

Insights

SHAPING THE IMPLEMENTATION OF THE UK'S NEW RULES ON SUBSCRIPTION CONTRACTS

SUBSCRIBE AND SAVE (ON YOUR COMPLIANCE COSTS)?

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Businesses now have the chance to influence the new UK rules governing subscriptions contracts by responding the Government's consultation on the new legislation (and the secondary rules which are required to implement it).

THE SIZE OF THE ISSUE

The UK government's [impact assessment](#), published with the Digital Markets, Competition and Consumers Bill in 2023, provided a vivid snapshot of the way consumers now buy goods and services. With approximately 155 million active subscriptions in non-regulated sectors in the UK (representing consumer spend of about £26 billion per year) subscriptions are big business, and present in nearly every consumer market sector (from beauty to tech to media subscriptions). The UK government estimates however, that each year, around a quarter of consumers pay for subscriptions they do not want after being rolled over from an unsatisfactory reduced-price trial. And at least a quarter of consumers have continued to pay for a subscription without having realised the price had increased. These concerns about the ease with which consumers can exit these arrangements (with about 6% of all subscriptions - some 9.7 million contracts – alleged to be unwanted) and the way in which the terms and conditions are presented to the consumer have led to legislative change in the UK.

THE DMCCA FRAMEWORK

The Digital Markets, Competition and Consumers Act 2024 (**DMCCA**) for the first time prescribes a specific regime for these types of contract, where goods, services or digital content are provided under a contract where payment is taken on an automatic and recurring basis. Until now, those offering subscription contracts only had to comply with the information provision requirements in the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013. These regulations set out rules for provision of pre-contract information, as well as providing for a cooling off period for contracts concluded at a distance (e.g. online) or away from the seller's premises, during which time a consumer was entitled to cancel the contract. The DMCCA's new

rules are based on those in the 2013 Regulations but have been further developed to reflect the specificities of subscription contracts. And as part of the DMCCA reforms, non-compliant businesses now face the threat of enforcement action by the CMA and the risk of GDPR-style turnover-based fines, as well as the risk of sanction for criminal offences (for instance, for failing to provide information about initial cooling-off periods).

THE NEW SUBSCRIPTION CONTRACTS RULES

The new rules in the DMCCA require the consumer to be given detailed information before entry into a subscription contract (divided into 'key' pre-contract information and 'full' pre-contract information). This includes details of the minimum period of time before a consumer can end the contract, information about any higher rates charged after the end of a trial period, mechanics and timing of payments and how the contract can be ended (including during any cooling off period, whether during the initial term of the contract or during any renewal term). It also mandates the provision (and content of) reminder notices, and the intervals at which these are to be provided. We discuss these in [more detail in our earlier insight](#).

IMPLEMENTING PROPOSALS

Following the DMCCA receiving royal assent in May 2024, the Government has been considering the secondary legislation which will be required to implement the rules around subscription contracts and ministers have indicated that the new subscription contracts regime is to be rolled out in 2026. To shape the secondary legislation, the Department of Business and Trade (**DBT**) has [published a consultation](#) (closing on 10 February 2025). Businesses therefore have about two months to provide input and the opportunity to shape the future secondary legislation, as well as the accompanying guidance. The consultation includes proposals in relation to:

- cooling-off cancellation rights: returns and refunds
- cancellation remedies for breach of duties
- repayment of refunds
- contractual terms for exiting a contract
- practical arrangements for exiting a contract
- information notices
- pre-contract information

Given the DMCCA did not address the specific question of refunds, the implementing legislation will need to address the question of refunds for cancellation in the cooling off period and the consultation includes proposals for how this might be addressed (across contracts for goods,

services and digital content, and mixed contracts). For example, for services, there is a proposal that the refund should be pro-rated to reflect the period during which the consumer received the services, relative to the total subscription period.

The DBT anticipates that guidance to businesses will also be provided, detailing what will be a 'straightforward' way to facilitate a consumer's exit from a subscription contract, as well as practices which will ensure businesses comply with the new information provisions. There is also a proposal that contractual terms making consumers liable for renewal payments before the contract renews shall be of no effect and a restriction on businesses including limits in their contracts as to when a consumer can take steps to end a contract (for example, requiring this to occur by or at a particular date).

BALANCING BUSINESS AND CONSUMER CONCERNS

When responding to the DMCC Bill in the course of 2023, businesses flagged the risk that this will lead to very high volumes of consumer communications, as businesses strive to achieve the levels of information provision required. The government's own analysis shows consumers find online terms difficult to understand and research estimates that around three quarters of consumers do not read online terms before contracting. It is not clear whether the new requirements for more frequent and more detailed communications will in practice increase consumer engagement and drive a more active switching culture in the subscription contract market or will in practice cause even more digital overwhelm/fatigue/inertia. This may be the case particularly where the subscription is for a relatively small amount. Some businesses have already suggested that overly prescriptive rules risk being overtaken as methods of purchasing and communication evolve with technology. For certain types of subscription, there is also a risk a consumer could consume the digital content or service provided (e.g. specific streamed content) and then exit the contract during the cooling off period. The text of the relevant provisions of the DMCCA suggests this will be addressed in secondary legislation, but will need to be done in a way which balances the interests of businesses and consumers. Some businesses offering goods and services which are subject to regulation by Ofcom or the FCA also run the risk that there will be overlapping sets of obligations to comply with, leading to consumers receiving a multiplicity of separate pre-contract information documents, together with renewal date reminders. As the requirement is for communications relating to subscriptions to be readily identifiable to consumers and separate from other communications, this potentially poses the risk of creating increased consumer confusion (particularly in relation to bundled offerings of regulated and non-regulated goods and services).

NEXT STEPS

As the time period between the end of the consultation, the issue of the relevant secondary legislation and the likely implementation dates of the new subscription contracts rules (likely Spring 2026) will be relatively short, businesses should begin the exercise of mapping their online interactions with their subscriber customers now. This will enable them to plan for the necessary

additional layers of information to be provided at each stage of the transaction as well as the technical architecture likely to be required to manage the consumer relationship during the lifetime of the subscription contract.

RELATED PRACTICE AREAS

- Antitrust
- Commercial Contracts

MEET THE TEAM



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