

Suggested Steps the UK Could Take to Address Digital-Related Restrictions

UK Barriers to U.S. Digital Service Suppliers

Over the past several years, the UK has passed or proposed several key measures that restrict the ability of U.S. digital service suppliers to access the UK market, including: the **digital services tax**, **Investigatory Powers Act**, the **Online Safety Act**, the **Digital Markets, Competition, and Consumers Act**, and proposed **audiovisual or audio funding or quota obligations** (all referenced below).

The net effect of these measures is to put U.S. digital firms at a competitive disadvantage in the UK market. Even where not directly or immediately restricting access, the burdens and risks associated with these measures will severely diminish opportunities to access a market worth \$68.2 billion in U.S. digitally-deliverable services exports to the UK in 2023 (nearly matched by \$55.4 billion in UK digitally-delivered services exports to the US in 2022, the most recent year with available data).¹

As the U.S. engages with the UK to seek the removal of trade impediments, several targeted changes could materially improve market access for U.S. suppliers by issuing clarifying guidance, adopting reforms through implementing regulation, and committing not to enact further barriers to U.S. digital services suppliers.

Tangible Commitments from the UK to Ease Digital Trade Barriers

Addressing existing barriers:

- Commit to eliminate the 2% **digital services tax**.²
- Review and clarify the **Investigatory Powers Act (IPA)**³ and relevant **Codes of Practice**,⁴ including:
 - Clarifying that upon a request from a U.S. company, such a company is authorized to discuss with appropriate UK and U.S. officials any ongoing investigation and its parameters.
 - Committing to informing relevant U.S. authorities within a specified period after signing an order under the IPA targeting a U.S. supplier.
 - Committing that TCNs issued pursuant to the IPA will not create any obligation that the U.S. supplier be capable of decrypting data.

¹ https://ccianet.org/wp-content/uploads/2024/10/CCIA_2024-NTE-Digital-Trade-Barriers-UK.pdf.

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<https://www.gov.uk/government/publications/introduction-of-the-digital-services-tax/digital-services-tax>.

³ <https://www.legislation.gov.uk/ukpga/2016/25>.

⁴ <https://www.gov.uk/government/collections/investigatory-powers-act-codes-of-practice>.



- Allowing relevant U.S. officials to intervene in court proceedings authorizing action under the IPA that target U.S. persons.
- Amending the Retention of Communications Data Code of Practice,⁵ Rule 3.15, to require the Secretary of State to consider impacts on innovation and privacy and burdens on product development prior to issuing a data retention notice.
- Establishing a reasonable time for response, and a *de minimis* threshold for notification notices to avoid complex global services having to issue an unreasonable volume of notices.
- Providing companies with the option to request that the Secretary of State undertake an expedited review for a TCN in a shorter period than 180 days.
- Exempting AI developers from the requirement to provide notice for changes in data retention, given the risk of impeding developers' ability to train leading AI models in the UK.
- Commit not to invoking Section 122 of the **Online Safety Act**⁶ in a manner that would require companies to break end-to-end encryption.
- Address concerns with the **2024 Digital Markets, Competition and Consumers Act**,⁷ including by
 - Ensuring that US companies are not exposed to erroneous regulatory decisions with far-reaching consequences for their business by allowing full merits appeals, as in existing Competition Act cases, and removing the shift to a Judicial Review standard.
 - Managing the extent of conduct requirements, either in the aggregate by requiring the CMA to minimise the range of requirements in each “strategic market status” firm code of conduct, or by removing some conduct requirements as interventions that should require separate and specific approval by Parliament outside the DMCC (e.g. establishing new economic regulation by regulating prices and other commercial terms).
 - Mitigating unreasonable litigation risk for US companies operating in the UK market by fixing the incoherence in the evidence standards for private and regulatory enforcement.
 - Creating a requirement for the CMA to limit the extra-territorial impact of its interventions, extending its recent announcement regarding merger control to

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https://assets.publishing.service.gov.uk/media/5a816635e5274a2e87dbd6b2/Retention_of_Communications_Data_Code_of_Practice_March_2015.pdf.

⁶ <https://www.legislation.gov.uk/ukpga/2023/50>.

⁷ <https://www.legislation.gov.uk/ukpga/2024/13/contents>.



ensure that requirements such as interoperability do not undermine the integrity of global services.

Addressing Proposed Barriers:

- Commit to not imposing audiovisual or audio **funding or quota obligations** for online streaming providers that would undermine the operations of foreign services suppliers that currently export UK content to audiences around the world.

Additional References

[New CCIA Briefing Explores How the US and UK Can Deliver Growth with a New Digital Trade Agreement](#)

[CCIA UK responds to reports Apple is removing encryption tool for UK customers](#)

[CCIA Responds to Reports of UK Demand for Worldwide Apple iCloud Access](#)

[CCIA Welcomes US Push Back Against Digital Service Taxes Targeting US Companies](#)

[CCIA Responds to UK's Online Safety Act Enforcement](#)

[Impact of the Liberal Democrats Proposed Increase to the UK Digital Service Tax](#)

[CCIA Supports U.S. Agreement with Five Countries to End Digital Services Taxes](#)