



Digital Regulation Cooperation Forum



Written evidence to the House of Lords Communications and Digital Committee inquiry into the work of digital regulators

Summary

- 1 The Digital Regulation Cooperation Forum (DRCF) – a voluntary forum comprising the Competition and Markets Authority (CMA), the Financial Conduct Authority (FCA), the Information Commissioner’s Office (ICO) and the Office of Communications (Ofcom) – welcomes the opportunity to contribute to the Committee’s inquiry into the work of digital regulators. The inquiry is both timely and pertinent given the changes to the digital regulatory landscape since the Committee’s 2019 report, ‘Regulating in a digital world’, as well as the Government’s proposals for further reform. We share the Committee’s view on the importance of coordination between digital regulators which is why, last year, we established the DRCF.
- 2 Digital technologies and online services bring benefits for people and businesses. They are changing the way we interact with the world around us, driving new behaviours and creating new ways of doing business and communicating. However, these technologies also raise concerns and the possibility of new types of harms.
- 3 Many tech companies have sought to take responsibility for managing risks people may face when using their services. However, given the scale of the economic and social impact that these companies now have, governments and a wide range of other stakeholders are calling on strong, independent regulation to deliver a safer and fairer experience online.
- 4 Regulators need to respond to the scale and global nature of many of the firms, and the speed at which they change and innovate. Meanwhile, to support innovation and ensure that people have the confidence and trust to use new services, regulatory regimes will need to be clear and understandable. This will require effectively engaging with new interplays between competition, data, content, financial services, and consumer issues. Consumers and businesses rightly expect regulators to be joined up. By working together through the DRCF, we will be better able to support more coherent and co-ordinated regulatory approaches.

- 5 The forum's approach to cooperation reinforces the UK's place as a world leader in digital regulation. The DRCF brings a step change in joint working among its member regulators to ensure coherent approaches to the most pressing digital issues – from the rise of artificial intelligence, to the trade-offs in the governance of end-to-end encryption. Through this approach, the DRCF can directly leverage the longstanding institutional knowledge and sophisticated networks of its members, which allows us, collectively, to identify, assess and address priority issues in digital regulation. The DRCF also retains clarity as to the respective roles and responsibilities of each regulator, which is important for industry and other stakeholders.
- 6 In April 2021 we published a workplan outlining our focus for the year ahead. In particular we are:
 - working together on critical digital issues in service design, algorithmic processing and end-to-end encryption. Through this work we are not only improving our shared knowledge and understanding of these technologies, but also aim to work together on coordinated regulatory solutions to improve outcomes for consumers;
 - pooling our horizon scanning activities, enabling us to take a comprehensive view of developments across digital markets to spot gaps and coordinate across our regulatory responses. We will shortly be launching a public call for input to our horizon scanning work where stakeholders can flag issues they consider should be on our radar and work with us to better understand them;
 - developing approaches for delivering coherent regulatory outcomes. Earlier this year the CMA and ICO published a joint statement on the interaction between competition and data protection – setting a precedent globally for how we think about the interaction between these regimes. Furthermore, the ICO and Ofcom are working across the Age Appropriate Design Code and Video Sharing Platform regimes to develop coherent regulatory approaches that make it easier for industry to understand and comply with regulatory requirements;
 - working together to build our skills and capabilities to make sure we are equipped for our evolving regulatory roles.
- 7 As a relatively new forum, there is, of course, more to do to maximise our value. We are already thinking ahead to 2022-23 and are eager to publish ambitious workplans for the year ahead and beyond. This includes consideration as to whether we can go further in developing joint guidance on digital issues where our regimes overlap, as well as how we work together to ensure our supervision of the world's largest technology companies is coherent.
- 8 We are also keen to ensure we have the mechanisms in place to optimise our cooperation. In May 2021, we responded to a request from the Department for Digital, Culture, Media and Sport (DCMS) for evidence on what additional mechanisms might be needed to support

cooperation between digital regulators. With our input, the Government is now considering how the regulatory landscape can evolve to join up our current regimes and ensure future legislative changes facilitate a coherent approach to digital regulation. This includes active consideration of how we align planned reforms for competition in digital markets, online safety and the data protection framework to deliver coherent regulatory outcomes for consumers and citizens.

- 9 We have given careful consideration to the proposal for a Digital Authority put forward in the Committee's 2019 report. Our view is that the DRCF can deliver some of the same benefits without the need for introducing an additional authority. The DRCF can leverage existing expertise, whereas a new overarching regulatory body creates further coordination interfaces and the potential need for duplication of scarce resource. The introduction of a new authority could also reduce clarity for industry and consumers on respective roles and responsibilities – particularly as digital matters are not neatly divisible from wider regulatory responsibilities. Careful consideration would need to be given as to how to avoid increasing coordination challenges when introducing additional layers to inter-institutional cooperation.
- 10 We look forward to engaging with the Committee and are, of course, very happy to provide the Committee with any additional information or views that would assist in this inquiry.

Why regulatory cooperation is important

- 11 The emergence of new technology is transforming the digital economy. Many traditional sectors, such as finance and retail, have been transformed as products and services move online. Furthermore, new markets have emerged such as online search, social media, and online advertising. Digital innovations clearly bring many benefits for consumers, business, and the UK economy. However, digital innovations also create a risk of new types of harm. People using digital services should have confidence to use these services in the knowledge that they are underpinned by strong, effective, and coherent regulatory regimes, and that regulators have the expertise and resources to tackle the issues that affect them. Businesses also rightly expect regulators to be joined up.
- 12 To continue to deliver good outcomes for consumers and businesses, digital regulators will need to overcome new challenges and take new approaches. We will need to respond to the scale and global nature of many digital firms, and the speed at which they change and innovate. This will require effectively engaging with new interplays between competition, data, content and consumer issues (for example, see the case study below on the CMA and ICO joint statement on competition and privacy). As well as addressing the challenges posed by digital markets, regulators will need to ensure that there is coherence in regulatory approaches across traditional and digital services, which are increasingly inseparable.
- 13 In its 2019 report ‘Regulating in a digital world’,¹ the Committee highlighted a number of ways the regulatory landscape could be improved to better meet the challenges of digital markets. In particular, the Committee highlighted the need for:
 - a coordinated approach, recognising overlaps but also underlaps such that gaps in regulation can be rapidly and effectively addressed;
 - regulators to develop better knowledge and understanding of digital technology to ensure regulation is fit for purpose, both now and in the future;
 - a coherent approach, such that regulatory actions are not fragmented but coordinated across multiple policy areas.
- 14 We agree with these findings from the Committee. In the section below we set out an overview of the DRCF and how it is working to meet these aims.

Overview of the DRCF

- 15 The DRCF provides a forum for regulators to work together on digital matters of mutual interest. Each of the member regulators starts from a different set of statutory objectives. The CMA holds overarching responsibilities for competition, the ICO for protecting people’s data rights, the FCA regulates the financial services sector, and Ofcom regulates the communications sectors. As well

¹ [House of Lords - Regulating in a digital world - Select Committee on Communications \(parliament.uk\)](https://www.parliament.uk/business/committees/committees-a-z/select-committees-on-communications/)

as the traditional sector and policy areas of focus, across the four regulators we have experience in managing cross-sector issues like competition, consumer protection, and approaches to economic regulation. This means that the DRCF members have a long-standing history of engaging and coordinating across their responsibilities.

16 These responsibilities are evolving. The Government has named Ofcom as the regulator for online safety in the UK in its draft Online Safety Bill, and has established the Digital Markets Unit (DMU) in the CMA to oversee a new pro-competition regulatory regime in digital markets. In September, the Government launched its consultations on reforms to the UK's data protection regime.

17 As both digital markets and digital regulation change, it is becoming ever-more important that we cooperate. We launched the DRCF in July 2020 to support cooperation between the CMA, the ICO and Ofcom. The FCA joined as a full member on 1 April 2021 having participated as an observer prior to that.

18 The DRCF has six objectives:

- Objective 1: Collaborate to advance a coherent regulatory approach by facilitating open dialogue and joint working to ensure that regulation and other enforcement tools applied to the digital landscape are developed and implemented in a coherent way, and produce effective and efficient outcomes that maximise benefits for consumers across policy areas.
- Objective 2: Inform regulatory policy making by using the collective expertise of the Forum to explore emerging policy challenges in the digital space and develop solutions to inform regulatory approaches.
- Objective 3: Enhance regulatory capabilities by pooling knowledge and resources to ensure that all members have the skills, expertise and tools needed to carry out their functions effectively in digital markets.
- Objective 4: Anticipate future developments by developing a shared understanding of emerging digital trends, to enhance regulator effectiveness and inform strategy.
- Objective 5: Promote innovation by sharing knowledge and experience, including regarding innovation in the approaches of regulators.
- Objective 6: Strengthen international engagement with regulatory bodies to exchange information and share best practice regarding approaches to the regulation of digital markets.

19 The DRCF harnesses our collective expertise to make a step-change in how we engage and coordinate in our regulation of the digital landscape to be more effective, coherent and efficient. A strong regulatory regime is essential to promote trust in digital services and the work

of the DRCF allows people to interact with digital markets with confidence. Our collective work is making it easier for business to navigate the regulatory environment.

- 20 The forum's landmark regulatory model and the joint work we are delivering through it reinforces the UK's place as a world leader in digital regulation. Recognition that regulatory silos cannot adequately address the challenges of digital markets has prompted regulators worldwide to consider alternative approaches. For example, we have seen international collectives such as the Global Privacy Assembly and the International Competition Network commission work on regime alignment (i.e. between competition and data protection). The DRCF model has attracted significant international attention as the most established and visible effort to work on regulatory coherence across the digital economy. Indeed, like-minded jurisdictions are already following our lead, establishing fora that enable competition, privacy, financial and communications regulators to more effectively leverage synergies between their regimes and adopt a coherent approach.²
- 21 Transparency and accountability are important principles to ensure that cooperation between digital regulators is effective, and delivers results for consumers, data subjects and citizens. As DRCF is not an institution in itself, but rather a forum for cooperation between individual institutions, it is only right that the members themselves are held to account individually. Each DRCF member is already held to high standards of accountability for its decisions and processes, including through Parliamentary scrutiny. Furthermore, by publishing a DRCF workplan and reporting on progress annually we can ensure our plans for cooperation are clear and that we are held to account on our ambitions.
- 22 We have moved quickly since the establishment of the DRCF and are continuing to refine how we operate. Through the DRCF, we are acting now to tackle shared live issues under our current regimes in a joined-up way. We are also looking ahead to new responsibilities and the strategic challenges that may arise. Below we set out our plans for this year, an update on our progress and a look ahead to how we expect the DRCF to continue to develop.

The DRCF workplan 2021-22 and progress so far

- 23 The first DRCF [workplan](#) was published in April 2021 and set out five priority areas of focus for 2021/22. We set out here what they are and what we have achieved six months into the workplan.

A. Responding strategically to industry and technological developments

- 24 We committed to establishing joint strategic projects where our cooperation will promote regulatory coherence. Given the systemic nature of regulatory issues in the digital economy and our comparatively recent formation, much of the work we are doing today is focussed on laying

² See the recent [announcement](#) from the Dutch Data Protection Authority, the Netherlands Authority for Consumers and Markets, the Dutch Authority for the Financial Markets, and the Dutch Media Authority.

the groundwork for the future. Joint project teams across the regulators have already made significant progress against critical digital issues in service design, algorithmic processing and end-to-end encryption. Through this work we are not only improving our shared knowledge and understanding of these technologies, we are also working together on coordinated regulatory solutions to improve outcomes for consumers. How the DRCF is now delivering on these key concerns in the digital economy is set out below.

Design Frameworks

- 25 DRCF regulators are developing ‘design frameworks’ to help digital businesses integrate considerations such as safety and privacy into the design of their products by default. The aim of this project is to promote an understanding of the relationships between the existing and new design frameworks, consider if more is needed from regulators, and explore what might be common barriers to embedding ‘by design’ frameworks in industry practice.
- 26 In the remainder of 2021 and into 2022, DRCF regulators will explore with industry how we can best design and test frameworks that help organisations meet consumer expectations.

Algorithmic processing

- 27 Algorithmic processing is at the heart of many digital services and, increasingly, forms the backbone of the digital economy. In recognition of this, each DRCF regulator is developing its own work in relation to algorithmic processing. This DRCF algorithmic processing workstream seeks to join these up and outline a future coherent AI audit and assessment framework.
- 28 We have begun mapping common concerns and potentially harmful practices in algorithmic processing across our regimes and are considering how we, as digital regulators with shared oversight of AI in our sectors and remits, would develop a consistent approach to the audit and assessment of algorithms. To increase transparency and provide certainty for consumers and businesses, the DRCF will publish papers that set out our shared understanding on harms and benefits in AI and discuss the future of AI regulation.

End-to-end encryption

- 29 All DRCF regulators recognise the important role of end-to-end encryption (E2EE) in providing security and privacy for users. However, we also recognise that E2EE reduces the transparency and oversight of the way services are used. Given these benefits and constraints, it is critical that DRCF members approach E2EE in a coherent way that meets the expectations of consumers, industry and public safety.
- 30 The DRCF’s E2EE project is building shared knowledge of our regulatory objectives in this area and will obtain a deeper understanding of public and industry expectations of E2EE. We will publish the outcomes of our knowledge sharing activities in early 2022 and outline how DRCF regulators will develop a coherent approach to this multifaceted regulatory issue.

Horizon Scanning

- 31 As set out in our workplan, the DRCF members are also working together on horizon scanning. The DRCF members have a strong history of undertaking horizon scanning and consumer research, and of joining up to leverage each other's expertise in key areas. Examples include Ofcom and the ICO's joint programme of consumer research on online harmful content,³ and joint research on online advertising.⁴ Ofcom also seeks input from the ICO and the CMA on its annual market intelligence report, 'Online Nations'.⁵ As part of its work to establish market intelligence and horizon scanning capability in the DMU, the CMA has engaged extensively in recent months with its DRCF partners to assess where it can leverage their existing capabilities.
- 32 The DRCF horizon scanning programme is focussed on creating and sharing knowledge about future digital developments and seeking external challenge to assess where gaps in the DRCF members' collective work may need to be addressed. We will shortly be updating industry and stakeholders on our horizon scanning plans and how stakeholders can flag such issues to us and work with us to better understand them.

B. Joined-up regulatory approaches

- 33 Our workplan also committed us to develop approaches for delivering coherent regulatory outcomes where different regulations overlap, such as the ICO's Age Appropriate Design Code (AADC) and Ofcom's approach to regulating video-sharing platforms (VSP), or the wider interaction between the objectives of anti-trust and data protection. This work also considers how planned new regimes for online regulation may interact with wider existing regulation such as financial regulation, intellectual property rights, and content regulation (including advertising content regulated by the Advertising Standards Agency (ASA)).

³ [Ofcom/ICO - Internet users' concerns about and experience of potential online harms](#)

⁴ [ICO/Ofcom – Adtech: Market Research Report](#)

⁵ [Ofcom – Online Nation: 2020](#) Report – See *Online harms and attitudes to regulation* and *Business models and monetisation* sections for examples of collaboration

- 34 Under the auspices of the DRCF, the CMA and ICO are collaborating closely to understand how our respective regimes align. In May 2021, both regulators published a landmark statement (the first of its kind in the world) outlining our shared views on the close and complex relationship between competition and data protection policy. This statement notes the importance of both regimes for protecting consumer rights and sets out the synergies between our objectives, particularly around promoting informed choice and supporting the development of privacy-enhancing technology.
- 35 The CMA and ICO are now applying the positions we expressed in the statement, working together on the CMA's investigation into Google's Privacy Sandbox and coordinating closely to protect consumer data and preserve choice in AdTech markets.

Box 1: CMA – ICO joint statement on competition and data protection law

The joint statement published by the CMA and the ICO sets out our shared views on the close and often complex relationships between issues that may arise where competition and data protection policy interact. It reflects the two organisations' current views, recognising that the rapidly evolving nature of issues arising in the digital economy means that our views and response to challenges will need to evolve as well.

Competition and data protection in the digital economy

The digital economy has the potential to bring about huge, positive impacts on people's lives in the UK and globally. This can best be achieved where digital markets are competitive, consumers are supported in making informed choices, citizens' rights in relation to their personal data are protected, and organisations are accountable for their actions.

Data plays a significant role in the central model of many firms operating in digital markets, in particular, online platforms. Enabling greater access to data that can be used to improve a product or service can in principle enhance choice and user experience. The nature of that data (personal or non-personal, user, contextual or analytics) influences the way in which an organisation can rely on it in the provision of its services. Its economic value is also driven by a range of characteristics, including whether it is considered individually or in aggregate.

Access to relevant data at scale by existing or potential market participants can have a substantial bearing on their ability to grow or sustain their market position and revenue generation, particularly in the context of advertising. This does not mean that fair and effective competition relies on companies processing and/or sharing increasing amounts of personal data, but rather that they compete on a level playing field. There are fundamental synergies underpinning the CMA and the ICO's respective policy goals, and although tensions may arise, these are very often surmountable. The primary synergies for our policy objectives include offering users meaningful choice and control in respect of their data; well-designed regulation and standards that preserve individuals' privacy and place individuals in control of their personal data; and the role that data related interventions can play in promoting competition.

Age Appropriate Design Code and Video Sharing Platform regimes

- 36 This workstream is putting in place an internal framework for joint working and collaboration across the Age Appropriate Design Code (AADC) and Video Sharing Platform (VSP) regimes and developing coherent regulatory approaches that make it easier for industry to understand and comply with regulatory requirements. For example, we are working together to promote best practice in age assurance that is compliant with both the privacy requirements in data protection law and the requirement to protect children from harmful material in the VSP regime. Both programmes are central to the ICO and Ofcom's commitments to ensure children can participate in a secure and safe online environment and the consumer benefits from regulatory coordination are significant.
- 37 On 20 July, the ICO and Ofcom held a Centre for Information Policy Leadership joint roundtable on 'Risk assessments in the context of children's data protection and the VSP regime'. The ICO and Ofcom will also hold a joint TechUK event on the 22 November to raise awareness of the two regimes and the collaboration between the ICO and Ofcom. The event will also be an opportunity to discuss any questions organisations may have about the VSP regime and Children's Code.

C. Building skills and capabilities

- 38 This work focuses on identifying how DRCF members can cooperate to build the skills and expertise needed for digital regulation as well as to develop approaches for sharing and leveraging existing capabilities. As part of the work to develop greater expertise we are sharing learnings and experiences in upskilling and building capacity, for example sharing our experiences of establishing data and specialist teams. We are also considering how to leverage existing skills and capabilities, for example by developing cross-regulator specialist teams which might be more effective for attracting data scientists and other highly-skilled experts. Lastly, we are considering what can be done to respond to the common challenges we as regulators face, for example, how to attract and retain staff with relatively rare digital skills.

D. Building clarity through collective engagement

- 39 The aim of this work is to increase clarity and transparency for our stakeholders in relation to digital regulation, including through our planned joint public documents and engagement with them. In our workplan, we also committed to identifying opportunities for international engagement, to learn from developments in other jurisdictions and to promote the consistent development of coherent regulatory approaches globally.
- 40 This includes engaging with stakeholders via external events, such as the recent panel sessions with Global Counsel and at the Leeds Digital Festival, engaging with other domestic regulators with an interest in digital markets, such as the ASA, Payment Systems Regulator, Bank of England and Gambling Commission, and engaging with regulators internationally in order to share our experiences and learn from practices and progress in other jurisdictions.

- 41 Alongside our engagement with stakeholders, we have developed a joint DRCF communications strategy which leverages the individual reach of each organisation in order to maximise our collective impact, generate thought leadership and highlight DRCF outputs.

E. Developing the DRCF

- 42 Within this workplan priority, we are continuing to build the operational capabilities of the DRCF to ensure it is fit for purpose.
- 43 The DRCF is led by the Chief Executives of the regulators, and the current Chair of the DRCF is Dame Melanie Dawes, Ofcom Chief Executive. On behalf of the DRCF, Ofcom has recently advertised for a new DRCF Chief Executive Officer who will work with, and be accountable to, all the DRCF Chief Executives and will report to the DRCF Chair. Under a two-year fixed term contract, the new DRCF CEO will help set-up and lead the DRCF including overseeing the DRCF Secretariat, leading on domestic and international external DRCF engagement and overseeing the delivery of the DRCF workplan.
- 44 We have also staffed a central DRCF secretariat, with six full time roles focused on DRCF strategy, delivery of DRCF projects and stakeholder engagement. The role of the Secretariat is to monitor progress against the DRCF workplan, to facilitate engagement across industry and the regulatory landscape with the DRCF's agenda, and to support our cooperation with the Government on areas of mutual interest. This 'virtual office' comprises employees from each of the member regulators.
- 45 We are continuing to adapt and improve the DRCF operational approach as we learn more about the scope of issues where cooperation through the DRCF can add value to our respective responsibilities and to industry and digital service users. This agile approach is key in ensuring we can respond flexibly to the regulatory challenges posed by digital markets, especially given the ongoing changes to digital regulation and our roles and remits.

Future opportunities for cooperation through the DRCF

- 46 As a relatively new forum, there is, of course, more to do to maximise our value. This will include delivering ambitious future workplans and continuing to support the Government as it considers measures to enhance regulatory cooperation in future digital regulation.

Ambitions for joint work

- 47 We want to build upon what we have already achieved and will deliver through our current work plan. We are already thinking ahead to 2022-23 and are eager to publish ambitious workplans for the year ahead and beyond. This includes consideration as to further work in the following areas:
 - **Joint guidance:** we are well placed to develop further joint guidance on digital issues where our regimes overlap, where such guidance would provide greater clarity as to

regulatory obligations. Whether we are concerned with digital advertising or online scams, we are committed to delivering tangible products that, in clear terms, set out regulatory expectations for businesses operating online and provide assurance to the public that the regulatory framework is supporting their interests.

- **Integrated communications and engagement:** building upon our work aligning the AADC/VSP regimes, we are eager to explore future opportunities to align messaging between connected regulatory interventions and ensure industry has ready access to clear messaging about where and how our regimes interact.
- **Coordinated engagement with major firms:** following the establishment of the Digital Markets Unit and the UK's exit from the European Union, all regulators are eager to explore how we join together to ensure our supervision of the world's largest technology companies is coherent. We believe such cooperation is critical to ensuring digital services within the UK remain competitive, secure and safe.

Embedding cooperation in future digital legislation

48 DRCF regulators are statutory bodies and our existing powers and duties govern how we cooperate within the forum. This includes how we share information, when we consult each other and what factors each regulator can take into account when undertaking regulatory interventions. We are already collaborating closely to deliver effective digital regulation for consumers. However, there are some limitations to the current voluntary approach, although the extent and nature of these issues differ among regulators. We expect that these limitations will become more acute for some of us as further digital reforms are implemented.

49 The need for coherent, effective and cooperative digital regulation must be central to the development of new digital reforms. The detail of how planned reforms will work in practice and the level of integration between the different remits of DRCF regulators will play a critical part in how each of the DRCF members discharge their individual functions in the new regulatory landscape and how we coordinate as a whole.

50 To this end, the DRCF has been assisting the Government as it considers where cooperation between the DRCF members can help deliver its vision for future digital regulation. On 4 May 2021, the DRCF published its advice to DCMS on measures to support collaboration. Where requested, we are continuing to advise the Government on how we can be effective in the long term and dismantle potential barriers to joint working. This includes discussing with the Government where additional mechanisms may be appropriate to:

- support appropriate information sharing; and
- proactively consult partner regulators on matters relevant to their regulatory objectives.

51 These targeted and proportionate approaches to existing and planned legal frameworks are an effective and efficient way to ensure that regulators are equipped to work together to deliver

coherent outputs in the interests of consumers and industry. Our discussions with Government to date have been constructive and we are now developing a deeper understanding of any limitations in our current statutes, and what amendments may be appropriate to improve coordination and elements in the Government's planned digital reforms that would most benefit from the DRCF's joint regulatory approach.

A new Digital Authority

- 52 In its 2019 Report, the Committee put forward the idea of a Digital Authority. Its objectives would include building digital regulatory capacity, bringing together different policy perspectives to horizon scan and support coherence, and providing transparency, accountability and oversight of digital regulation.
- 53 We see a real need for digital regulatory policy to be considered holistically and for shared challenges to be addressed collectively. This will bring benefits for consumers and businesses, and support innovation. It was for this reason that last year we proactively established the DRCF as a practical approach to the challenges of digital regulation. The DRCF approach of cooperation between digital regulators is a flexible, efficient and effective means of meeting the objective of ensuring coordination between regulators in respect of digital matters. In our view, this approach will deliver more benefits than establishing a new organisation. We recognise, however, that the architecture of the regulatory landscape is a matter for the Government and Parliament.
- 54 We set out here why we think that the approach taken by the DRCF is the most pragmatic solution to addressing current and future challenges in digital regulation - in terms of the provision of knowledge and expertise required, addressing the coordination challenges, and the clarity of roles between regulators.

Knowledge and expertise

- 55 Existing regulators have extensive technical knowledge and expertise built up over time which is essential to their effectiveness. At present, through the DRCF model, we are facilitating the sharing of this expertise via joint projects and coordination as a way of maximising efficiencies, sharing resource rather than competing for it, and avoiding duplication. A new body would also require access to appropriate knowledge and expertise to be effective and there is thus a risk of duplication and inefficiency in the staffing of existing regulators and a Digital Authority.
- 56 An important feature of resourcing in digital regulators is the leveraging of existing wider sectoral knowledge, experience and resources for digital matters. Some of these benefits would be harder to achieve in a new body solely focussed on digital. While the digital regulators could hold formal advisory roles, or something similar, to ensure the Digital Authority's knowledge is up to date and relevant, this would impose further costs within the system.

57 Within each DRCF member regulator there are strong connections between areas dealing with new digital responsibilities and those dealing with existing functions and the regulation of traditional sectors and services. This ensures knowledge and expertise are leveraged between the two. These connections need to be maintained to ensure coherence between new regimes and existing regimes (for example, the new pro-competition regime and existing competition law frameworks) and between digital services and traditional sectors (for example, digital and traditional financial and communications services). A potential risk with a new Digital Authority is that it overlooks the importance of ensuring coherence across existing functions and new digital functions.

Coordination

58 The importance of coordination between digital regulators will remain even with a Digital Authority. As sectoral expertise will still be required, a Digital Authority will need to coordinate across a greater number of bodies. Existing DRCF members will still need to coordinate with each other as they exercise their functions to support coherent outcomes. At the same time, the DRCF members would need to coordinate with the Digital Authority itself. Whilst a Digital Authority could take on some of the responsibility for ensuring that happens, the greater number of institutional boundaries could mean that coordination becomes more challenging.

59 Increasing the layers of responsibility and decision making could act to slow down regulatory decision-making and action. Given the fast pace at which digital markets and technologies operate and evolve, timely decisions and actions are particularly important for effective regulation.

Clarity of roles

60 We recognise that clarity of regulation is important to stakeholders. If there were to be a new Digital Authority it would be essential that it, existing digital regulators, and wider stakeholders had a clear and shared understanding of their respective roles and responsibilities.

Conclusion

61 Like the Committee, we believe regulatory cooperation and coordination is essential to the effective oversight of digital markets and services. We established the DRCF in order to have a step-change in the way we do that, both with our existing remits and with a view to our evolving responsibilities.

62 Since we formed, we have moved quickly and are efficiently and effectively leveraging our expertise and resources in our joint work. But we recognise there is more to do and, working with the Government where appropriate, we are committed to continuing to adapt and improve what we do and how we do it.

- 63 We think this approach – voluntary cooperation, with a strong ambition to improve and enhance our impact – is the right way to tackle the challenges of digital regulation, now and in the future.
- 64 We are grateful for the Committee’s work and the opportunity to contribute to this inquiry. We stand ready to provide further information or views as necessary.

Annex – DRCF members’ international engagement

Each DRCF regulator engages internationally and this will continue even as the DRCF develops and undertakes more international engagement. We set out here the key aspects of each DRCF member’s international engagement.

Competition and Markets Authority

The CMA and its predecessor bodies have always worked closely with counterparts abroad. International cooperation is a priority area of focus in the CMA’s refreshed Digital Markets Strategy,⁶ and part of the role of the DMU.

The CMA will pursue work with the aim of better coordinating our actions and driving a coherent regulatory landscape internationally. This includes by working closely with international partners including through the Multilateral Mutual Assistance and Cooperation Framework,⁷ as well as through the Organisation for Economic Cooperation and Development (OECD), International Competition Network (ICN) and the International Consumer Protection and Enforcement Network (ICPEN), alongside continuing to utilise and build our bilateral relationships.

As part of the UK’s 2021 G7 Presidency, the CMA is leading work with other competition authorities focused on building long term coordination and cooperation across work to promote competition in digital markets. In November we will host an Enforcement Summit for competition authorities from the other G7 members plus guest countries,⁸ where we will discuss our respective policy priorities as well as approaches to promoting competition in digital markets. Following this meeting we will publish a compendium of our different policy approaches, drawing out commonalities and key themes.

Strengthening our relationships with international partners will form a strong foundation for the DMU to build on.

Financial Conduct Authority

The FCA engages extensively with international counterparts and policy making fora, in line with our statutory objectives.

As set out in our 2021/2022 Business Plan,⁹ one of our key priorities is international cooperation. Given the cross-border nature of our markets, international cooperation with other supervisors and global standard-setting bodies is more important than ever for us to meet our objectives.

We are active members of global standard-setting bodies such as the Financial Stability Board, the International Organization of Securities Commissions and the International Association of Insurance Supervisors. We also maintain active relationships with overseas supervisors and authorities. Many of these fora have active engagement groups and workstreams on a range of issues related to innovation and the digitalisation of financial services, which we participate in. This involves contributing to the development of relevant international-level policy frameworks and supervisory practices, sharing our

⁶ [Digital Markets Strategy \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/).

⁷ [CMA to increase competition cooperation with international partners - GOV.UK](https://www.gov.uk/government/news/cma-to-increase-competition-cooperation-with-international-partners)

⁸ Guest countries are Australia, India, South Korea and South Africa.

⁹ <https://www.fca.org.uk/publication/business-plans/business-plan-2021-22.pdf>

experiences of UK market developments and our regulatory and supervisory approaches, and monitoring and analysing emerging issues which could have a significant impact on financial services issues.

Additionally, the FCA has been central to the development of the Global Financial Innovation Network (GFIN),¹⁰ formally launched in January 2019 by an international group of financial regulators and related organisations, including the FCA. The GFIN is a network of more than 70 organisations committed to supporting financial innovation in the interests of consumers. This built on the FCA's early 2018 proposal to create a global sandbox. The GFIN seeks to provide a more efficient way for innovative firms to interact with regulators, helping them navigate between countries as they look to scale new ideas. This includes the ability to conduct a cross-border test – a solution for firms wishing to test innovative products, services or business models across more than one jurisdiction. The FCA currently chairs the Network.

Information Commissioner's Office

The ICO is attentive to data protection issues which transcend national borders and where benefits can be drawn from global cooperation among regulators.

The ICO engages internationally on developments in privacy policy, new approaches to regulatory supervision and advice on cross-border investigations or complaints. The ICO is keen that its regulatory priorities are appropriately reflected in global discussions and agreements. The ICO also supports key Government policy aims on issues such as the new EU-UK relationship negotiations and how data and data protection are considered in new bi- and multilateral trade agreements.

The ICO is also deeply involved in the work of organisations such as the OECD, the Council of Europe and the Global Privacy Assembly where we lead and influence work on the interoperability of global data protection regimes.

As part of the 2021 G7 presidency, and in the context of the Roadmap for Cooperation on Data Free Flow with Trust, announced by G7 Digital and Technology Ministers on 28 April 2021, the ICO recently hosted a roundtable event, attended by the G7 data protection authorities, to share expertise and experience and explore possible closer cooperation between the G7 data protection and privacy authorities in key areas of mutual concern. In recognition of the leadership role and the influence that G7 authorities have on the adoption of high standards for data protection globally, agreement was formed to continue closely working together on the following topics: the intersection between privacy and competition, the future of online tracking, privacy remedies, government access to data, pandemic-driven innovative technologies, framework for cooperation.

Ofcom

International engagement is a key part of Ofcom's mission to make communications work for everyone. Ofcom's work is informed by participation in a number of different international regulatory and policy discussions. Through these, we look to exchange views and best practices with international counterparts and build our understanding of the industries we regulate, and the technological trends

¹⁰ <https://www.fca.org.uk/firms/innovation/global-financial-innovation-network>

which are transforming them. These fora also provide opportunities for promoting regulatory coherence across jurisdictions and addressing enforcement challenges posed by cross-border services.

Ofcom remains an active participant in regulatory dialogue at European level, including through membership of the Independent Regulators Group (IRG), a group of 37 European telecommunications regulatory authorities, where we hold a seat on the Board, and our Vice-Presidency of the European Platform of Regulatory Authorities (EPRA), a network of 54 European broadcast regulators. Ofcom also has a substantial programme of bilateral cooperation, both with European Union counterparts and with regulatory authorities from across the globe (including the United States and Australia) across the various sectors we regulate. Ofcom also takes part in global multi-stakeholder dialogues on internet regulation and governance, including the Internet Governance Forum (IGF) and the European Dialogue on Internet Governance (EuroDIG). Ofcom represents the UK Government in the International Telecommunication Union (ITU) and related regional bodies (CEPT and CERP), working on telecoms development, standardisation and spectrum management. Ofcom also participates in the policy development work of the Organisation for Economic Co-operation and Development (OECD), sitting on the Communication Infrastructures and Services Policy Committee (CISP), and is an active contributor, alongside the UK Government, to the work of the Universal Postal Union (UPU).