EXPLANATORY MEMORANDUM TO

THE DIGITAL MARKETS, COMPETITION AND CONSUMERS ACT 2024 (CONSEQUENTIAL AMENDMENTS) REGULATIONS 2025

2025 No. [XXXX]

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 David Marshall, Deputy Director for consumer policy, at the Department for Business and Trade confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Ian Meikle at the Department for Business and Trade Telephone: +44 (0)7355 021903 or email: ian.meikle@businessandtrade.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument makes amendments to legislation in consequence of Part 3 (enforcement of consumer protection law), Part 4 (consumer rights and disputes) and Chapter 2 of Part 5 (provision of investigative assistance to overseas regulators) of the Digital Markets, Competition and Consumers Act 2024 ("DMCCA").

4.2 The instrument updates references across the statute book to the legislation which Parts 3 and 4 of the DMCCA replace. It ensures that regulators and others can disclose information to enable consumer enforcers to investigate and enforce breaches of the consumer protections conferred by Chapters 2-4 of Part 4 of the DMCCA. It also facilitates transition from the current regulations on unfair trading (Consumer Protection from Unfair Trading Regulations 2008, S.I. 2008/1277 ("CPUTRS") and EU Directive 2005/29/EC concerning unfair business-to-consumer commercial practices (which the CPUTRs implemented)) to their replacement in Chapter 1 of Part 4 of the DMCCA, by allowing effective exercise of consumers' redress rights in Part 4A of the regulations until they can be replaced by regulations made under section 233 of the DMCCA. The instrument also makes a consequential amendment to the Water Resources Act 1991 (c. 57), to give effect to changes made by Chapter 2 of Part 5 of the DMCCA.

Where does the legislation extend to, and apply?

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

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

5. Policy Context

What is being done and why?

5.1 The DMCCA updated and strengthened the enforcement of consumer law (Part 3); updated consumer protections against unfair trading (Part 4, Chapter 1); and introduced substantive new consumer rights in relation to subscriptions contracts, alternative dispute resolution and savings schemes (Part 4, Chapters 2 to 4).

5.2 Chapter 2 of Part 5 confers statutory authority for UK regulators to provide investigative assistance to overseas regulators who have functions corresponding to the UK regulators in relation to competition, consumer protection and digital markets.

5.3 The consequential amendments made by the instrument ensure existing consumer law frameworks are updated to reflect these changes and incorporate the new substantive rights.

5.4 The instrument also updates various pieces of legislation which restrict the disclosure of information to allow for disclosure of information for the purposes of Part 4 of the DMCCA. The instrument amends the Water Resources Act 1991 to allow disclosure for the purposes of Parts 3 and 4 and Chapter 2 of Part 5 of the Act.

What was the previous policy, how is this different?

5.5 This instrument does not change the government's policy. Rather, it ensures continuity of consumer policy, by making the necessary provisions to incorporate Parts 3 and 4 and Chapter 2 of Part 5 of the DMCCA into existing consumer law frameworks.

6. Legislative and Legal Context

How has the law changed?

6.1 The vires for the instrument are in section 336 of the DMCCA. Section 336(1) empowers the Secretary of State to make by regulations provision that is consequential on the DMCCA or on any provision made under it.

6.2 Part 3 of the DMCCA updates powers to investigate and enforce consumer protection law. Part 4 of the DMCCA gives consumers protections in respect of unfair commercial practices, subscriptions contracts and prepayments to savings schemes and regulates the provision of alternative dispute resolution for consumer contract disputes. Chapter 2 of Part 5 confers statutory authority for UK regulators to provide investigative assistance to overseas regulators who have functions corresponding to the UK regulators in relation to competition, consumer protection and digital markets.

6.3 There are three categories of amendment in the draft regulations.

6.4 **Information Gateways**: This applies to the amendments to: the Agriculture Marketing Act 1958; the Telecommunications Act 1984; the Companies Act 1985; the Airports Act 1986; the Water Act 1989; the Water Industry Act 1991; the Water Resources Act 1991; the Railways Act 1993; the Coal Industry Act 1994; the Greater London Authority Act 1999; the Utilities Act 2000; the Transport Act 2000; the Communications Act 2003; the Energy (Northern Ireland) Order 2003; the Wireless Telegraphy Act 2006; the Companies Act 2006; the Water and Sewerage Services (Northern Ireland) Order 2006; the Postal Services Act 2011 (Disclosure of Information) Order 2012; and the Civil Aviation Act 2012.

6.5 These Acts prohibit the disclosure of information relating to an individual or business (or both) gathered using statutory powers without consent except in certain specified circumstances. One of the circumstances is where the body to whom the information would be disclosed will use the information as part of exercising functions under specified legislation,

including for the purpose of consumer protection enforcement under Part 8 of the Enterprise Act 2002 and the CPUTRs.

6.6 Apart from in the cases of the Agriculture Marketing Act 1958 and the Water Resources Act 1991 , Schedule 30 to the DMCCA will amend these Acts to provide that information may be shared for the purpose of exercising functions under Part 3 (which replaces Part 8 of the Enterprise Act 2002), Chapter 1 of Part 4 (which replaces the unfair trading regulations) and Chapter 2 of Part 5 of the DMCCA (provision of investigative assistance to overseas regulators). However, to ensure the new consumer protections in relation to subscription contracts, savings schemes and Alternative Dispute Resolution can be enforced on an equal footing, it is necessary to extend the information sharing provisions so that they apply to the whole of Part 4 DMCCA, not merely Chapter 1. These amendments therefore simply remove the words 'Chapter 1 of' from the relevant provisions.

6.7 The Agriculture Marketing Act 1958 and the Water Resources Act 1991 were not amended by the DMCCA, so it is necessary to update or replace existing disclosure gateways.

6.8 **Investigatory Powers**: Paragraphs 13 and 20 of Schedule 5 to the Consumer Rights Act 2015 set out the functions in relation to which the investigatory powers in that schedule may be used. Paragraph 13 allows the CMA and other public designated enforcers to use the powers in Part 3 of the Schedule (the power to require information by notice) to enable them to exercise or consider whether to exercise their civil enforcement powers or to ascertain compliance with a relevant order or undertaking. Paragraph 20 allows authorised enforcers (a selection of public designated enforcers listed in sub-paragraph 7) to use the powers in Part 4 of the Schedule (to purchase products; observe the carrying on of business; enter premises without a warrant; inspect products; test equipment; require the production of documents; seize and detain goods and documents; break open containers; and require assistance from persons on the premises) for any purposes relating to their civil enforcement functions, providing an officer reasonably suspects an infringement or a failure to comply with an order or undertaking.

6.9 The amendments in the instrument ensure that those investigatory powers may be used in relation to relevant enforcement functions granted in Part 3 DMCCA.

6.10 **Updating References**: The other amendments in the regulations replace references to Part 8 of the Enterprise Act 2002 as well as the CPUTRs and EU Directive 2005/29/EC, which the CPUTRs implemented, and, in some cases, make amendments to supporting text. These amendments are not intended to alter the policy effect of the provisions.

6.11 While DMCCA Part 4 Chapter 1 replaces the CPUTRs, pursuant to DMCCA section 252(3)(a), Part 4A CPUTRs will continue to govern consumers' rights of redress for unfair trading until regulations are made under section 233 DMCCA. The amendment in this instrument modifies the CPUTRs to allow Part 4A to function effectively in governing rights of redress in a context where the substantive rights on unfair trading are governed by DMCCA Part 4 Chapter 1. This instrument similarly makes amendments to Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 which are to be replaced by DMCCA Part 4 Chapter 4 but do not come into force concurrently.

Why was this approach taken to change the law?

6.12 This is the only possible approach to make the necessary changes. This instrument is being made using the powers conferred in section 336(1) and (2) DMCCA to make consequential amendments.

7. Consultation

Summary of consultation outcome and methodology

7.1 The reforms enacted through the Digital Markets, Competition and Consumers Act 2024 were the subject of extensive public consultation. No further public consultation has taken place

regarding the provisions in this instrument, as it makes only consequential amendments and does not change policy.

7.2 The Department for Energy and Net Zero, the Department for the Environment, Food and Rural Affairs, the Department for Science, Innovation and Technology, the Department for Transport, HM Treasury, the Ministry of Housing, Communities and Local Government, the Ministry of Justice, the Wales, Scotland and Northern Ireland Offices and the Scottish and Northern Irish Governments have been consulted concerning changes to legislation within their competence.

8. Applicable Guidance

8.1 This instrument does not implement or require 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 these provisions do not themselves make any material changes to the costs associated with the DMCCA.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because these regulations do not impose material new obligations, require operational or familiarisation changes or otherwise impose costs. An impact assessment was produced for the DMCCA and can be found on gov.uk or requested from the Department for Business and Trade.

9.3 The legislation does not impact small or micro businesses because these regulations do not impose material new obligations, require operational or familiarisation changes or otherwise impose costs. An impact assessment was produced for the DMCCA and can be found on gov.uk or requested from the Department for Business and Trade.

9.4 There is no, or no significant, impact on the public sector because these regulations do not impose material new obligations, require operational or familiarisation changes or otherwise impose costs. An impact assessment was produced for the DMCCA and can be found on gov.uk or requested from the Department for Business and Trade.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 Given their limited impact, there is no plan to review the effect of these regulations.

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 The Minister for Employment Rights, Competition and Markets has made the following statement regarding Human Rights:

"In my view the provisions of the Digital Markets, Competition and Consumers Act 2024 (Consequential Amendments) Regulations 2025 are compatible with the Convention rights."

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").