EXPLANATORY MEMORANDUM TO

THE COMPETITION APPEAL TRIBUNAL (AMENDMENT) RULES 2025

2025 No. 999

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Business and Trade and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Justin Madders, Parliamentary Under-Secretary of State (Minister for Employment Rights, Competition and Markets) at the Department for Business and Trade confirms that this Explanatory Memorandum meets the required standard.

2.2 Alex Williams, Deputy Director for Competition Policy, at the Department for Business and Trade confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Tesni Thomas at the Department for Business and Trade can be contacted by email at the following address with any queries regarding the instrument: CompetitionPolicy@businessandtrade.gov.uk. Alternatively, the department can be contacted by telephone: 07523979375.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument amends the Competition Appeal Tribunal Rules 2015 ("the CAT Rules") to support implementation of the Digital Markets, Competition and Consumers Act 2024 ("the 2024 Act"). In particular, the CAT Rules will be amended to introduce new case management procedures for claims brought under section 101 of the 2024 Act, including to provide for the stay of those claims where they raise issues the same as, or similar to, those raised in concurrent investigations being undertaken by the Competition and Markets Authority ("CMA").

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) of which the instrument forms part of the law) is England and Wales, Scotland, and Northern Ireland.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England, Wales, Scotland, and Northern Ireland.

5. Policy Context

What is being done and why?

5.1 Previous competition laws were not designed to address the unique barriers to competition in digital markets. To rectify this, Part 1 of the 2024 Act establishes a

new digital markets regime which provides the CMA with new, faster, more effective tools to address such barriers.

5.2 The 2024 Act provides the CMA with new powers to designate undertakings as having Strategic Market Status ("SMS") in respect of a particular digital activity where the undertaking has substantial and entrenched market power and a position of strategic significance in respect of the activity. Such designation allows the CMA to impose "conduct requirements" on, make "pro-competition orders" in relation to, and accept competition-related "commitments" from, those undertakings.

5.3 Under section 101(2) of the 2024 Act, a person who suffers loss or damage because of a breach of such a requirement, order or commitment may bring a claim for redress before an "appropriate court" or the CAT.

5.4 Amendments are made to the CAT Rules to introduce procedural requirements in respect of those claims under section 101(2) of the 2024 Act. Amendments to the Rules are also made to provide for the stay of such proceedings where they raise issues the same as, or similar to, concurrent investigations being undertaken by the CMA. This is with the intention of reducing inefficiency and avoiding inconsistency between decisions in private actions and CMA investigations where the outcome of a CMA investigation could affect the private action. Section 102(1) of the 2024 Act provides that the court or Tribunal hearing a claim under section 101 is bound by a final CMA breach decision following an investigation.

5.5 Corresponding updates for claims under section 101 of the 2024 Act in the High Court were made to the Civil Procedure Rules 1998 under The Civil Procedure (Amendment No 2) Rules 2025 and to certain Practice Directions under the Rules.

What was the previous policy, how is this different?

5.6 This is explained in paragraphs 5.1 to 5.5 above.

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument amends the Competition Appeal Tribunal Rules 2015 (S.I. 2015/1648) in the following way:

- Rules 3 to 5 and rule 7 of this instrument contain consequential amendments to rules 2 and 3, the heading of Part 3, and rule 104 of the CAT Rules to enable them to apply to private claims for redress under section 101 of the 2024 Act.
- Rule 6 of this instrument inserts a new Part 4A into the CAT Rules dealing with claims brought under section 101 of the 2024 Act. Part 4A includes the following provisions:
    - Rules 72A and 72B make technical provision for the application and interpretation of Part 4A, and for its interaction with other provisions of the CAT Rules.
    - Rule 72C requires that the CMA notify the parties and the Tribunal when it is investigating issues the same as, or similar to, those raised by a claim under section 101 of the 2024 Act.
    - Rule 72D requires that the CMA apply for a stay of proceedings where it is investigating such issues, or notify the parties and the Tribunal that it does not consider that the proceedings should be stayed.

- Rule 72E makes provision for the Tribunal's determination of whether to order a stay.
- Rule 72F requires the CMA to notify the parties and the Tribunal where a CMA breach decision becomes final within the meaning of section 102(2) of the 2024 Act.

Why was this approach taken to change the law?

6.2 The 2024 Act introduced the right to bring private claims for redress. This instrument was needed to apply certain existing CAT procedures to such claims, and to introduce new procedures required for such claims.

7. Consultation

Summary of consultation outcome and methodology

7.1 Section 15(1) of the Enterprise Act 2002 requires the President of the CAT to be consulted in advance of making this instrument; the Secretary of State has done so as required. In addition, consultation has been undertaken with the CMA, the CAT User Group, and through participation in discussions with the Civil Procedure Rules Committee about corresponding changes to High Court procedure.

8. Applicable Guidance

8.1 The revised CAT Rules and accompanying guidance will also be made available on the CAT website in due course at the following address: https://www.catribunal.org.uk/rules-and-guidance.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because no, or no significant, impact on the private, public or voluntary sectors is foreseen.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business beyond the impact of the 2024 Act, because this legislation is directed to facilitating proceedings under section 101(2) of that Act. There is no, or no significant, impact on charities or voluntary bodies.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector for the reasons indicated above.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 This instrument makes amendments to the CAT Rules which are subject to review and reporting by the Secretary of State from time to time and at intervals not exceeding five years, pursuant to rule 120.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").