The CMA Should Get App Store Rules Right

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The UK could become the first country to set principles for app store steering fees. It should explain more convincingly why digital markets deserve utility-style pricing.

Britain is about to become the world's laboratory for regulating app stores. It should ensure it gets the experiment right. The Competition and Markets Authority (CMA) is considering imposing conduct requirements on Apple and Google under its new digital competition regime. At the centre of the debate lies one seemingly technical issue with far-reaching consequences: "anti-steering" rules.

These rules limit app developers' ability to steer users within their apps to alternative purchasing channels, such as their own websites, to complete a transaction, after which users return to the apps. Apple largely confines transactions to its App Store, whereas Google imposes less restrictive steering rules and allows users to purchase apps from alternative app stores and the web. Developers using the official app stores nevertheless often pay commissions of up to 30% and often rely on the platforms' payment systems.

The CMA wants to remove these restrictions to give developers greater commercial freedom, increase consumer choice and, ultimately, reduce prices.

Removing anti-steering rules, however, creates another question: what should developers pay app stores for the services they continue to provide?

Developers would still benefit from app stores' investments in discovery, security, distribution and software tools, even if purchases occurred elsewhere. Allowing developers to bypass app stores entirely without remuneration would create obvious free-riding concerns, weakening incentives to invest and innovate. The challenge, therefore, is not whether a steering fee should exist, but how to calculate it.

The CMA deserves credit for resisting the temptation to become a price regulator. Rather than fixing the fee itself, it proposes a principles-based methodology under which Apple and Google would determine the steering fee subject to regulatory oversight. While the CMA will have significant discretion to assess the proposed steering fees in a way that may steer firms towards a given fee, this approach offers flexibility that potentially avoids years of litigation over a regulated price while preserving commercial incentives. Compared with steering interventions in the European Union, the United States, Brazil and Japan, the CMA's approach has the potential to stand out as more transparent and better structured.

Yet the methodology remains incomplete. It rests on three principles: a cost-based approach, a value-based approach and administrative simplicity.

The final principle is perhaps the CMA's most original contribution. It requires any steering fee and its associated terms to be simple enough for developers to understand and implement without imposing unnecessary technical or administrative burdens. In doing so, it responds directly to one of the main criticisms stakeholders have raised in other jurisdictions. In the European Union, for example, the European Commission is investigating both Apple and Google under the Digital Markets Act, the EU digital competition regime, over whether their steering terms comply with the anti-steering obligation.

The difficulty lies elsewhere. The CMA places considerable weight on a cost-based approach, calling it well established and effective at preserving investment incentives. Such regulation has a long pedigree in sectors such as telecommunications, energy and transport, where regulators often set prices for essential utility infrastructure.

App stores are different. They compete on ecosystem value, product quality and continuous innovation. Apple, for instance, argued in the CMA's consultation that a cost-based approach is ill-suited to mobile platforms because of high innovation and unpredictable demand. The CMA acknowledged the argument but did not explain why a methodology designed for utility-like sectors should also apply to digital platforms, beyond noting its track record in other sectors.

That omission matters. The CMA itself recognises that a value-based approach could, in principle, determine the steering fee independently. This methodology measures the economic value app stores create for developers rather than simply the costs they incur. It also better reflects the two-sided nature of digital platforms: app stores create value for developers, while developers make the platforms and devices more attractive to consumers.

If both approaches are available, why should cost remain the anchor? The CMA never fully answers that question. It argues only that a cost-based approach would set a steering fee at a viable level for app developers. However, the CMA also recognises that this cost-based approach involves complexities in determining costs. To provide greater legal certainty, the CMA should provide more guidance to clarify the calculation, including on costs associated with investments in services protected by intellectual property rights.

Britain's decision will set a precedent. The UK would become the first authority to establish a principle-based framework for steering fees. Regulators worldwide will closely monitor whether it works.

For that reason, getting the methodology right matters as much as removing anti-steering rules themselves. The CMA has shown welcome restraint by refusing to regulate prices directly. It should now go one step further and explain more clearly why cost-based regulation belongs in mobile platforms at all.

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