3.1 Second reading

The bill’s second reading in the House of Commons took place on 17 May 2023, shortly after the start of the in the 2022–23 session.

Opening the second reading debate for the government, Parliamentary Under Secretary of State for Business and Trade Kevin Hollinrake said that the UK’s competition framework had not kept up with developments in digital markets. He said that the last legislative overhaul took place nearly 25 years ago “when the internet was in its infancy and smartphones had not yet been invented”.⁴⁹ Mr Hollinrake said that since that time competition across the broader economy had declined and in the technology sector a small number of firms now

[to rebalance power between Parliament and the executive](#), 24 November 2021, HL Paper 106 of session 2021–22, p 4.

⁴⁶ Department for Business and Trade and the Department for Science, Innovation and Technology, ‘[Delegated powers memorandum: Digital Markets, Competition and Consumers Bill 2023](#)’, 22 November 2023, para 14.

⁴⁷ As above, pp 169–75.

⁴⁸ As above, pp 237–9.

⁴⁹ [HC Hansard, 17 May 2023, col 879](#).



“exert immense control across strategically critical services with practices such as self-preferencing, restricting operability, and exclusivity requirements”.⁵⁰ Mr Hollinrake also said that there was a “growing consensus” that in markets that function well “competition must work hand in hand with consumer protections”.⁵¹ He said:

People must know that they can spend their money with confidence, safe in the knowledge that they have the right information and support if something goes wrong. That is critical, because when consumers feel that they risk losing their hard-earned cash, they also risk losing trust in markets as a whole.⁵²

The minister said that the bill sought to “achieve all these goals and unleash the full opportunities of digital markets for the UK”.

Speaking for the opposition, Seema Malhotra, then a shadow minister for the Department of Business, Energy and Industrial Strategy, said that the Labour Party supported what she described as an important bill.⁵³ She argued that the bill could not be more important in “the midst of a cost of living crisis”. However, she expressed concern that with the time it had taken for the bill to be brought forward, the UK had “fallen behind our European neighbours in this vital policy area”. She said Labour would support the bill’s second reading.⁵⁴

The shadow minister referenced the bill’s Henry VIII powers, then numbering 35, as listed in the delegated powers memorandum.⁵⁵ She quoted the House of Lords Delegated Powers and Regulatory Reform Committee as stating that “Henry VIII powers are controversial and for good reason. Every such power; and its scope, must always be fully justified”.

Seema Malhotra said it was important that the new powers given to the CMA on competition in digital markets were not “watered down”. She said Labour welcomed the bill:

We support the approach taken to the legislation, which seeks to be targeted to specific anticompetitive digital activities and is arguably more flexible than the reforms

⁵⁰ [HC Hansard, 17 May 2023, col 879.](#)

⁵¹ [HC Hansard, 17 May 2023, col 880.](#)

⁵² [HC Hansard, 17 May 2023, col 880.](#)

⁵³ [HC Hansard, 17 May 2023, col 884.](#)

⁵⁴ [HC Hansard, 17 May 2023, col 885.](#)

⁵⁵ Following government amendments this has risen to 43 in the bill as introduced in the House of Lords (Department for Business and Trade and the Department for Science, Innovation and Technology, ‘[Delegated powers memorandum: Digital Markets, Competition and Consumers Bill 2023](#)’, 22 November 2023, para 13).



brought about in the EU. If that allows a more proportionate and targeted set of interventions, that is welcome. Legislators across the world are all learning, and we all want to see this be an effective regulatory framework that helps innovation, rather than hinders it, and protects consumers.⁵⁶

However, she expressed concern that some of its provisions did not go as far as Labour would like. For example, on subscriptions she said Labour supported moving to an opt-in system.⁵⁷

Speaking for the SNP, Richard Thomson, SNP spokesperson on business and trade matters, said that the SNP also welcomed the bill's aims and objectives.⁵⁸ However, he said there were some missed opportunities in the bill such as on drip pricing, “whereby companies add additional fees and costs that were not clearly stated at the beginning of a transaction”.⁵⁹

The bill passed second reading without division.⁶⁰

3.2 Committee stage

The bill was considered over a period of eight days and 14 sittings.⁶¹ The committee agreed to 93 government amendments and one government new clause.

For a summary of the debate at committee stage see the following briefings by the House of Commons Library:

- House of Commons Library, '[Digital Markets, Competition and Consumers Bill 2022–23: Digital markets and competition—progress of the bill](#)', 8 September 2023
- House of Commons Library, '[Digital Markets, Competition and Consumers Bill](#)

⁵⁶ [HC Hansard, 17 May 2023, col 886.](#)

⁵⁷ Labour moved a new clause to this effect on report but this was defeated on division. See section 4.4 of this briefing for more information.

⁵⁸ [HC Hansard, 17 May 2023, col 892.](#)

⁵⁹ [HC Hansard, 17 May 2023, col 894.](#)

⁶⁰ [HC Hansard, 17 May 2023, col 926.](#)

⁶¹ Parliament website, '[Digital Markets, Competition and Consumers Bill: Committee stage](#)', accessed 27 November 2023.



[2022–23: Consumers—progress of the bill](#), 15 November 2023

4. House of Commons stages: Report stage and third reading

A large number of government amendments and government new clauses were agreed and added to the bill at report stage in the House of Commons. MPs agreed to:

- 172 amendments
- 18 new clauses
- One new schedule
- Two motions to transfer existing clauses to other parts of the bill⁶²

All these changes were agreed without division.

There were divisions on two opposition amendments and two opposition new clauses, all of which were defeated.

Report stage was considered in two halves. The first covered the bill's digital markets provisions and the second covered the bill's competition, consumers, miscellaneous and general provisions.

This section discusses government amendments that were made to the bill and those opposition amendments that were pushed to a division.

4.1 Digital markets: Government new clauses and amendments

The first half of the debate at report focused on part 1 of the bill, its digital markets provisions. This was introduced by Saqib Bhatti, parliamentary under secretary of state for science, innovation and technology. The minister said the digital markets provisions in part 1

⁶² Clause 124 (now clause 326 of HL Bill 12) was transferred to the end of line 39 on page 219 and clause 203 (now clause 329 of HL Bill 12) was transferred to the end of line 26 on page 220.



of the bill had the following benefits:

They will bring about a more dynamic digital economy, which prioritises innovation, growth and the delivery of better outcomes for consumers and small businesses. The rise of digital technologies has been transformative, delivering huge value to consumers and businesses. However, a small number of firms exert immense control across strategically critical services online because the unique characteristics of digital markets, such as network effects and data consolidation, make them prone to tip in favour of a few firms. The new digital markets regime will remove obstacles to competition and drive growth in digital markets, by proactively driving more dynamic markets and by preventing harmful practices such as making it difficult to switch between operating systems.⁶³

Mr Bhatti said the government’s amendments to part I “fully supported” the government’s intention for the bill to realise the full opportunities of digital markets to the UK.⁶⁴ He said the government’s amendments would:

- provide greater clarity to parties interacting with the regime
- enhance the accountability of the regulator
- make sure that the legislation is drafted effectively and meets its aims

4.1.1 Clarity to parties interacting with the new regime

In regard to clarity, the minister said that because the new regime was novel, it was “critical that its parameters—the scopes of the regulator’s functions and the rights and obligations set out in the legislation—are clear”. Consequently, the government had tabled a series of amendments to clarify how the digital markets regime would work in practice:

The amendments relate to how legally binding commitments provided by firms within the scope of the regime will work in practice, the Digital Market Unit’s [DMU] ability to amend certain decision notices, and how in certain circumstances the DMU may use its investigatory and enforcement powers after a firm is no longer designated.⁶⁵

⁶³ [HC Hansard, 20 November 2023, col 51.](#)

⁶⁴ [HC Hansard, 20 November 2023, col 51.](#)

⁶⁵ [HC Hansard, 20 November 2023, col 51.](#)



Mr Bhatti addressed two sets of what he described as clarifying amendments by name: amendment 7 and amendments 13 and 14. These related to clarifying how the DMU would consider consumer benefits when imposing and enforcing conduct requirements.⁶⁶ The minister said:

Amendment 7 requires the DMU to explain the consumer benefits that it expects to result from a conduct requirement, ensuring transparent, well-evidenced decisions. Amendments 13 and 14 simplify the wording of the countervailing benefits exemption, while critically maintaining the same high threshold.⁶⁷

He added that, together, amendments 13 and 14 would “make sure that consumers get the best outcomes”. He also said amendment 14 made “an important clarification on the role of third parties in the final offer mechanism process”.⁶⁸

The ‘countervailing benefits exemption’ is a set of provisions in clause 29 that would require the CMA to close a conduct investigation where a designated undertaking’s representations to the CMA lead the CMA to consider that overall, the conduct results in benefits for users that outweigh the negative consequences for competition.⁶⁹ Government amendment 14 removed “indispensable and” from clause 29(2)(c) and then government amendment 13 inserted a new line (now (c) in HL Bill 12) between the existing lines (b) and (c): “those benefits could not be realised without the conduct,”. Prior to amendment, clause 29(2) set out that the countervailing benefits exemption would apply 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) the conduct is indispensable and proportionate to the realisation of those benefits, and
- (d) the conduct does not eliminate or prevent effective competition.

⁶⁶ Conduct requirements are rules on how a designated undertaking treats consumers and other businesses in relation to the activities in which they have been designated ([Explanatory notes](#), para 8).

⁶⁷ [HC Hansard, 20 November 2023, col 51.](#)

⁶⁸ [HC Hansard, 20 November 2023, col 52.](#)

⁶⁹ [Explanatory notes](#), para 206.



During the minister's summing up, Sir Robert Buckland (Conservative MP for South Swindon) asked him about the effect of the amendment removing “the indispensability test, leaving bare proportionality”.⁷⁰ Sir Robert asked whether the minister thought that the “threshold for countervailing benefit will be sufficiently high to ensure that the CMA does not disapply or discontinue investigations inappropriately?”.

Saqib Bhatti said he would write to him on that point. In his letter, Mr Bhatti said:

We agree with you on the importance of a high threshold and assess that our wording is more stringent.

Our recent amendments clarify the ‘indispensability’ aspect of the exemption while, crucially, maintaining the same high threshold. The new wording is that the benefits “could not be realised without the conduct”, so SMS (strategic market status) firms must still establish that there must be no other reasonable, practicable way to achieve the same benefits for consumers with less anti-competitive effect. This makes sure that consumers get the best outcomes—whether by driving new benefits through intervention or safeguarding existing benefits via the exemption.⁷¹

The ‘final offer mechanism’ is set out in clauses 38 to 45. The mechanism is a “backstop tool” that the CMA can use to “enforce conduct requirements to offer fair and reasonable payment terms”.⁷² The government has produced a policy summary describing the final offer mechanism:

Once a firm is designated with SMS in respect of a particular digital activity, the DMU will be able to set enforceable conduct requirements. These tailored rules will manage the effects of market power and establish clear expectations on how each firm should treat consumers and other businesses.

Following consultation with stakeholders, the final offer mechanism has been developed as a backstop measure to resolve breaches of conduct requirements relating to payment terms between SMS firms and third parties.

⁷⁰ [HC Hansard, 20 November 2023, col 76.](#)

⁷¹ Saqib Bhatti, [‘Letter to Robert Buckland MP and Damian Collins MP ref report stage of the Digital Markets, Competition and Consumers Bill’](#), 21 November 2023.

⁷² [Explanatory notes](#), para 230.



This mechanism was first proposed as a sector-neutral tool for the new pro-competition regime in the CMA and Ofcom's advice to the government on platforms and content providers in November 2021. It has been designed as a tool of last resort that incentivises parties to engage sincerely at every stage.⁷³

New clause 5 (now clause 39 of HL Bill 12) was added to the bill's provisions on the final offer mechanism. Along with its related amendments new clause 5 would "clarify when and how third parties may make collective submissions in relation to the final offer mechanism".⁷⁴ Mr Bhatti argued this was "vital" because collective bargaining could help address power imbalances during negotiations. He said the government expected that third parties, particularly smaller organisations, may want to work together when negotiating payment terms and conditions.

4.1.2 Accountability of the regulator

Saqib Bhatti said the digital markets regime had been designed to be flexible, granting the CMA "a level of discretion to deliver effective outcomes".⁷⁵ He said that this was common in ex-ante regulation but argued that this did not negate the importance of "taking steps to maximise the predictability and proportionality of the regulator's actions". The minister said the government was therefore:

[...] introducing an explicit requirement for the CMA to impose conduct requirements and pro-competition interventions only where it considers that it is proportionate to do so.⁷⁶

He argued that this would demonstrate to firms in scope of the regime that they would not be subject to undue regulatory burdens:

Firms will be able to challenge disproportionate obligations, and the Competition Appeal Tribunal will, in its consideration of any appeals, apply the principle of

⁷³ Department for Business and Trade and Department for Science, Innovation and Technology, '[Final offer mechanism: Policy summary briefing](#)', updated 23 November 2023, paras 2–3.

⁷⁴ [HC Hansard, 20 November 2023, col 52.](#)

⁷⁵ [HC Hansard, 20 November 2023, col 52.](#)

⁷⁶ [HC Hansard, 20 November 2023, col 52.](#)



proportionality in a reasonable way, as it always does.⁷⁷

The minister said that government amendments 57 to 60 would complement this and ensure consistent senior oversight and accountability by requiring enforcement decisions, including any imposition of penalties, to be reserved to the CMA board or its committee.

In response to questions on report about the application of proportionality and appeals, Saqib Bhatti said:

Although regulatory decisions will be made under judicial review principles, we are introducing a requirement for proportionality in the DMU's core regulatory tools, conduct requirements and pro-competition interventions at the point at which they are imposed. Let me be unequivocal and clear that we are introducing proportionality at the point of intervention so that it can be grounds for appeal via the legislation, on top of the procedural and legality grounds commonly associated with judicial review.⁷⁸

In response to further questions from Sir Robert Buckland (Conservative MP for South Swindon) and Damian Collins (Conservative MP for Folkestone and Hythe), Saqib Bhatti wrote to them to provide further clarification.⁷⁹

In his letter Saqib Bhatti responded to Sir Robert's questions as to whether proportionality would be built into the judicial review standard and Damian Collin's request for the minister to set out further grounds for challenge on the basis of proportionality. Saqib Bhatti wrote:

While regulatory decisions will be reviewed under JR principles, we are introducing a requirement for proportionality for both the DMU's core regulatory tools (conduct requirements and pro-competition interventions) at the point at which they are imposed.

Firms would have already been able to challenge decisions to impose interventions on the basis that the conduct requirements or pro-competition interventions were disproportionate interferences with their rights under the European Convention on

⁷⁷ [HC Hansard, 20 November 2023, col 52.](#)

⁷⁸ [HC Hansard, 20 November 2023, col 75.](#)

⁷⁹ Saqib Bhatti, '[Letter to Robert Buckland MP and Damian Collins MP ref report stage of the Digital Markets, Competition and Consumers Bill](#)', 21 November 2023. See: [HC Hansard, 20 November 2023, col 75](#) and [HC Hansard, 20 November 2023, col 76.](#)



Human Rights (in particular, article 1 of the first protocol, the right to peaceful enjoyment of possessions).

Our intention for this amendment is to allow a firm to appeal a decision by arguing that the DMU made public law errors in its consideration of proportionality under normal JR principles—without establishing that their rights under the European Convention on Human Rights are engaged. For example, the firm could argue that the DMU failed to take a relevant consideration into account, made a material error of fact or otherwise acted unreasonably when deciding against an intervention that would have been less burdensome on the firm while still achieving the same outcome.

In practice this means that firms will be able to challenge whether the DMU could have achieved its purpose for intervention through less onerous requirements.⁸⁰

The government also introduced an amendment to ensure that the secretary of state approved any guidance produced by the CMA in relation to part 1 of the bill. Clause 114 would require the CMA to publish guidance on how it would exercise its functions under part 1.⁸¹

The final amendments referred to by the minister under this theme related to appeals ‘on merits’ rather than judicial review principles:

Finally, the regime has the potential for significant financial penalties to be imposed, so we have tabled amendments to allow any party subject to a penalty to appeal decisions about the penalty on the merits, rather than on judicial review principles. An appeal on the merits allows the Competition Appeal Tribunal to consider whether it was right to impose the penalty, and to consider the penalty amount. Where appropriate, it also allows the Competition Appeal Tribunal to decide a different penalty amount.⁸²

Mr Bhatti said that the change would only apply to decisions on penalties:

The DMU’s other decisions, including the decision as to whether a breach of the

⁸⁰ Saqib Bhatti, [‘Letter to Robert Buckland MP and Damian Collins MP ref report stage of the Digital Markets, Competition and Consumers Bill’](#), 21 November 2023, pp 1–2.

⁸¹ Prior to the amendment the CMA would have been required to consult such persons as it considered appropriate before publication, but this guidance did not have to be approved by the secretary of state.

⁸² [HC Hansard, 20 November 2023, col 53](#).



regime occurred, would remain subject to an appeal on judicial review principles.⁸³

John Penrose (Conservative MP for Weston-super-Mare) suggested that the approach being taken was different to other established regulators and questioned whether this was a specific arrangement for large tech companies:

I think that I am right in saying that any appeal against a fine from another economic regulator, such as Ofwat or Ofgem, is made to the CMA on the basis of the JR [judicial review] standard, yet we seem to be creating a different, and arguably more complicated, special deal for large tech platforms. Can he explain the government's thinking behind that?⁸⁴

The minister said he did not think there was a special deal, and this was about taking a “balanced approach to ensure that firms with penalty decisions that have less direct impact on third parties have the opportunity to challenge them, and take a view on them according to the regime”.

Mr Bhatti argued the approach was justified given the levels of fines in question:

Given the huge size of the fines, it is only right that that approach is put in place to ensure the penalties are applied appropriately, but it does not apply to decisions that are not made by the CMA.⁸⁵

A government press release on the amendments stated that the fines could reach “tens of billions of pounds”.⁸⁶ Mr Bhatti also argued the change was consistent with other regimes:

Adopting these amendments would bring the digital markets regime into closer alignment with existing CMA mergers and markets regimes, where penalty decisions can be appealed on the merits. As in those regimes, all other decisions are appealable on judicial review principles.⁸⁷

⁸³ [HC Hansard, 20 November 2023, col 53.](#)

⁸⁴ [HC Hansard, 20 November 2023, col 53.](#)

⁸⁵ [HC Hansard, 20 November 2023, col 53.](#)

⁸⁶ Department for Science, Innovation and Technology, ‘[Changes to Digital Markets Bill introduced to ensure fairer competition in tech industry](#)’, 15 November 2023.

⁸⁷ [HC Hansard, 20 November 2023, col 54.](#)



On 17 October 2023, the chair of the House of Lords Communications and Digital Committee, Baroness Stowell, wrote to the prime minister, Rishi Sunak, about the government's amendments to the bill's provisions on judicial review.⁸⁸ The committee is conducting a review of the bill.⁸⁹ The letter was written prior to the government publishing its amendments.

Baroness Stowell wrote that the government should resist calls to change the bill's JR process to alternatives, including to a full merits review:

We examined this [the JR standard] in a recent inquiry where we took evidence from a range of small, medium and large business, big tech firms and legal experts. We concluded the existing proposal for a JR appeals standard offers four key benefits: speed, fairness, a non-adversarial approach and regulatory certainty. We heard arguments from big tech firms that the JR process should be changed because it does not allow for a proper consideration of the evidence and hands too many powers to the regulator without sufficient checks and balances. Some alternatives include a more expansive but time-limited review, a full merits review or broadening the grounds for review. We urge you to resist such changes.⁹⁰

Under the theme of accountability, Saqib Bhatti said the government was introducing an amendment to require the CMA to set out its reasons for imposing or varying a conduct requirement. He argued that this would improve transparency around its decision making “and increase consistency with other powers in the bill where similar justification is required”.⁹¹ It would also reinforce the CMA's “existing responsibility to consider likely impacts on consumers when deciding whether and how to intervene”.

4.1.3 Effective drafting

In regard to ensuring the legislation is drafted effectively and meets its aims, the minister said

⁸⁸ House of Lords on Communications and Digital Committee, '[Letter to Rishi Sunak ref Digital Markets, Competition and Consumers Bill](#)', 17 October 2023.

⁸⁹ House of Lords Communications and Digital Committee, '[Review of the Digital Markets, Competition and Consumers Bill](#)', accessed 23 November 2023.

⁹⁰ House of Lords on Communications and Digital Committee, '[Letter to Rishi Sunak ref Digital Markets, Competition and Consumers Bill](#)', 17 October 2023, pp 1–2. The letter also commented on selected other areas of the bill, for example on proportionality.

⁹¹ [HC Hansard, 20 November 2023, col 54](#).



that the government had tabled “further technical amendments”:

They relate to the scope of conduct requirements, specifically the application of the materiality threshold contained in clause 20(3)(c), the maximum penalty limits imposed on individuals, the mergers reporting duty and the service of notices on undertakings overseas in certain circumstances.⁹²

He also stated there were a small number of cross-cutting amendments to parts 5 and 6 of the bill that would have an impact on the digital markets regime in part I.

4.1.4 Opposition response to government amendments

Responding for the opposition, Shadow Minister for Tech and Digital Economy Alex Davies-Jones expressed concern about government amendments 13 and 14:

As we all know, the countervailing benefits exemption allows the Competition and Markets Authority to close an investigation of a breach of a conduct requirement if a big tech firm can demonstrate that its anti-competitive conduct produces benefits that outweigh the harm. These amendments change the test for the exemption from indispensability—a recognised competition law standard that ensures that a big tech firm cannot proceed with anti-competitive conduct without good reason—to an untested, potentially ambiguous standard. There is a danger that this new, untested standard could allow big tech firms to evade compliance and continue with conduct that harms UK businesses and consumers. They might also inundate the CMA with an excessive number of claims of consumer benefit, diverting its limited resources away from other essential tasks.⁹³

The shadow minister said that Labour believed the amendments created an “unnecessary loophole” and asked the minister to clarify “whether these amendments create a new legal standard that could allow regulated companies to evade compliance”. Labour tabled two amendments on this subject, 187 and 188, which are discussed in further detail in section 4.4 of this briefing.

Ms Davies-Jones also said there were concerns about the government’s amendments to the

⁹² [HC Hansard, 20 November 2023, col 54.](#)

⁹³ [HC Hansard, 20 November 2023, col 56.](#)



appeals process set out in government amendments 51 to 56:

As colleagues will be aware, the government amendments would change the appeals process and standard for penalty decisions to full merits only. As we know, penalties such as fines are the most significant deterrent to prevent SMS firms from breaking the conduct requirements established by the CMA. Although timing—a key concern when considering the impact of full merits on other parts of the bill—is not of paramount importance when it comes to fines, it is foreseeable that full merits appeals could allow SMS firms to reduce significantly the size of penalties, thus reducing their incentive to comply.⁹⁴

She said that Labour broadly welcomed the government’s decision to maintain the judicial review standard for appeals on regulatory decisions, saying it believed this would ensure the CMA was “not bogged down in complex, lengthy and costly legal wrangling, which would render the new regime completely ineffective”.⁹⁵ The shadow minister said:

As we know, introducing full merits appeals for all regulatory decisions would have allowed complex, lengthy and costly legal wrangling, which would render the new regime ineffective. It must therefore be clarified that the government’s amendment allows full merits appeals only for the level of the fine and for the decision to issue a fine. It must not permit a review of the CMA’s decision to create a conduct requirement or implement pro-competitive intervention, or of the CMA’s decision on whether a conduct requirement has been breached and how to remedy that breach. I would therefore be grateful if the minister clarified exactly whether that will be the case.⁹⁶

Referring to the government’s amendments to require the secretary of state to approve CMA guidance, Alex Davies-Jones asked the minister in what timeframe the guidance would have to be submitted to the secretary of state.

Responding to Alex Davies-Jones’ concern about the government’s amendments on the countervailing benefits exemption, Saqib Bhatti said:

I reassure her that the wording change maintains the same high threshold. SMS firms

⁹⁴ [HC Hansard, 20 November 2023, col 56.](#)

⁹⁵ [HC Hansard, 20 November 2023, col 57.](#)

⁹⁶ [HC Hansard, 20 November 2023, col 57.](#)



must still prove that there is no other reasonable, practical way to achieve the same benefits for consumers with less anti-competitive effect. This makes sure consumers get the best outcomes, whether through the benefits provided or through more competitive markets.⁹⁷

On Alex Davies-Jones' question about appeals, Mr Bhatti said the government believed that “judicial review principles are the appropriate standard for the majority of decisions under the regime, as we have maintained with the additional clarification on the DMU’s requirement to act proportionately”. He said:

We have, however, aligned the appeal of penalty decisions with appeals under the Enterprise Act 2002, so that parties can challenge these decisions on their merits to ensure that the value of a penalty is suitable. Penalty decisions have less direct impact on third parties, and the amendment will provide additional reassurance without affecting the regime’s effectiveness.

The significant changes we are making will provide more clarity and assurance to firms on the need for the DMU to act proportionately. They also bring the regime in line with the relevant CMA precedent. Parties will have greater scope to challenge whether the interventions imposed on them are proportionate or could have been achieved in a less burdensome way. When financial penalties are imposed, parties will have access to a full merits review to provide reassurance that the value of the fine is appropriate.⁹⁸

On the timing of guidance, the minister said the government was working to ensure that the new regime was operational as soon as possible after royal assent. He also said guidance would have to be in place for the regime to go live.

4.2 Competition, consumers, miscellaneous and general provisions: Government new clauses and amendments

The second half of the debate on report focused on the bill’s competition, consumers, miscellaneous and general provisions. This was introduced by Parliamentary Under Secretary of State for Business and Trade Kevin Hollinrake. The minister said the provisions in parts 2 to 5 of the bill had the following benefits:

⁹⁷ [HC Hansard, 20 November 2023, col 74.](#)

⁹⁸ [HC Hansard, 20 November 2023, col 74.](#)



The reforms to the competition and consumer regimes contained in parts 2 to 5 of the bill will grow the economy and deliver better outcomes for consumers and bona fide businesses. Consumers will have more choice and protection, and pay lower prices. Businesses will operate on a fairer and more level playing field. The reforms will do that by enhancing the wider competition regime, strengthening the enforcement of consumer protection law, and putting in place new consumer rights and more transparency.⁹⁹

Mr Hollinrake said that the government's amendments to parts 2 to 5 of the bill would:

- provide greater clarity
- ensure coherence with related legislation
- ensure the bill's measures meet their intended aims

He said that “almost all the amendments are technical in nature” and addressed them across the following four themes:¹⁰⁰

- competition measures
- consumer enforcement
- consumer rights
- cross-cutting provisions

4.2.1 Competition measures

On competition, the minister said that the competition environment was complex and “ever evolving” and so the government needed to respond to changes in the judicial and legislative landscape “to provide certainty and to avoid any unintended detrimental consequences of wider developments”.¹⁰¹

The government's new clause 8 (now clause 126 of HL Bill 12) responded to a Supreme

⁹⁹ [HC Hansard, 20 November 2023, col 103.](#)

¹⁰⁰ [HC Hansard, 20 November 2023, col 104.](#)

¹⁰¹ [HC Hansard, 20 November 2023, col 104.](#)



Court judgment. The government's explanatory statement for the new clause said:

This new clause (which would be inserted into chapter 1 of part 2 of the bill) responds to the Supreme Court judgment in *R (PACCAR Inc) v Competition Appeal Tribunal* [2023] UKSC 28. It provides that a damages-based agreement is only unenforceable in opt-out collective proceedings before the Competition Appeal Tribunal if the agreement is with a provider of advocacy or litigation services.¹⁰²

Kevin Hollinrake said that the new clause “effectively restores the previously held understanding of the status of litigation funding agreements under the 1998 act [...] accordingly, it will have retrospective effect”.¹⁰³

In response to a Competition Appeal Tribunal judgment, Mr Hollinrake said the government was specifying the circumstance “in which a market investigation reference may be made in relation to an area that has already been the subject of a market study but was not referred for further investigation at that time”.¹⁰⁴

He said the government had also tabled a series of amendments to ensure the bill was aligned with the Energy Act 2023, “which introduced the energy network merger regime, and to make minor corrections to provisions relating to that regime”.

Another amendment would repeal a redundant reference to the European Coal and Steel Community in the Competition Act 1998.

Mr Hollinrake said the government was also amending the bill's provisions on the implementation of trials for market remedies to give the secretary of state powers to “extend the scope of implementation trials in the markets regime to include regulatory conditions”.¹⁰⁵ The delegated powers memorandum states that, in cases in which a market investigation involves a public interest consideration, the provisions in clause 137 and schedule 8 introduce new powers for the CMA and the secretary of state “to allow them to undertake implementation trials in relation to remedies before settling a final remedy

¹⁰² House of Commons, [‘Report stage: Digital Markets, Competition and Consumer Bill—amendment paper’](#), 20 November 2023, p 29.

¹⁰³ [HC Hansard, 20 November 2023, col 104.](#)

¹⁰⁴ [HC Hansard, 20 November 2023, col 104.](#)

¹⁰⁵ [HC Hansard, 20 November 2023, col 104.](#)



package”.¹⁰⁶ The memorandum sets out the government’s policy intention as follows:

The policy intention is to allow the testing of remedies so that an assessment can be made of their effectiveness (given the unpredictability of consumer response) before a final package of remedies is settled. At the conclusion of a trial, the CMA, or secretary of state as the case may be, will then decide whether to accept a final undertaking, and/or make a final order, or take no further action.¹⁰⁷

4.2.2 Direct consumer enforcement model

On direct consumer enforcement, Kevin Hollinrake said:

I will now address the new direct consumer enforcement model. That model will enable the CMA to act faster and take on more consumer cases on behalf of the public, resulting in a further estimated direct benefit to consumers of tens, or potentially hundreds, of millions of pounds.¹⁰⁸

He said that the government had tabled a series of technical amendments to the bill to increase certainty in regard to the CMA’s operational duties. They included:¹⁰⁹

- aligning the definition of “business” in part 3 of the bill with that in part 4 of chapter 1 to ensure that any breaches of unfair trading prohibitions can be enforced through the regime
- making provision about information-sharing between public authorities so that enforcers can obtain the information that they need to take enforcement action under part 3 of the bill

The government also tabled amendments on appeals:

On appeals, we are adding a requirement for the CMA to include information about

¹⁰⁶ Department for Business and Trade and Department for Science, Innovation and Technology, ‘[Delegated powers memorandum: Digital Markets, Competition and Consumers Bill 2023](#)’, 22 November 2023, para 144.

¹⁰⁷ As above.

¹⁰⁸ [HC Hansard, 20 November 2023, col 104.](#)

¹⁰⁹ [HC Hansard, 20 November 2023, col 104.](#)



applicable appeal rights in a final breach-of-directions enforcement notice, as well as empowering the appeal court to send issues back to the CMA for decision on certain notices.¹¹⁰

Kevin Hollinrake said that the government was:

[...] also empowering the secretary of state to update through regulations the specified maximum amounts for fixed and daily penalties imposable by a court or the CMA when a business breaches a formal information request.¹¹¹

4.2.3 Consumer rights

The government's amendments under the theme of consumer rights focused on subscription contracts and implementing recommendations made by the CMA in its market study report on road fuel.¹¹²

The bill's explanatory notes state that chapter 2 of part 4 of the bill would replace the two main parts of the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 (CCRs) on pre-contract information and cooling-off cancellation rights "with tailored provisions applicable to subscription contracts".¹¹³ They state that this would create a new regime within a single enactment:

Chapter 2 aims to create a new regime integrating consumers' key rights under the CCRs with a set of new statutory rights so as to create a consolidated regime for the regulation of subscription contracts in one enactment. These private law rights are directly enforceable by consumers. In addition, part 3 provides for the public civil enforcement of chapter 2 of part 4 by authorised enforcers in order to protect the collective interests of consumers.¹¹⁴

On subscriptions, the government introduced amendments to change the bill's provisions on subscription contracts "to remove unintended consequences".¹¹⁵ Kevin Hollinrake explained

¹¹⁰ [HC Hansard, 20 November 2023, col 105.](#)

¹¹¹ [HC Hansard, 20 November 2023, col 105.](#)

¹¹² Competition and Markets Authority, '[Road fuel market study](#)', last updated 10 August 2023.

¹¹³ [Explanatory notes](#), para 61.

¹¹⁴ As above.

¹¹⁵ [HC Hansard, 20 November 2023, col 105.](#)



the governments amendments as follows:

The government is bringing forward a series of amendments that remove the requirement for businesses that offer subscription contracts to send a reminder notice ahead of the first renewal notice in instances where there is no free trial. For businesses that offer those contract types, the amendments will see their regulatory burden decrease as they will be required to send only two reminder notices per year instead of three. That also ensures that consumers do not receive too many notices at the start of their contract. The requirement to send a reminder notice before a free or low-cost trial rolls over to a full contract will remain in place.¹¹⁶

The government's explanatory statement for its amendment 93 stated:

This amendment, along with amendments 91 and 92, provides that a reminder notice be given at six month intervals from the beginning of the contract, or from the first renewal payment in relation to a subscription contract that begun with a concessionary period, (so far as possible, depending on the payment structure of the contract).¹¹⁷

The government also introduced a new power for the secretary of state to disapply or modify reminder notices in certain circumstances, including amending the timeframes in which a business must send such a reminder to a consumer. The minister argued that the amendments “provide greater flexibility and clarity on when reminder notices should be sent, allowing for adaptability post implementation”.¹¹⁸

The government tabled an amendment to clarify that when there is a dispute about the cancellation of a contract the onus is placed on the consumer to prove that their method of cancellation was sufficiently clear. The minister explained that this was intended to address a concern that businesses could face enforcement action where a consumer has attempted to cancel their subscription through “unconventional means”. Kevin Hollinrake gave the example of a tweet.

Responding to previous debate on whether the bill captured society lotteries under its subscriptions provisions, the government introduced an amendment to clarify that gambling

¹¹⁶ [HC Hansard, 20 November 2023, cols 105–6.](#)

¹¹⁷ House of Commons, ‘[Report stage: Digital Markets, Competition and Consumer Bill—amendment paper](#)’, 20 November 2023, p 57.

¹¹⁸ [HC Hansard, 20 November 2023, col 106.](#)



contracts are excluded from the scope of the bill's subscription contract measures.

The government also introduced a series of what the minister described as technical amendments on consumer spending schemes, such as schemes designed for saving for Christmas. The government also tabled amendments to specifically exclude contracts regulated by Ofcom, such as prepaid pay-as-you-go mobile phone contracts.

The minister also explained that the government had tabled two amendments to maintain the effect of the Consumer Protection from Unfair Trading Regulations 2008, which he said the bill would repeal and largely restate:

The first relates to the application of disclosure of information provisions in part 9 of the Enterprise Act 2002, and the second relates to the information requirement placed on a trader in certain circumstances. Two technical amendments are also being introduced.¹¹⁹

Government new clauses 14 to 21 (clauses 309–16 in HL Bill 12) related to recommendations from the CMA, made in its market study report on road fuel. The CMA launched the road fuel market study in July 2022 and published its final report on 3 July 2023.¹²⁰

Kevin Hollinrake said the government was accepting the CMA's recommendations and was "taking swift action to introduce an ongoing road fuels price monitoring function, within the CMA, to monitor developments in the road fuel market". He summarised the effect of the amendments as follows:

The amendments provide the CMA with information-gathering powers that will allow it to operate that function effectively. The powers are similar to those that the CMA can use during a market study or investigation, but specific to the road fuel sector. The amendments will allow the CMA to ask a business involved in the distribution, supply or retail of petrol and diesel for information in order to assess competition in the market and the impact on consumers. The new powers are supported by enforcement provisions, including for the CMA to impose civil penalties for non-compliance. The powers will be time-limited and will require a review by the secretary of state after five

¹¹⁹ [HC Hansard, 20 November 2023, col 106.](#)

¹²⁰ Competition and Markets Authority, '[Road fuel market study](#)', last updated 10 August 2023.



years, to consider whether the powers should be extended by regulation.¹²¹

4.2.4 Cross cutting provisions

Kevin Hollinrake also summarised amendments made to the bill's provisions that crosscut its digital markets, competition and consumer regimes:

We are removing the eight-year tenure limit for Competition Appeal Tribunal (CAT) chairs, enabling the CAT to retain experienced and skilled judges. A further set of amendments relate to the provision of investigative assistance to overseas authorities, in connection with overseas criminal competition and consumer enforcement investigations. The investigative provisions apply across the digital markets, competition and consumer regimes.¹²²

He also said that the government had tabled “some technical amendments to the general provisions [which] apply across the bill, dealing with matters such as commencement”.

4.2.5 Opposition response to government amendments

The shadow minister for tech and digital economy, Alex Davies-Jones, said the Labour Party broadly welcomed the bill but argued that it was “well overdue”.¹²³ She described it as a positive step forward in creating new competition in digital markets. Labour particularly welcomed “competition and consumer choice and protection as signs of a healthy, functioning market economy”.

Speaking to Labour new clauses 29 and 30 on subscription reminders, Ms Davies-Jones expressed concern that the government's changes were not sufficient:

Although the government have recently made changes so that companies will be mandated to provide a reminder to consumers before renewing their subscription, sadly that change does not go far enough.¹²⁴

¹²¹ [HC Hansard, 20 November 2023, col 107.](#)

¹²² [HC Hansard, 20 November 2023, col 107.](#)

¹²³ [HC Hansard, 20 November 2023, col 108.](#)

¹²⁴ [HC Hansard, 20 November 2023, cols 107–8.](#)



For a further discussion of Labour's new clauses 29 and 30 see section 4.4 below.

4.3 Government commitments to examine issues further

John Penrose (Conservative MP for Weston-super-Mare) tabled new clause 31 on regulatory burdens which was supported by a number of other Conservative MPs. Mr Penrose was commissioned by the chancellor of the exchequer and the secretary of state for business, energy and industrial strategy in September 2020 to report on competition policy and his report was published in February 2021.¹²⁵ The member's explanatory statement for the amendment said:

This new clause places on ministers a permanent duty to ensure that the net economic cost of burdens from competition and consumer regulation is zero or less each year.¹²⁶

Mr Penrose expressed concern about how the existing oversight of regulations was working following a change in 2016:

The crucial thing it was missing was a proper accountability mechanism for when governments of any kind fail to deliver on better regulation principles and on reducing the cost to wealth creation in this country, and inherently therefore reducing the rate of growth in the country and the improvements in productivity that we all want to see. It meant nothing happened within Parliament.¹²⁷

He said that his amendment was "not perfect" and his desires around the scope of the amendment had been constrained by the scope of the bill.

Kevin Hollinrake said that he agreed "with the instincts" behind the amendment and whilst the government could not accept the amendment it wanted to work with John Penrose on achieving his new clause's aims:

¹²⁵ HM Treasury et al, '[Power to the people: Independent report on competition policy](#)', 16 February 2021.

¹²⁶ House of Commons, '[Report stage: Digital Markets, Competition and Consumer Bill—amendment paper](#)', 20 November 2023, p 48.

¹²⁷ [HC Hansard, 20 November 2023, col 109](#).



Although we do not think it is right to accept the new clause as it stands, I accept and agree with many of the things it tries to achieve. I therefore invite my hon. Friend to work with officials and me to develop a better, stronger way of achieving his four aims through a mixture of potential government amendments to the bill and other measures or statements of government policy to be released publicly before royal assent, where the changes fall outside the bill's scope.¹²⁸

Mr Penrose did not press his new clause to a vote.

Amendments 219 to 222 tabled by Sir Robert Buckland would have removed the mandatory cooling-off period for subscription contracts from the bill. Kevin Hollinrake said that it was important for those provisions to remain “as they provide essential protections for consumers”.¹²⁹ He said that the renewal cooling-off period would protect consumers who had signed up to trial or longer term contracts. However, in response to particular concern from business the government would consult on return and refund rules:

We understand, however, that some businesses are concerned about how the cooling-off period will work in practice, particularly for digital streaming services. This is an important issue to get right, so the government will publicly consult on the return and refund rules to ensure that they are fair and practical for businesses and consumers. That will include consulting on a waiver of cooling-off rights for some products.¹³⁰

Labour also tabled amendment 225 on “drip pricing”. Alex Davies-Jones described drip pricing as follows:

[...] drip pricing is the practice of businesses advertising only part of the product's price, and then later revealing other obligatory charges as the customer goes through the buying process.¹³¹

She referred to a reference in the King's Speech to drip pricing.¹³² The King's Speech background briefing notes said the Digital Markets, Competition and Consumers Bill would address drip pricing, subject to consultation. It said the bill would benefit consumers through:

¹²⁸ [HC Hansard, 20 November 2023, col 129.](#)

¹²⁹ [HC Hansard, 20 November 2023, col 130.](#)

¹³⁰ [HC Hansard, 20 November 2023, col 130.](#)

¹³¹ [HC Hansard, 20 November 2023, col 108.](#)

¹³² [HC Hansard, 20 November 2023, col 108.](#)



Taking new powers to enable growing consumer harms to be tackled, such as fake reviews and, subject to consultation, drip pricing (a practice where firms only advertise part of a product's price upfront and reveal other charges later in the buying process).¹³³

Alex Davies-Jones asked why the government had not brought forward its own amendments to this effect.

Kevin Hollinrake said that the government had recently consulted on drip pricing and would set out its next steps shortly.¹³⁴ He said it would be “premature” to amend the bill in advance of the government's response to the consultation. The government's consultation ran between 4 September 2023 and 15 October 2023.¹³⁵

Labour did not press amendment 225 to a vote.

4.4 Divisions on opposition amendments and new clauses

Labour pushed two of its amendments and two of its proposed new clauses to division.

On amendments 187 and 188, Alex Davies-Jones, shadow minister for tech and digital economy, said that these were in response to concern about the impact of government amendments 13 and 14 on the wording of the countervailing benefits exemption (see section 4.1.1 of this briefing for further information):

Labour is concerned by these amendments, and I therefore urge members across the House to support amendments 187 and 188, tabled in my name, which seek to undo the government's mismanagement.¹³⁶

Amendment 188 would have removed clause 29 which contains the bill's existing provisions

¹³³ Prime Minister's Office, '[The King's Speech 2023: Background briefing notes](#)', 7 November 2023, p 25.

¹³⁴ [HC Hansard, 20 November 2023, col 127.](#)

¹³⁵ Department for Business and Trade, '[Smarter regulation: Improving price transparency and product information for consumers](#)', updated 21 September 2023.

¹³⁶ [HC Hansard, 20 November 2023, col 56.](#)



on the countervailing benefits exemption. Labour described amendment 188 as consequential to amendment 187.

Amendment 187 would have then amended clause 27 to insert the following new subclause:

(2) The CMA may have regard to any significant benefits to users or potential users that the CMA considers have resulted, or may be expected to result, from a factor or combination of factors resulting from a breach of a conduct requirement.¹³⁷

Labour has explained the effect of the amendment 187 as follows:

This amendment would ensure that the CMA considers any significant benefits to users resulting from the breach of a conduct requirement when it is considering representations from designated undertakings as part of a conduct investigation.¹³⁸

Speaking for the SNP, Richard Thomson said that his party believed that Labour's amendments struck "a reasonable and fair balance on where we would like the outcomes to be" and that the SNP would support them on division.¹³⁹

Minister Saqib Bhatti expressed concern that removing the bill's existing provisions on the countervailing benefits exemption "would jeopardise clear regulatory expectations and predictable outcomes".¹⁴⁰ He said that this would risk consumers missing out on certain benefits:

[T]his would make it more likely that consumers lose out on the innovations developed by SMS firms, such as privacy or security benefits. Government amendments 13 and 14 clarify the exemption while, crucially, maintaining the same high threshold and clear process.¹⁴¹

Amendment 187 was defeated on division by 275 votes to 196.¹⁴²

¹³⁷ House of Commons, '[Report stage: Digital Markets, Competition and Consumer Bill—amendment paper](#)', 20 November 2023, p 12.

¹³⁸ As above.

¹³⁹ [HC Hansard, 20 November 2023, col 65.](#)

¹⁴⁰ [HC Hansard, 20 November 2023, col 74.](#)

¹⁴¹ [HC Hansard, 20 November 2023, col 74.](#)

¹⁴² [HC Hansard, 20 November 2023, cols 83–5.](#)



Amendment 188 was defeated on division by 278 votes to 197.¹⁴³

Labour's new clauses 29 and 30 related to 'subscription traps'. Speaking to the new clauses at report stage, Alex Davies-Jones said that the Labour party was seeking to end subscription traps by changing the current system of opting-out to one where consumers would have to actively opt-in.¹⁴⁴ She said that subscription traps saw consumers get stuck in auto-renewing contracts they did not explicitly ask for following free trials.

Labour's explanatory statements for new clauses 29 and 30 were as follows:

This new clause [29] would allow the consumer to opt-out of their subscription auto-renewing every six months, or if the period between payments is longer than six months, before every payment. If the consumer does not opt-in to auto-renewal, they would be required to notify the trader manually about renewing.¹⁴⁵

This new clause [30] would introduce an option for the consumer to opt-out of their subscription auto-renewing after their free or discounted trial. Otherwise, they would have to notify the trader manually about the subscription continuing. It also introduces an option for the consumer to opt-out of their subscription auto-renewing.¹⁴⁶

Alex Davies-Jones said that £306mn a year was being spent on unused subscriptions.¹⁴⁷

Speaking for the SNP, Richard Thomson said he appreciated that the government had tabled amendment 93 that sought to tackle subscription traps through issuing reminders. However, he said the SNP believed that "a better balance could be struck" by an opt-in system.¹⁴⁸ He expressed concern that reminders would "inevitably end up in the recycling bin or junk mail folder, even for the most attentive of consumers". He said that the SNP supported Labour's new clauses 29 and 30 and would vote for them on division.

Responding to Labour's new clauses, Kevin Hollinrake said that the government agreed that

¹⁴³ [HC Hansard, 20 November 2023, cols 86–9.](#)

¹⁴⁴ [HC Hansard, 20 November 2023, col 107.](#)

¹⁴⁵ House of Commons, '[Report stage: Digital Markets, Competition and Consumer Bill—amendment paper](#)', 20 November 2023, p 46.

¹⁴⁶ As above, p 47.

¹⁴⁷ [HC Hansard, 20 November 2023, col 107.](#)

¹⁴⁸ [HC Hansard, 20 November 2023, col 113.](#)



consumers should be protected from getting stuck in unwanted subscriptions. He said that the government believed Labour's new clauses could end up inconveniencing many consumers:

For example, if a consumer had not initially opted into an auto-renewing contract, but later decided that they wanted to keep the subscription, they would have to repeatedly communicate that they wanted to continue their subscription or risk its unintentionally lapsing. That risk could be multiplied across each subscription they held.¹⁴⁹

The minister also argued that the new clauses would impose “undue additional costs” on businesses and that the government's approach struck the right balance of maintaining the benefits and convenience of rolling subscriptions whilst also protecting consumers.

New clause 29 was defeated on division by 280 votes to 210.¹⁵⁰

New clause 30 was defeated on division by 281 votes to 209.¹⁵¹

4.5 Third reading

The bill passed third reading without division.

In the short debate, Kevin Hollinrake said that the amendments made to the bill at report reflected discussions between stakeholders and MPs. He also referred to the cross-party support for the bill:

The bill was welcomed on both sides of the House on second reading. The select committee chairs from this House and the other place, as well as hon. Members from a number of parties, including the hon. Member for Pontypridd (Alex Davies-Jones) and my hon. Friend the Member for Weston-super-Mare (John Penrose), have repeatedly spoken of the bill's importance. I thank them for their work and for working with us so constructively.¹⁵²

¹⁴⁹ [HC Hansard, 20 November 2023, col 127.](#)

¹⁵⁰ [HC Hansard, 20 November 2023, cols 142–4.](#)

¹⁵¹ [HC Hansard, 20 November 2023, cols 146–9.](#)

¹⁵² [HC Hansard, 20 November 2023, col 170.](#)



Alex Davies-Jones said Labour had long called “for measures to protect consumers, enhance innovation and promote competition in digital markets to unlock growth and level the playing field for smaller businesses”. She said Labour supported the passage of the bill and said the party was “pleased to see the bill in a good place as it goes to the other place for further consideration”.¹⁵³

For the SNP, Richard Thomson said that the amendments “we sought to put forward were merely to fill the potholes that we saw in the bill”.¹⁵⁴ He said that all that was required was “some action to be taken on greenwashing and drip pricing”.¹⁵⁵ Mr Thomson said that his only concern now was the impact the bill would have.

5. Read more

- House of Commons Library, ‘[Digital Markets, Competition and Consumers Bill 2022–23: Digital markets and competition—progress of the Bill](#)’, 8 September 2023
- House of Commons Library, ‘[Digital Markets, Competition and Consumers Bill 2022–23: Consumers—progress of the Bill](#)’, 15 November 2023
- House of Commons Library, ‘[Digital Markets, Competition and Consumers Bill 2022–23: Digital markets and competition provisions](#)’, 12 May 2023
- House of Commons Library, ‘[Digital Markets, Competition and Consumers Bill 2022–23: Consumer provisions](#)’, 17 May 2023

¹⁵³ [HC Hansard, 20 November 2023, col 170.](#)

¹⁵⁴ [HC Hansard, 20 November 2023, col 171.](#)

¹⁵⁵ [HC Hansard, 20 November 2023, col 171.](#)

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