

EVERSHEDS SUTHERLAND

UK Digital Markets, Competition and Consumers Act Receives Royal Assent

27 June 2024

Summary

On 23 May 2024, the UK's Digital Markets, Competition and Consumers Act ("Act") received Royal Assent.

1. introduces a new pro-competition regime for digital markets, which will be enforced by the UK competition and consumer protection authority, the Competition Markets Authority ("CMA")
2. makes changes to certain aspects of competition law to enhance the breadth of the CMA's powers particularly in relation to market studies and investigations, and merger control, and
3. introduces significant changes to update and strengthen the UK consumer law regime, especially in relation to enforcement action and subscription contracts

While most of the provisions in the Act will not apply immediately, we expect the CMA shortly to consult on detailed draft guidance outlining how the key aspects of the Act will apply in practice. Businesses are encouraged to actively participate in the CMA's consultations, as their input will play a crucial role in shaping the CMA's policies and enforcement landscape.

These provisions will be applicable to all institutions contracting with students, as well as any other businesses who sell goods, services or digital content to students more broadly.

Impact and actions

Pro-competition regime for digital markets: firms designated by the CMA as having "Significant Market Status" relating to a digital activity linked to the UK will have to comply with bespoke conduct requirements, and report to the CMA (prior to completion) all M&A deals worth £25 million+ (and where voting/equity rights pass increase to 'gateways' of more than 15%, 25% or 50%)

CMA's enhanced investigatory and enforcement powers: including a new duty on companies to preserve documents when being investigated, and will give the CMA additional powers, such as the power to interview individuals not connected with the business under investigation, increased powers to seize and sift data from individuals' homes, and increased power to fine businesses and individuals if they fail to comply with investigative measures and information requests.

Revised UK merger control thresholds: including increasing the target's UK turnover threshold from £70m to £100m; and introducing a new acquirer-focused threshold to catch so-called "killer acquisitions".

Overhaul of consumer protection enforcement regime: enabling the CMA to pursue traders directly and impose substantial penalties for non-compliance; expanding the list of prohibited unfair practices to include "fake reviews" and drip-pricing; and introducing an enhanced regime for subscription contracts.

