



Department for  
Science, Innovation  
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**Bim Afolami MP**

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Dear Bim,

Thank you very much for your constructive engagement at the second reading of the Digital Markets, Competition and Consumers Bill (the Bill) on Wednesday 17 May. As was evident at the debate, the Bill commands strong cross-party support and I look forward to working closely with you and colleagues throughout its passage.

I would, however, like to clarify my response to your comments on the need for the digital markets regime to have the right appeals standard. During my closing speech, I noted that “companies will be able to make a full merits appeal should there be a penalty.” This is correct only in respect of penalties issued by the Competition and Markets Authority in connection to the digital markets merger provisions. This is because these appeals will be brought under the existing Enterprise Act 2002 process. However, appeals of all other penalty decisions made under the digital markets regime will be available on judicial review principles.

Judicial review will allow for appropriate scrutiny of Digital Markets Unit (DMU) decisions in the digital markets regime. Valid grounds for appealing decisions of the DMU could include challenging whether the DMU acted lawfully and within its powers, applied proper reasoning or followed due process, as well as (in some circumstances) whether the DMU’s decision was proportionate. This is the most proportionate approach and will help ensure that the DMU is equipped to address the specific challenges posed by dynamic digital markets.

I will place a copy of this letter in the libraries of both Houses.

Yours sincerely,

Paul Scully MP  
**Parliamentary Under Secretary of State at the  
Department for Science, Innovation & Technology**

**Cc:** Rt Hon Sir Robert Buckland MP

Seema Malhotra MP

Alex Davies-Jones MP