



Department for  
Science, Innovation  
& Technology

**Viscount Camrose**  
**Parliamentary Under Secretary of State**  
Department for Science, Innovation &  
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Lord Tyrie  
House of Lords  
London  
SW1A 0PW

24 January 2024

Dear Lord Tyrie,

Thank you for your constructive engagement during the first Committee session of the Digital Markets, Competition and Consumers Bill (the Bill) on Monday, 22 January.

This letter sets out my response to your amendments 12A, 12B and 13B, and I sincerely apologise for not addressing these at the time. Your expertise as former Chair of the CMA and role in developing the proposals under this Bill has been invaluable, so I wanted to respond to the important points you raised in full.

I agree that it is important that the CMA is clear and transparent about the rationale for its decisions. It will engage closely and openly with firms during SMS investigations – and throughout their designations – which will ensure that all parties are clear about the basis for its actions.

There are strong mechanisms in the Bill which ensure transparency of the CMA's decision-making, and the reasons for its decisions. Clause 15 subsection (2)(d) requires the CMA to give reasons for its designation decisions. This will ensure that the CMA will provide appropriate levels of transparency to SMS firms, while safeguarding the confidentiality of information it receives. This is coupled with public law standards to ensure procedural fairness.

I also agree that it is important to balance candour with the protection of confidential sources. However, the creation of a prescriptive requirement of disclosure in favour of SMS firms could tip the balance and deter third parties from engaging constructively with the CMA. Third parties – including other firms and whistleblowers – share sensitive information with the CMA in confidence. Fear that this could be breached would deter third parties from providing information or engaging with the CMA, even if protected through the Secretary of State's defined exemptions. This could then reduce the quality of the information provided to the CMA, and undermine the effective operation of the regime. It would also place a significant burden on the CMA to identify and assess whether large volumes of information are disclosable.

You also proposed an independent case reviewer to ensure compliance with the CMA's disclosure obligations relating to SMS decision notices. The CMA will already be required to ensure that its disclosure practices meet public law standards of procedural fairness when it proposes to make any decision across the new regime, including SMS designation. This ensures that parties have adequate information to understand the case against them and can make representations. The CMA's decisions on what it discloses are subject to the

independent oversight of the courts, and they already have the power to order the CMA to disclose additional information to SMS firms.

You noted the role of the CMA's independent procedural officer as an analogous function elsewhere in the regulator. The Procedural Officer's remit varies across regimes, and these roles are not established in primary legislation. The Government is working with the CMA as they consider whether it would be appropriate for the Digital Markets Regime.

I hope this offers reassurance that there will be sufficient procedural safeguards in place to ensure the appropriate and proportionate supply of information from the CMA to relevant parties. I would welcome the opportunity to meet with you and discuss these issues further.

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

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Camrose', written in a cursive style.

Viscount Camrose  
**Parliamentary Under Secretary of State**  
**Department for Science, Innovation & Technology**