



Business and Trade Committee

House of Commons, London SW1A 0AA

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Rt Hon Kemi Badenoch MP
Secretary of State for Business and Trade
Department for Business and Trade
Old Admiralty Building
London SW1A 2DY

20 July 2023

Dear Secretary of State

The Committee is following with interest the passage of the Digital Markets, Competition and Consumers Bill. Before the Bill has its Report stage, it would be helpful if the Department could respond to the following questions:

Parliamentary oversight

There are concerns amongst Members that the CMA might, through its interventions, reduce the attractiveness of the UK as a place to do business, particularly within digital markets. It is difficult for Parliament and indeed this Committee to assess if this is the case or not, in advance of it potentially becoming a reality.

Some form of annual, independent review of the cumulative economic impact of the interventions of the Digital Markets Unit could assist the Committee in its understanding of the effects of the DMU's decisions on the wider economy. Has the Department considered including within the Bill provisions for such a review? If not, does it accept that there would be merit in the idea?

Judicial oversight

There has been extensive debate on whether a full merits review of DMU decisions ought to be available to companies, or whether a judicial review via the Competition Appeal Tribunal (CAT) is most appropriate. Neither course is ideal: a full merits review would require a court to take a view on a question of policy, not law, and judicial reviews at the CAT will consider largely the elements of the decision-making process, for example material illegality or material errors of fact.

One way forward, to provide courts with a clearer base for adjudication, might be to give the CMA more guidance on the policy direction that it should adopt. What is the Government's view on using a mechanism similar to a planning policy statement, which would set out general principles to be taken into account by the CMA in reaching its decisions, and which would be put to the House first for approval?

I expect that, in line with usual practice, the Committee will publish this letter and your response.

Yours sincerely

A handwritten signature in black ink, reading "Darren Jones". The signature is written in a cursive style with a large initial 'D' and 'J'.

DARREN JONES MP
CHAIR, BUSINESS AND TRADE COMMITTEE