



May 10, 2024

The Rt Hon the Lord Offord of Garvel CVO
House of Lords
London
SW1A 0PW
United Kingdom

The Rt Hon Kevin Hollinrake MP
House of Commons
London
SW1A 0AA
United Kingdom

Dear Lord Offord and Minister Hollinrake,

The U.S. Chamber of Commerce U.S.-UK Business Council respectfully submits this letter to share our insights and concerns regarding the Digital Markets, Competition and Consumers (DMCC) Bill. As the Bill approaches its final stages, we recognize the legislative advancements thus far and highlight the importance of a regulatory framework that supports a thriving digital economy. We ask that you consider the perspectives and interests of our diverse membership as the Bill concludes the legislative process and the new regime moves towards its implementation by the CMA in the coming months.

With the House of Commons having recently reinstated the November amendments, we now look to the Government to ensure the Bill's successful passage through the House of Lords on May 14 with these amendments intact. This action would not only fortify the regulatory framework for digital markets but also support the Competition and Markets Authority's (CMA) pivotal role in overseeing private action cases.

The U.S. Chamber of Commerce is the world's largest business organization, representing a diverse array of businesses from small community supporters to global innovators, and has consistently advocated for strong commercial ties between the United States and the United Kingdom. The U.S.-UK Business Council, established in 2016, is dedicated to navigating the challenges and opportunities arising from the UK's departure from the European Union.

The economic ties between our two countries are substantial, with more than \$2 trillion in two-way investment and trade in goods and services as well as 2.8 million jobs created on both sides of the Atlantic. We remain each other's most steadfast of allies. The U.S. is the UK's top trading partner.

Recent Legislative Developments

The Lords' recent decision to overturn the November amendments provides a pivotal moment for the Government to reaffirm its dedication to a balanced regulatory strategy in the ensuing 'ping pong' discussions. While recognizing the intricacies of the legislative procedure and the constraints on enacting significant amendments at this juncture, we maintain that the Government's resolve to reinstate these provisions is essential for the sustained growth and competitiveness of the UK's digital economy.

Detailed Recommendations

While recognizing the limitations of making substantive changes to the DMCC Bill at this late stage, we seek the Government's support in urging the CMA to implement these provisions with the following recommendations:

- **Enhanced Guardrails on CMA Powers:** We advocate for clear limits and criteria for the CMA's authority, including an independent oversight body to review decisions, which would safeguard businesses from arbitrary enforcement and bolster UK regulatory predictability. For example, a transparent appeals process and a clear definition of the CMA's remit would prevent subjective enforcement and ensure impartial decision-making.
- **Clarity in Ex-ante Regulations:** We call for objective criteria for ex-ante measures to ensure they promote competition and consumer welfare. A consultative process with industry stakeholders for periodic review of these criteria is essential. This approach would allow for a dynamic regulatory strategy that adapts to the evolving digital marketplace, fostering an environment that supports innovation.
- **Effective Dispute Resolution Mechanism:** We emphasize the need for explicit timelines and procedures for appeals within the DMCC Bill to provide certainty and avoid stifling innovation. An efficient dispute resolution mechanism should include interim measures to protect businesses during the appeal process and a specialized tribunal with expertise in digital markets.
- **Merger Assessments:** We suggest further enhancements to the merger assessment process to promote competition and economic growth. A thorough

and balanced assessment process is necessary to encourage investments that lead to greater consumer choice, lower prices, and enhanced economic growth.

- **Managing the Risk of Private Enforcement Actions:** Unmitigated, standalone private enforcement risks undermining the new regime’s participative approach – the core procedural innovation of the CMA (and its Digital Markets Unit) versus other international proposals. It puts at risk the CMU’s ability to draft the rules and ensure they lead to nuanced interventions. We welcome the Government's intention to address this risk in further guidance as this is of critical importance to the proper functioning of the regime.

We are dedicated to fostering a regulatory framework that not only promotes competition but also cements the UK’s position as a vanguard of digital innovation. We value your consideration and eagerly anticipate the positive impact of the regime’s final implementation, confident in its promise of flexibility and support for innovation.

Yours sincerely,

A handwritten signature in black ink that reads "Marjorie Chorlins". The signature is written in a cursive, flowing style.

Marjorie Chorlins
Senior Vice President, Europe
U.S. Chamber of Commerce