KEY CHANGES TO CONSUMER PROTECTION LAWS AND SUBSCRIPTION CONTRACTS IN THE UNITED KINGDOM THAT YOU NEED TO KNOW

Date: 2 January 2024

UK Intellectual Property Alert

By: Millie Pierce, Catherine Adam

The landscape of subscription contracts is changing around the world, with a heavy focus on consumer protection. In the United States, the recently released "Rule Concerning Recurring Subscriptions and Other Negative Option Programs," was reported on 16 October 2024 and aimed at bringing transparency and simplicity for consumers entering into subscription agreements (see full update here). In the United Kingdom, the Digital Markets Competition and Consumers Act (DMCC) was passed in May 2024 and, whilst we continue to await explanatory secondary legislation, it is set to cause a stir in the world of consumer facing subscriptions in the United Kingdom.

Although this blog post focuses on the key takeaways regarding consumer protection and subscriptions, there are plenty of competition law updates to be aware of too. Keep an eye out for part 3 of this series setting out the key changes for your business.

BACKGROUND

The DMCC has been introduced to amend the existing Competition Act 1998 and the Enterprise Act 2002 with aims to (i) expand UK competition laws, (ii) provide for the regulation of competition in digital markets and, (iii) update provisions relating to the protection of consumer rights. It has been described in a government press release as being designed to "stamp out unfair practices and promote competition in digital markets."

Many of the consumer aspects of the DMCC require secondary legislation to provide clarity and as such, new measures will likely not enter into force before 2026 once additional legislation has been put in place. Until this time, the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 will continue to apply. However, prudent businesses will ensure that their subscription contracts start to comply with the DMCC rules as soon as possible to avoid heavy penalties.

KEY TAKEAWAYS FOR SUBSCRIPTION CONTRACTS

Crucially, the DMCC will grant new direct consumer enforcement powers to the Competition and Markets Authority (CMA) and to the courts to impose wide ranging civil penalties for breaches of UK consumer law that are expected to come into force in 2025. The CMA will have the power to impose turnover based fines for breaches of consumer law up to 10% of a company's global annual turnover.

©2005-2026 K&L Gates LLP. All Rights Reserved.

For subscription contracts, the aim of the DMCC is to avoid consumers falling into so-called "subscription traps." A subscription under the DMCC is a contract for goods, services or digital content which automatically renews for either a fixed or indefinite period and means that consumers continue to incur liability to pay until the contract is terminated. The DMCC provisions will mean that businesses offering subscription services will need to provide:

Pre-Contract Information

Specific information about the subscription will need to be clearly available to customers prior to entering into the subscription (and confirmed in a durable medium post-contract). Certain “key” information will need to be provided separately and more clearly, alongside a document of “full” information.

This includes frequency of payments and reminders, cancellation steps and cooling off information.

A Cooling-Off Period

In line with consumer protection provisions for distance contracts, subscription consumers must be given the right to cancel and obtain a full refund within 14 days of entering into the subscription for any reason without incurring any penalties. Consumers will also benefit from such cooling-off period on any renewal which commits the consumer to a further period of 12 months or more. And businesses must alert consumers to this right by providing them notice of the same.

Reminder Notices

Notices must be issued to consumers to remind them of the auto-renewing nature of a subscription contract after any free trial period or introductory period and at least every six months after that.

Easy Cancellation

Customers must be able to cancel a subscription without taking any more steps than are reasonably necessary. A customer will now be able to leave a subscription by making a clear statement that they wish to bring the subscription to an end.

OTHER CONSUMER LAW CHANGES

The DMCC will also introduces changes to a range of practices deemed to be automatically unfair, including:

Drip Pricing

This is where a would-be consumer is shown an initial price for a product or service and then additional fees are added as they progress through the transaction. For example, this could include booking fees, transaction fees and administrative fees added and applies to both mandatory and optional fees. The DMCC will prohibit businesses from offering a “headline” price to consumers that does not incorporate any mandatory fees or at least disclose that there are mandatory fees payable.

Fake Reviews

The DMCC aims to stamp out fake reviews that are either commissioned, submitted or published. In instances where a company has not taken “reasonable and proportionate steps” to prevent fake reviews being published for their brand, brands will be subject to the CMA's new direct enforcement powers and subject to civil enforcement risks. The CMA has already taken action against fake reviews, and it is likely that those targeted by their

©2005-2026 K&L Gates LLP. All Rights Reserved.

enforcement powers will be brands who are consistently and regularly allowing fake and misleading reviews to be published.

HOW TO PREPARE FOR THE DMCC

Although secondary legislation is awaited, now that the DMCC has been passed into law it is advisable that businesses offering subscription contracts and consumer products start to work towards compliance with the DMCC terms.

This may include updating policies and consumer terms, preparing entirely new subscription terms, reassessing customer purchase flows and introducing reminder notices where they may not currently be in place.

By reviewing compliance with the DMCC now, businesses will avoid a last-minute rush to implement when the new measures enter into force and instead allow time to perfect their subscription terms.

KEY CONTACTS



MILLIE PIERCE
ASSOCIATE

LONDON
+44.20.7360.8133
MILLIE.PIERCE@KLGATES.COM



CATHERINE ADAM
PARTNER

LONDON
+44.20.7360.8214
CATHERINE.ADAM@KLGATES.COM

This publication/newsletter is for informational purposes and does not contain or convey legal advice. The information herein should not be used or relied upon in regard to any particular facts or circumstances without first consulting a lawyer. Any views expressed herein are those of the author(s) and not necessarily those of the law firm's clients.

©2005-2026 K&L Gates LLP. All Rights Reserved.