

# Digital competition in the UK and EU

Analysing the continent's new antitrust regimes and impact of the US' approach to big tech.

May 2025

# Introduction

2024 was a significant moment in the progress of European competition regulation. The UK passed its 'DMCCA' legislation and the EU began implementation of the Digital Markets Act (DMA.) Both adopt a new ex-ante approach (rules on behaviour to prevent future harm.) However, as with so many industries, a potentially more important development took place on 4th November: Donald Trump was re-elected and is now back in the White House.

This briefing compares the regimes and includes reflections from DGA's Washington DC team. The DMA has a proactive, rules-based approach entering the enforcement phase. The UK has a more flexible framework allowing the Competition and Markets Authority (CMA) to tailor interventions. It is also guided by the UK government's requirement for a focus on economic growth and industry engagement.

Trump's re-election adds complexity. His administration has criticised overseas tech regulation but has also adopted a proactive approach to domestic antitrust in several areas. However, it is not the only factor in play. Europe and the UK both face weak growth, tariff negotiations and sticky inflation. In such a challenging environment, deregulation, or at least 'pro-growth' approaches to tech policy, is also being openly discussed.

The US President's criticism of the EU initially led to a period of hesitation. However, the Commission moved forward with cases against Alphabet, Apple and Meta. Fines have been levied on two, leading to accusations of 'economic extortion' across the Atlantic. Lines have been drawn. While at an earlier stage in implementation, the CMA has opened three 'SMS' designation investigations also into Google and Apple. Draft decisions are expected in the summer.

The implications are significant. Regulators, policymakers and industry will watch proceedings carefully this year.

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# Where do the regimes align and diverge?

## SIMILARITIES

- Both aim to **promote fair competition** and **prevent unfair practices** in digital markets.
- Both designate companies based on their **market power** and **strategic significance** in digital activities.
- Both impose **specific obligations** on designated companies to ensure fair practices, such as prohibitions on **self-preferencing** and **unfair use of data**.
- Both have provisions for **significant penalties** for non-compliance, including fines up to **10% of worldwide turnover**.
- Both require designated companies to **report mergers** involving digital activities to the relevant authorities.

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## DIFFERENCES

- The **DMA adopts a more prescriptive regulatory framework** and the **DMCC uses a flexible, UK-specific model**.
- The **DMA imposes a fixed list of obligations and prohibitions** on gatekeepers, while the **DMCC provides flexibility to tailor remedies** to specific cases.
- The **DMA includes a broader scope of interoperability requirements** for core platform services, while the **DMCC focuses more on addressing specific harms** identified by the CMA in the UK market.

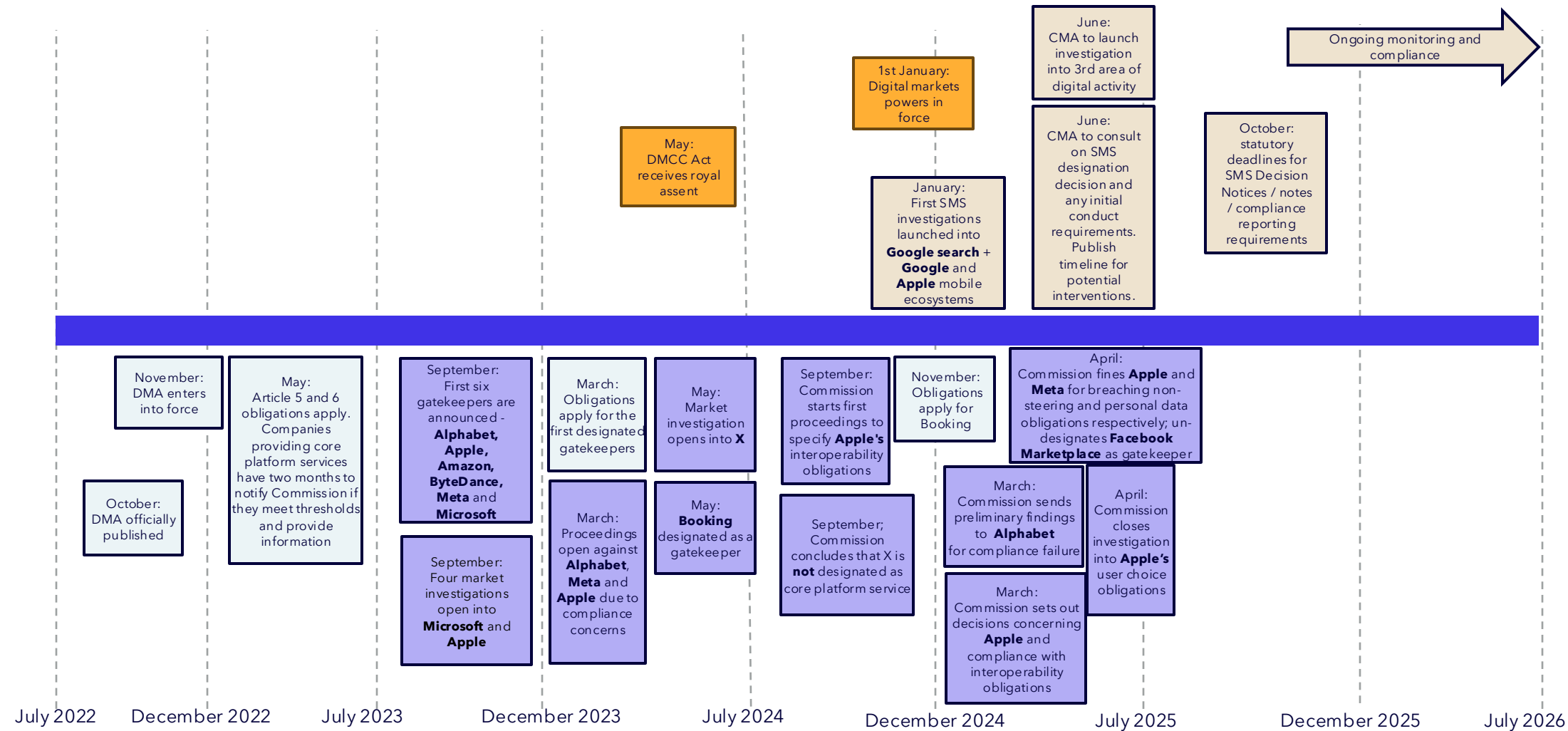
# Comparing the two regimes

Duty	DMCC	DMA
Categorisation	<p><b>'Strategic Market Status'</b> for companies with:</p> <ul style="list-style-type: none"> <li>- a position of strategic significance in respect of a digital activity;</li> <li>- substantial and entrenched market power expected over the next five years; and</li> <li>- UK turnover of &gt;£1bn or global turnover of more than &gt;£25bn in the previous 12 months</li> </ul>	<p><b>'Gatekeeper'</b> status for companies that provide a <b>core platform service</b> (CPS), defined as:</p> <ul style="list-style-type: none"> <li>- at least 45 million monthly active end users; and</li> <li>- at least 10,000 yearly active business users in the EU,</li> </ul> <p>And with a significant impact on the EU market, defined as:</p> <ul style="list-style-type: none"> <li>- Min.€7.5bn EU turnover in each of last three years; or</li> <li>- A valuation of min.€75bn in the last financial year</li> </ul>
Scope	<p>A digital activity linked to the UK, if:</p> <ul style="list-style-type: none"> <li>- the activity has a 'significant number' of UK users</li> <li>- the company provides the activities in the UK</li> <li>- the activity is likely to have an 'immediate, substantial and foreseeable effect on UK trade</li> </ul>	<p>Applies to companies providing one (or more) CPS, including online intermediation services, online search engines, online social networking or video-sharing services, operating systems, web browsers, cloud computing services, or online advertising services</p>
Notification requirements	<p>No notification requirements - CMA can begin an SMS investigation at any time, with a nine-month time limit</p>	<p>Companies must notify the EC if they meet categorisation thresholds. EC then has 45 working days to assess and designate (or not)</p>
Regulatory authority	<p>The Competition and Markets Authority's (CMA) dedicated Digital Markets Unit (DMU)</p>	<p>The European Commission</p>
Merger control	<p>SMS firms must report transactions exceeding £25m</p>	<p>Designated companies must notify EC where a target provides a core platform service, or any digital/data collection service</p>
Enforcement powers	<p>Conduct requirements (behavioural remedies); structural pro-competitive interventions; fines of up to 10% of world turnover, penalties of 5% of daily turnover, enforcement orders</p>	<p>Fines of up to 10% of worldwide turnover, up to 20% for repeated infringements, daily penalties of 5% of daily turnover, potential behavioural and structural remedies</p>

# Timelines

- SMS investigation
- DMCC
- Gatekeeper designation
- DMA

While the DMA is further down the line in its implementation, SMS investigations under the DMCCA are underway.



# Attention on enforcement, with significant penalties

- A key question for the two regimes is how responsible bodies approach enforcement, particularly in this age of ex-post, rather than ex-ante digital regulation.
- **The EC** can impose structural or behavioural remedies in case of systemic non-compliance.
  - In more serious cases, it can order a gatekeeper to cease and desist from the non-compliant activity, and impose fines of up to 10% of its worldwide turnover (rising to 20% if a repeated offence).
- As reflected in 2024's swathe of Gatekeeper investigations, the Commission hit the ground running in its efforts to pre-emptively regulate competition. It launched investigations into Apple, Meta and Alphabet, finding all three non-compliant with the DMA and (so far) fining the first two €500m and €200m respectively.
- In the UK, companies are expecting to engage with the CMA as it pursues real-time compliance from firms. The CMA started two 'SMS' investigations into designations in search (Google) and mobile ecosystems (Google and Apple) in January 2025. A third is expected soon. All eyes will focus on the regulator's draft timetable of behavioural interventions, which will be published in the summer if the regulator proposes to designate firms in the regime.
- **The CMA** can hand out enforcement orders in the case of a conduct requirement breach, to prevent future breaches and address damage caused. It also has the ability to levy 10% fines. However, **it has less immediate power over remedies and interventions** than the EC – it must consult on conduct requirements, while obligations for gatekeepers under the DMA apply immediately (compliance is required within six months).

# DMA progress can provide insights for the UK

- In May 2024, Ofcom and the European Commission announced an arrangement to share insights and best practices, and reduce friction between the Online Safety Act and the Digital Services Act.
  - If the CMA and the EC were to make a similar agreement, there could be noticeable **cross-regime learning**, or at least both jurisdictions may watch each other closely.
- The CMA can benefit from a '**second-mover advantage**', by learning lessons from the further-advanced DMA regime. For instance, the European Commission's priorities in the DMA's first year of gatekeeper compliance, and content of the non-compliance rulings could provide clues for the UK's own approach.
  - Issues such as third-party app developers and their relationships with gatekeepers, interoperability across jurisdictions, and the interplay between competition and consumer data protection have shaped regulatory developments - a pattern that businesses may expect to see mirrored in the UK.
- **We can also expect the EC's current enforcement of the DMA to continue throughout 2025**, with Competition Commissioner Teresa Ribera promising 'vigorous enforcement' of the regime. Companies within scope of the DMCC will be watching these proceedings carefully.



# Is AI the point of difference?

- In 2025, AI regulation will continue to shape developments under the DMA. In 2024, the Commission announced a **dedicated group focused on how AI impacts competition** under the DMA in light of the new AI Act. This includes investigating AI in online search, and potential impacts on Gatekeeper designation.
- The UK has begun to take a different direction from the EU on its AI policy, driven by the Government's pro-growth and AI innovation missions – perhaps seeing a chance to present itself as more pro-AI than its neighbours, and to **build stronger ties with Washington**.
  - In its **draft strategic steer** to the CMA in February, the Government identified AI as a sector where barriers to growth should be removed, and interventions eased:
    - *"The CMA should take particular care to ensure growth and innovation benefits are prioritised, including through supporting the government in delivery of the AI opportunities action plan".*
- This was followed in mid-March by the **Regulatory Action Plan**, which re-emphasises the need to remove what the UK government views as unnecessary regulatory blockages in the economy.
  - The document prioritises a regulatory approach that allows the UK *"to take advantage of new technologies and innovations, including artificial intelligence"* - a not-so-subtle warning to regulators against over-intervention in the AI sector, amidst crackdowns elsewhere.

# Stateside view: US antitrust and tech

- In the US, there is **no law that specifically addresses the dominance of large tech firms**. During the 117<sup>th</sup> and 118<sup>th</sup> Congresses, bipartisan groups of lawmakers introduced bills aimed at addressing competition concerns in the technology sector, albeit with narrower approaches than the DMA and the DMCC. However, none of these bills reached floor votes, and they have not been reintroduced to date.
- For over a decade, there has been sustained focus on how to address competition in the tech industry, with increasing concern over the practices of large digital platforms. **Critics of U.S. antitrust law have expressed frustration that it is simply not specific enough to address concerns of small and midsize firms** as well as growing consumer dissatisfaction with a myriad of issues.
- President Trump has also been a **critic of the EU's antitrust approach**, accusing the EU of "overseas extortion." In response to EU regulation and digital services taxes, Trump issued a presidential memorandum titled "*Defending American Companies and Innovators from Overseas Extortion and Unfair Fines and Penalties*."
- Global companies will face the challenge of navigating a complex EU and UK regulatory landscape while adapting to shifting policies from the Trump administration that are likely to run counter, or even be directly and expressly in opposition to, EU and UK regulation. With a new Republican majority in the United States Senate and House of Representatives and the return of President Trump, it is expected that the technology industry is bracing itself for a new and aggressive approach to its issues from the U.S. government but there will be opportunities to engage regulators and lawmakers to begin a new narrative.

# Antitrust Enforcement Under the Second Trump Administration:

## KEY ACTIONS AND WHAT BUSINESSES NEED TO KNOW



### Antitrust Agencies' Early Action

- 1 Despite leadership changes, the FTC and DOJ remain active in antitrust enforcement, focusing on **healthcare, tech, and labor**. Recent Trump appointees include **Gail Slater** as DOJ Antitrust Chief, **Andrew Ferguson** as FTC Chairman, and **Mark Meador** as FTC Commissioner.

### Merger Control Enforcement

- 2 The FTC and DOJ are **blocking acquisitions**, including challenges to HP's deal with Juniper and GTCR's purchase of Surmodics, along with **second requests** for major healthcare and advertising deals. The FTC is also investigating tech platform **censorship** and its impact on competition.

### Sherman Act Enforcement

- 3 The DOJ is aggressively enforcing the **Sherman Act**, with an egg pricing investigation and guilty pleas for **monopolistic** practices in the transmittance forwarding industry.

### Policy Continuity

- 4 The Trump administration has largely continued the previous administration's **antitrust stance**, especially on large tech companies, **signaling consistency** in policies like Google's breakup.

### FTC Leadership and Influence

- 5 After President Trump **fired two Democratic FTC commissioners**, Chairman Ferguson now has greater control to shape FTC policy, potentially leading to more focused enforcement, especially in healthcare.

### Implications for Businesses

- 6 Companies, particularly in healthcare, should prepare for **ongoing scrutiny** under Trump's antitrust enforcement by reviewing **compliance programs** and updating antitrust training.

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