Samsung Submission in response to CMA WP7 Remedies Invitation to Comment

Dear Case Team

As an OEM first and foremost which generates the vast majority of its revenues from device sales, Samsung has an incentive to ensure that its devices offer end-users the choice and quality of digital services they expect, allowing those end-users to access those services quickly and intuitively. How and what digital services are offered on upon device set-up is a key component to the 'out-of-box experience' (OOBE) and, ultimately, how attractive our devices are to end-users – including as regards web browsing, usually regarded as a key element of a smart device's functionality. Samsung therefore welcomes greater competition for the supply of mobile browsers in so far as this delivers a better quality and range of services for consumers. This is demonstrated by the fact: (a) we have developed our own propriety web browser, Samsung Internet Browser (SIB), which complements the underlying functionality and quality of the relevant Samsung smart device; and (b) Samsung devices are shipped with both SIB and Chrome preinstalled to offer consumers a choice.

We are therefore keen to understand the CMA's analysis as regards how such choice architecture influences browser competition and the practical impact of any remedy the CMA may institute in this regard (should it establish any adverse effects on competition) – both on third-party browsers and the end-user.

We have read through the recently published working papers with great interest and are grateful for all the work and analysis conducted on this Market Investigation over the last year (as well as during the preceding Market Study). Samsung appreciates the opportunity and invitation to comment on the working papers, and we remain on hand to assist the CMA further as it progresses its investigation, prior to issuing its provisional decision report.

There are a few points we wish to make in respect of 'WP7 – Potential Remedies' and, in particular, Options C1, C2, C3 and C5 (pre-installation of browsers, and default browser choice screens and browser placement). While these mainly touch on the impact of some of the potential remedies on Samsung (and Google's, rather than Apple's, control over Android browser choice architecture), we consider that they are also relevant to the CMA's aims, and wider public interest. In particular, we are concerned that the remedies, if applied to Samsung devices, may exacerbate, rather than address the issues identified in respect of choice architecture and pre-installation of browsers on Android devices.

As noted below, Samsung agrees with the CMA that, in principle, it is important to ensure that any such choice architecture remedies are sufficiently targeted, understandable and balanced.[1] We are therefore keen to ensure that Options C1, C2, C3 and C5:

- are focussed on addressing the CMA's concerns regarding Google's control of browser choice architecture on Android in so far as this control "reinforces Chrome's very strong position on Android"[2] – as opposed to addressing those few elements of choice architecture which are not wholly in Google's control (whether technologically or by virtue of commercial arrangements with Android OEMs) and which are not being used to advantage Chrome;

- do not confuse or overwhelm the end-user with choices and/or a range of applications serving the same purpose – particularly in circumstances where it is not necessarily clear that this will foster greater use of third-party browsers; and

- are capable of effective implementation and enforcement – bearing in mind the range of Android OEMs (with varying commercial arrangements and device set-up choices) which these remedies impact.

Options C2 and C3 (and C5)

[1] WP7 – Potential Remedies, para. 7.6.

[2] As identified in 'WP5: The role of choice architecture on competition in the supply of mobile browsers' (July 2024) and the CMA 'Mobile ecosystems Market study: final report' which preceded it (June 2022).

We have focused on the two/three potential remedies which we think will have the greatest effect on the take-up of alternative browsers, and the most serious unintended consequences:

> *Option C2: A requirement for Apple and Google to ensure the use of browser choice screens at device set-up.*
>
> *Option C3: A requirement for Apple and Google to ensure the placement of a selected default browser by the user in the 'dock'/'hot seat' or on the default home screen at device set-up.*
>
> *Option C5: A requirement for Apple and Google to ensure the use of browser choice screen(s) after device set-up.*

As noted in our previous responses to RFIs and calls with the investigation Case Team, Samsung Internet Browser (SIB) is the default browser on Samsung phones, rather than Chrome, although both are pre-installed on the device.

We understand that these remedies are ultimately designed to "level the playing field" for third-party browsers and drive "traffic to these browsers", removing/reducing the way in which Google's control over choice architecture reinforces Chrome's market position.[3] However, the CMA recognizes that careful thought will have to be given to the specifics of the design of Option C2, and that any browser choice architecture remedy needs to be appropriately targeted to presenting choices to the end user "at the right place, at the right time."[4] We concur.

First, we are concerned that if Options C2 and C3 were applied to Samsung devices, it could, in fact, inadvertently increase the usage of Chrome (rather than decrease it), undermining (rather than fulfilling) the underlying aim of this remedy:

- [redacted]
- While it is possible that these options would also support the growth of some smaller third-party browsers such as Opera or Ecosia, it is in our view likely that this effect would be smaller than the pro-Chrome effect of the remedy design.

Second, there is a risk that Options C2 and C3 are designed in a such way that they apply equally to devices with Chrome set as default, and those where a challenger browser is set as default. This could result in a disproportionate remedies package that treats dissimilar arrangements in a uniform manner and which does not sufficiently target the primary concern that the CMA has identified.[5] Without appropriate limitation (see below), Options C2 and C3 could:

- apply to those limited aspects of browser choice architecture which Android OEMs retain some control over (see immediately below), regardless of whether that OEM had a commercial arrangement with Google by which to set Chrome as default and/or appear in the 'dock'/'hot seat';
- prevent an Android OEM from entering into an agreement with a third-party browser vendor by which to boost the prominence and promote end-user engagement with a challenger browser – which could further serve the purpose of leveling the playing field and ensure better competition in the market; and
- potentially go beyond addressing the CMA's concerns regarding Google's control of browser choice architecture and impinge Android OEM's commercial decision-making and arrangements, despite the fact that these arrangements do not enhance Chrome's market position.

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[3] WP7 – Potential Remedies, para. 7.11.

[4] WP7 – Potential Remedies, paras. 7.6 and 7.21.

[5] Contrary to the CMA's stated aim at WP7 – Potential Remedies, para. 7.7

Finally, linked to the above, we would like to reiterate that Google has no authority to install multiple browser apps, implement the browser choice screen or adjust the default home screen on non-Pixel Android devices, unless the Android OEM agrees to do so. That is why Google has specific, individually negotiated license and placement agreements in place with Android OEMs for Chrome and other Google applications. As acknowledged by the CMA[6], a remedy should be capable of effective implementation and enforcement. As Options C2 and C3 cannot be fully achieved without the consent of all Android OEMs (which may be unlikely to be given)[7], they cannot necessarily be implemented by Google alone on a consistent basis, and therefore may not be effective or readily enforceable remedies.

To address the concerns above, in our view it would be better to limit Options C2 and C3[8] to devices like Pixel and phones from other Android OEMs that do set Chrome as the default browser. This way, Android OEMs (who do not, or will no longer set Chrome as the default browser) and third-party browser vendors would still have an option to enter into an agreement that sets an alternative browser as the default and places it in a prominent place of the phone, thereby promoting the use of the alternative browser.

As noted further below, this approach is consistent with how – in consultation with the European Commission – Samsung has implemented browser 'choice screens' pursuant to Google's obligations under the EU Digital Markets Act (DMA). As the CMA will be aware, the DMA's obligations are similarly designed, amongst other things, to address Google's control (as a 'gatekeeper') over end-user choice architecture to create a more open and level-playing field by which third-party browsers can more readily compete.

The arguments made above apply in parallel to Option C5, which would require that users of existing devices be shown a choice screen.

Option C1

We would also like to comment on the pre-installation proposal in Option C1:

> *A requirement for Apple and Google to ensure that multiple browsers are pre-installed, using defined criteria.*

We consider that, in Samsung's case at least, the requirement to install a third or even fourth browser app could be detrimental to the end-user experience, without necessarily making a material impact on the CMA's concerns regarding how Google's control of browser choice architecture entrenches Chrome's market position.

Consumers prefer to control their phone appearance and layout and curate the apps they need. Further, they value a user interface which is easy to understand and intuitive to use. OEMs seek to minimise the number of non-essential pre-installed apps for this reason. The installation of additional browsers would take up phone memory, contribute to a sense of being overwhelmed and/or 'app bloat'[9], and prevent users from only having the apps they need. The CMA has itself acknowledged that "users may not want to have multiple browser apps serving the same purpose or they may have concerns about memory restrictions".[10]

[6] WP7 – Potential Remedies, para. 2.6.

[7] As acknowledged by the CMA in WP7 – Potential Remedies, para. 7.23.

[8] For the avoidance of doubt, Samsung understands that Option C3 is designed to complement and is intrinsically linked to the operation of Option C2, such that it would apply: (a) only upon device set-up; and (b) if, upon device set-up, the end-user is presented a choice to choose an alternative default browser. As such, were Option C2 be limited such that a browser choice screen need not necessarily be displayed upon set-up on Android devices which do not set Chrome as their default, Option C3 similarly would not be necessary.

[9] The end-user perception (also referred to as 'bloatware') that the device is overloaded with too many software applications and features, some of which are unnecessary, such that: (a) the relevant device/applications run more slowly; and/or (b) the end-user is unable to quickly and productively use the device as he/she cannot readily navigate between the relevant applications/features on offer.

[10] WP5 – The role of choice architecture on competition in the supply of mobile browsers, para. 2.25.

Like other OEMs, Samsung takes great care in designing an OOBE that works for consumers. We are concerned that pre-installing additional browsers apps, which duplicate the functions of SIB, and which are not familiar with the majority of end users, may cause confusion and harm the overall user experience, without necessarily increasing usage of the browser apps in question.

We note that Apple has, as part of its DMA compliance work, recently agreed that where an end user selects a third party browser as their preferred default browser using the browser choice screen on Apple devices, that that browser app will be installed automatically as part of the out of the device setup process, without the user having to take any further action. We consider that this could be a less intrusive version of Option C1 when applied to Android devices.

CMA Questions

In its remedies working paper[11], the CMA has also asked for views in response to specific questions. We have added some additional comments below each question (shown in bold).

What are your views on the three proposed choice architecture principles for remedy design (see paragraph 7.6 above)?

- We have no particular views. They seem like appropriate principles.
- We would add another sub-principle under 'Targeted'[12] that any remedy should not disrupt existing OEM-specific characteristics or design choices which: already do promote other challenger browsers; and do not specifically entrench Chrome's existing market position.
- [Linked to the above, we also welcome the CMA's broader recognition of the need to ensure that any remedies are: proportionate to its competition concerns (regarding Google's and Apple's control over browser choice architecture and how this entrenches the market position of Chrome and Safari respectively) and the potential detriment to the end-user experience; and effective, bearing in mind possible practical challenges with implementation.[13]]

Which, if any, of the remedy proposals described above do you think will be most effective and proportionate should an AEC be found?

- Our views on C2-C3 are set out above. We are likewise concerned that C5 would share the downsides of C2, in particular when applied to Samsung devices.
- Option C4 is a positive step which would remove the ambiguity and confusion which can be caused by in-app browsing, where a user's choice is not tracked across all access points.
- We have no strong views on C6-C9. If designed carefully, they would level the playing field and limit the ability of Apple and Google to use their control of the operating system to seek to recapture users who have switched to other browsers. Independent browser vendors should also be able to give prompts once their browser is installed.

Which remedies are likely to be effective? Please explain your answer.

- We believe that variants of C2 and C3, described above, C4 and C6-C9 are likely to be effective in principle.

Which of the remedies listed above is least intrusive for users? Please explain your answer.

- Option C1 would likely be intrusive because consumers are opposed to app bloat and excess installations. It is likely that they will not appreciate multiple browsers being pre-loaded. Some users may find it bothersome to have unwanted apps preinstalled, occupying their device's storage regardless of their own preference.
- Options C2-C3 will be intrusive, as will C5, insofar as they apply with respect to Android devices that do not set Chrome as the default browser. We do not have the same concerns about C4 and C6-C9.

Which, if any, of the remedy proposals described above would offer opportunities for increasing user awareness and engagement?

- Options C4 and C6-C9, together with variants of C2-C3 (as discussed above) would likely increase engagement.

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11 WP7 – Potential Remedies, para. 7.66.

12 WP7 – Potential Remedies, para. 7.6(a).

13 WP7 – Potential Remedies, para. 7.8.

How important is regulatory alignment and cohesion with existing regulation (e.g. DMA) when considering choice architecture practices?

- This is an important consideration as a lack of alignment in user experiences could cause confusion to the detriment of the consumer, particularly as some devices are shipped by OEMs for delivery in the UK and EU as a single stock keeping unit.
- We note that following engagement with the European Commission, we determined that Google's choice screen remedy, referred to by the CMA in its remedies working paper[14], did not apply to Samsung devices, in so far as the browser of a gatekeeper was not the default browser which the operating system for the device directed users to.
- As noted above, we are concerned that a CMA remedy, which did not observe this distinction, would cause disproportionate and unnecessary detriment to end-users and Samsung, without adequately targeting the CMA's specific concerns regarding Google's control over browser choice architecture and how this is being used to entrench Chrome's market position.

Final Comments

We also note that the DMA remedy currently presents two separate choice screens – one for default browser (not triggered for Samsung because Chrome is not the default) and a second screen for default search engine, which appears when a browser has Google Search as its default search engine.

This second choice screen is applicable to Samsung devices as Google Search is currently set as SIB's default search engine. While this remedy is less directly relevant to the CMA's investigation (as it relates to search rather than mobile browsers), we consider that it further highlights the limited upside of applying a mobile browser choice screen to Samsung devices. Samsung is already implementing a choice screen (default search engine) which helps ensure that Samsung device default settings do not entrench Google's strong market position (in this case in search).

In this respect, it is worth emphasizing that, uniquely, SIB also has a very easy to use drop-down menu within the browser search bar which allows users to easily switch between search engines. This feature could be lost if users switched away from SIB to Chrome due to a choice screen.

[14] WP7 – Potential Remedies, para. 7.18.