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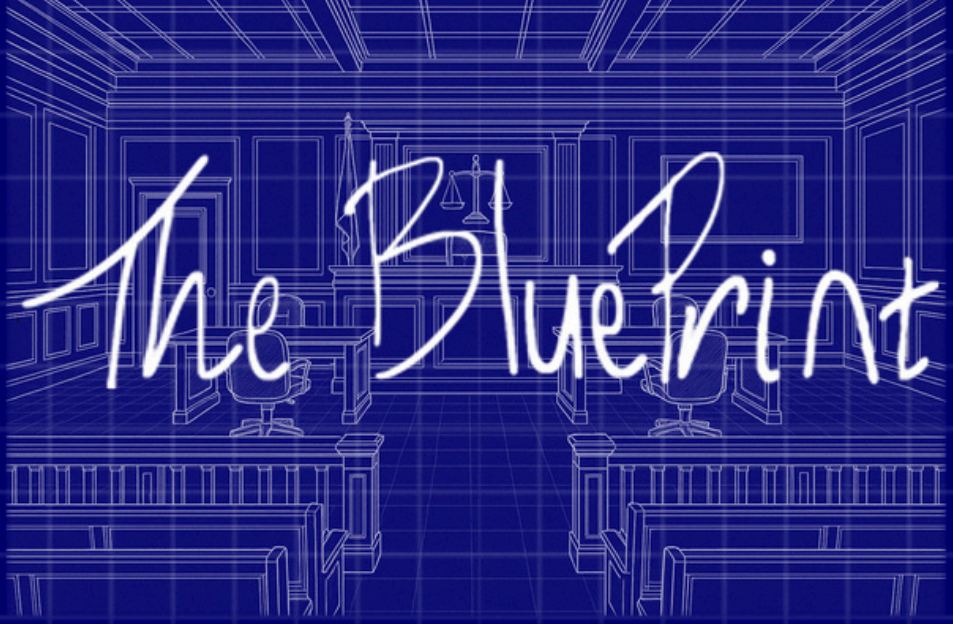

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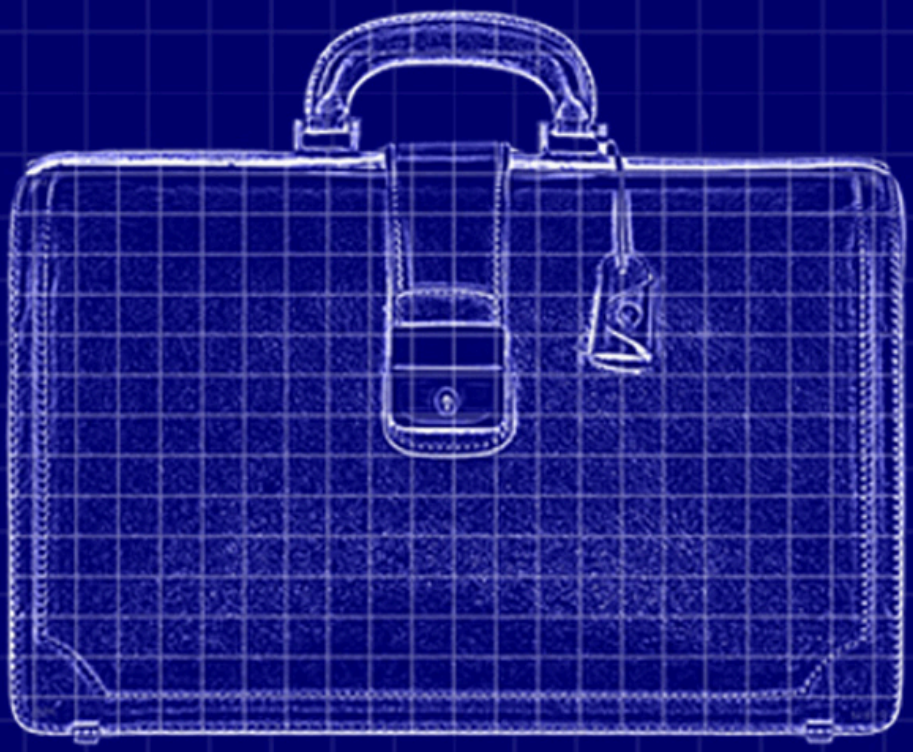

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The Digital Markets, Competition and Consumers Act 2024

Saurabh Goel

Introduction

The Digital Markets, Competition and Consumers Act 2024 ("DMCCA") is a significant reform of UK competition law. It received Royal Assent in May 2024 and brought changes intended to address the distinctive challenges created by digital markets while enhancing consumer rights across all industries. The Act establishes a new regime for large digital platforms, enhances the Competition and Markets Authority's ("CMA") enforcement powers, and incorporates robust consumer protection provisions. As companies become accustomed to this new environment, it is essential to understand the implications of the Act for compliance and strategic decision-making purposes.

Summary of Key Developments

The DMCCA 2024 brings in three main areas of reform that transform the UK's competition and consumer protection landscape. The first pillar creates a joined-up digital markets regime, establishing new rules specifically to regulate the behaviour of significant digital platforms. The second pillar involves improvements to the enforcement of competition law. The Act provides new investigative powers, raises financial sanctions, and simplifies procedures for confronting anti-competitive behaviour. Finally, the third pillar is consumer protection, encompassing new rights and remedies, as well as enhanced existing measures.

Analysis of Key Developments

Geographical Reach and Jurisdictional Scope

The DMCCA 2024 is a statement of the UK's commitment to exercising regulatory sovereignty over digital markets wherever firms are registered. The legislative geography of the Act is noteworthy in light of the international character of digital platforms.

Companies like Google, Apple, Meta, and Amazon, which are largely US-based, are covered under the Act due to their substantial UK operations and presence in the UK market. Extraterritorial reach is a vigorous exercise of regulatory power that may pose challenges to compliance for multinational companies operating within multiple regulatory regimes simultaneously. The Act's scope extends beyond traditional digital platforms to encompass any player attaining Strategic Market Status, defined as exceeding £25 billion in global turnover or £1 billion in the UK, as well as user requirements.

This generalist methodology prevents new platforms and services from evading regulatory control by simply operating from offshore territories or using complex corporate structures. The legislation's international scope mirrors the UK's recognition that effective digital market regulation requires extensive coverage of all significant market players, regardless of their place of origin.

Fixing Issues in Previous Laws

The Act aims to address some long-standing issues in regulating online markets. Platform self-preferencing, the tendency of leading platforms to favour their own services over those of competitors, is addressed head-on by imposing obligations that enforce the responsibility of treating business users fairly. These measures require platforms to offer open access to their services and prohibit discriminatory treatment that is likely to harm competition.

The law addresses concerns around data portability and interoperability, imposing an obligation on specified platforms to enable the transfer of user data and allow competitors to integrate with their offerings. These obligations are expected to lower switching costs and entry barriers that have previously insulated incumbent platforms from competition. Yet, whether these interventions succeed will greatly hinge on how they are implemented and the emerging technical standards to facilitate interoperability.

Strengths and Weaknesses of the Legislative Framework

The Act's primary strength lies in its approach to addressing market failures in digital ecosystems. Unlike the earlier competition law regime, which largely depended on retroactive enforcement, the new regime provides proactive regulation that can forestall anticompetitive behaviour before it arises. This strategy responds to longstanding critiques that conventional competition law has not been effective in addressing the unique features of digital markets, such as network effects, data advantages, and rapid market tipping.

Additionally, the designation process for Strategic Market Status is a key component of the framework. The CMA must conduct rigorous market studies before imposing obligations on platforms to ensure that regulatory intervention is grounded in firm evidence of market power, thereby allowing businesses to understand their obligations.

However, the Act has some weaknesses that could limit its impact. The regulatory complexity imposes high compliance burdens on businesses, especially smaller platforms, which are likely to find the intricate requirements difficult to manage. The Act's reliance on the CMA's ability to comprehensively monitor and enforce compliance across numerous large platforms simultaneously raises questions about the adequacy of resources and consistency of enforcement.

The new legislation, alongside existing competition law in the UK, poses the possibility of regulatory overlap and ambiguity, thereby increasing the likelihood that firms will be subject to concurrent investigations. This addition complicates compliance and increases administrative burdens, despite Parliament's aim to regulate boundaries and protect the principle of laissez-faire economics.

Comparative Analysis with Other Jurisdictions

The UK's digital market regulation strategy substantially overlaps with the European Union's Digital Markets Act while retaining apparent differences that resonate with British regulatory policy. Both systems establish ex-ante regulation of large digital platforms and enforce conduct requirements aimed at promoting competition and fairness.

The UK strategy, however, introduces more flexibility in the designation phase and enables more nuanced regulatory intervention in response to specific market conditions

The United States' reliance on traditional antitrust enforcement and congressional inquiries, rather than systematic ex-ante regulation like the UK and EU, creates a distinct approach. This divergence risks regulatory arbitrage and increased compliance burdens for global platforms operating across various jurisdictions.

Australia's approach to digital market dominance, seen in its News Media Bargaining Code, offers a sector-specific model, particularly for platforms and news publishers. While this "particularist" strategy offers lessons for targeted interventions, it also underscores the broader, more general regulatory framework adopted by the UK.

Legislative Reach and Implementation Challenges

The Act's legislative reach extends across multiple areas of law, creating a complex web of obligations and enforcement mechanisms. The integration of digital markets regulation with existing competition law requires careful coordination to avoid conflicts and ensure consistent application. The CMA must develop new expertise and capabilities to effectively oversee digital markets while maintaining its traditional competition enforcement functions.

The consumer protection provisions in the Act interact with existing consumer law, trading standards enforcement, and sector-specific regulation. This multi-layered system provides broad protection, but it also introduces the potential for overlap and uncertainty in regulation. Companies must navigate multiple regulatory systems simultaneously, necessitating complex compliance mechanisms and specialised legal expertise.

Conclusion: Retrospective Summary and Future Prospects

The DMCCA 2024 introduces a detailed structure for dealing with the issues of digital market concentration and consumer protection in the contemporary economy.

The three-pillar strategy of the Act, encompassing digital markets regulation, enhanced competition enforcement, and strengthened consumer protection, reflects the Government's commitment to fostering a competitive and equitable marketplace that effectively serves both businesses and consumers.

In the future, the success of the Act will also heavily rely on proper implementation and enforcement by the CMA and other regulators. The rapid rate of technological evolution will necessitate continuous adjustments and improvements to regulatory strategy. Digital platform regulation is of global importance, and regulators should collaborate to enhance efficiency in overseeing this market.

The Arbitration Act 2025: Updating England and Wales as a Leading International Arbitration Hub

Saurabh Goel

Introduction

The Arbitration Act 2025 received Royal Assent on 24 February 2025. Based on the Arbitration Act 1996, these updates aim to enhance London's competitiveness as an international arbitration hub. The reforms address procedural inefficiencies at the foundation, simplify jurisdictional complexities, and unify the role of emergency arbitrators.

Summary of Key Developments

The 2025 Act presents six fundamental reforms to existing arbitration enforcement. First, it introduces a new power of summary dismissal, allowing tribunals to dispose of unmeritorious claims. Second, it incorporates a default rule that the law of the seat of arbitration governs the arbitration agreement, unless there is an express contrary agreement. Third, the law revises the procedure for jurisdictional challenges under Section 67 to prevent the parties from filing new grounds or new evidence before courts. Fourth, the law enhances the powers of emergency arbitrators by authorising them to issue peremptory orders with the same enforcement authority. Fifth, the law requires disclosure of situations that could raise suspicions regarding impartiality. Finally, it enhances arbitrator immunity, particularly concerning resignation and removal proceedings in favour of independent decision-making.

Analysis of Key Developments

Geographical Reach and International Context

The Arbitration Act 2025 is a UK statute that applies to England and Wales, extending its territorial application to Northern Ireland. It strengthens England and Wales' position as a leading arbitration centre, responding to recent advancements in rival hubs like Singapore and Hong Kong. These reforms aim to maintain London's attractiveness and practicality as a venue for international dispute resolution.

The 2025 Act clarifies the law governing arbitration agreements by establishing the law of the seat as the default unless agreed otherwise, simplifying a previously complex choice-of-law issue. This new, unambiguous guidance aligns with global best practices, reducing uncertainty and preventing early jurisdictional disputes in international arbitration.

Strengths and Weaknesses of the Key Reforms

The most positive aspect of the new legislation is the inclusion of summary dismissal powers. These powers enable tribunals to expeditiously strike out worthless claims, thereby saving parties significant time and expense and aligning arbitral practice with modern case management procedures, similar to court litigation.

Summary dismissal power, while beneficial, has some probable flaws. The "no real prospect of success" threshold must be carefully interpreted to avoid prematurely dismissing valid claims. Tribunals might apply this too readily to appear efficient, potentially prejudicing parties' right to a hearing. The arbitrator's duty of disclosure offers protection only if effectively applied in practice.

The codification of the duty of disclosure by arbitrators puts an end to a long-standing source of uncertainty. The Supreme Court ruling in Halliburton v Chubb established the test of arbitrator impartiality. This is a strength, as it reduces the likelihood of successful challenges to awards based on arbitrator bias. The statute places a duty of disclosure of facts that "might reasonably give rise to justifiable doubts" about impartiality, without any scope for uncertainty which can be applied by arbitrators.

The broad scope of disclosure required of arbitrators, though aimed at transparency, could lead to over-disclosure of immaterial facts, potentially eroding trust as parties become apprehensive. Additionally, the "as soon as reasonably practicable" disclosure obligation may prove difficult for busy arbitrators to implement effectively.

The Act's new emergency arbitrator provisions are also a key strength. They enable the effective securing and enforcement of urgent interim relief, including court assistance for peremptory orders. This is particularly valuable in cross-border disputes involving time-sensitive issues, such as asset preservation, as it grants emergency arbitrators powers comparable to those of permanent tribunals, thereby closing an enforcement loophole.

Fixing Issues in Previous Legislation

The 2025 Act effectively resolves longstanding uncertainty in English arbitration law by introducing a clear default presumption that the law of the seat governs arbitration agreements. This streamlined approach eliminates a common source of costly delays and directly addresses past criticisms of complexity compared to leading jurisdictions.

Some issues, nonetheless, are at least partially unresolved. The statute does nothing to address problems of general cost and time involved in arbitration proceedings, which continue to increase parties' uneasiness in their choice of dispute resolution forum. Summary dismissal might work in some cases, but it does nothing to solve the underlying causes of cost and delay in advanced international arbitrations, such as extended document disclosure, repeated cycles of submissions, and long evidentiary hearings.

Despite its strengths, the new legislation leaves some issues partially unresolved, particularly the parties' fundamental concerns about the general cost and time involved in arbitration proceedings. While summary dismissal can help, it doesn't address the underlying causes of delay in complex international arbitrations, such as extensive document disclosure and lengthy evidentiary hearings.

Comparative Analysis with Other Jurisdictions

The policy on governing law of arbitration agreements is consistent with international protocols. The Singapore International Arbitration Act also contains provisions setting out default rules on the law governing arbitration agreements.

French arbitration law has long provided that the law applies to arbitration agreements for Paris-seated proceedings, highlighting the advantages of this approach. The English reforms bring the jurisdiction into conformity with this global standard. The Netherlands has also implemented comprehensive reforms to the arbitration law that go beyond procedural effectiveness to substantive issues. This includes the relationship between arbitration and insolvency proceedings.

Legislative Reach and Implementation

The reforms extend beyond mere procedural changes to fundamental arbitration practice, applying to all arbitrations in England and Wales. This broad application ensures that all proceedings, from domestic to complex international disputes, benefit from the modernisation. The legislation extends only to arbitrations which begin after the provisions enter into force, safeguarding existing proceedings from the risk of disruption by rapid change in governing rules.

Long-Term Strategic Impacts

The 2025 Act is part of a broader strategy to maintain London's leading position in the competitive arbitration market. These reforms address flaws that emerged as other top centres, particularly in Asia, developed their arbitration systems.

In providing mechanisms for expedition and clarifying jurisdictional objections, the Act aims to restore arbitration's competitive advantages while maintaining its core principles of party autonomy and procedural flexibility.

Strengthening emergency arbitrator provisions reflects the growing reliance on prompt interim relief in time-sensitive international commercial disputes, significantly influencing parties' dispute resolution choices. The Act's provisions ensure English arbitration can match other hubs in providing such crucial protection.

The English Devolution and Empowerment Bill: The Ban on Upwards Only Rent Reviews

Andrei Dohotaru

Introduction

On July 10, the government introduced a draft Bill, the main purpose of which is to abolish upwards only rent reviews in new commercial leases. Upwards only rent reviews allow landlords to impose new rent provisions for their tenants following the rent review date, which are always higher than the previous rate. Such provisions have been a central feature of commercial leases in the UK for many years. They have so far provided landlords with the assurance that the value of their reversion would be maintained.

Summary of Key Developments

The Bill will target new commercial leases in England and Wales, regardless of whether the provisions of the Landlord and Tenant Act 1954 apply. The rent reviews that the prohibitions will catch in the Bill include those linked to turnover rent, market rent or index-linked changes, providing a wide enough scope to cover most types of commercial leases. Any upwards only rent provisions in commercial leases will be automatically unenforceable, and the new rent following the rent review will be determined instead by the provisions in the lease agreed by the parties, which are linked to market conditions.

Analysis of Key Developments

The English Devolution and Empowerment Bill aims to balance the power dynamic between landlords and tenants by favouring commercial tenants who have been subject to unfavourable rent increases in the past. This is similar to the provisions of the Renters' Rights Bill, which abolishes section 21 "no-fault" evictions, thus protecting tenants who may be subject to unreasonable eviction notices from their landlords.

Legal Implications

The new Bill only applies to commercial leases signed after the provisions of the proposed legislation come into force. It therefore has no retrospective effect on existing commercial leases, which may cause some controversy amongst existing tenants whose profit potential is hindered to some extent by mandatory higher rent. However, by shifting the basis on which rent reviews of commercial leases can occur from upwards-only to a method agreed upon in the lease, which reflects current property market trends, the Bill will help reinforce privity of contract by allowing the landlord and tenant to control how rent reviews occur more directly.

Consequences for Commercial Tenants

By providing for the possibility that the rent in a commercial lease can be lowered at rent review, commercial tenants are hedged against the risk of overpaying on their rent even when market conditions become uncertain. During such periods of market unpredictability, commercial tenants would suffer in the past while landlords would enjoy income stability. Shifting the burden of higher rents away from tenants is justified by the government as a way of facilitating a greater balance in bargaining power between landlords and tenants, allowing businesses occupying commercial premises to do so for a more extended period uninterrupted by the threat of higher rents. In the long term, local areas, particularly those in need of gentrification, will benefit from higher levels of investment because commercial tenants would provide their services to the public without the fear of higher rents eroding their profit margins.

For smaller commercial players, integrating into a new commercial tenancy agreement in a new local area would offer greater flexibility, making commercial premises more attractive in the long term, especially in smaller, less developed regions, and driving up local business.

Conclusion: Retrospective and Future Outlook

The English Devolution and Empowerment Bill reflects the general direction the legislature is heading in, aiming to offer greater protection to tenants, whether in a residential or commercial context. The Bill's flagship ban on upwards only rent reviews in commercial leases could have positive long-term consequences for businesses in smaller areas not yet subject to major gentrification projects. It also protects the bargaining position of commercial tenants, hedging against the risk of significant profit losses during unfavourable market conditions.

The Procurement Act 2023: Simplifying the UK's Public Procurement System

Abdifatah Mahamed

Introduction

The Procurement Act 2023, which came into force on 24 February 2025, marks a milestone in modernising the UK's public procurement system (the process by which the public authorities buy goods or services from external suppliers). It replaces four previous EU-derived regimes, simplifying them into a single, streamlined framework for England, Wales, and Northern Ireland, with Scotland opting out. The Act aims to eliminate red tape and encourage innovation, transparency and competition, especially for SMEs (Small and Medium-Sized Enterprises).

Summary of Key Developments

The Act consolidates multiple procurement regulations into a single, unified rulebook, reducing bureaucracy and establishing a central supplier digital platform. It replaces five tendering procedures with two: the traditional open procedure and the new competitive flexible procedure, underpinned by consistent procurement objectives (value, transparency, SME access). It introduces mandatory transparency notices and an eight-day standstill period for direct awards, tightens exclusion rules, and formalises supplier debarment. Finally, it strengthens contract management and remedy systems, including payment timing regulations.

Analysis of Key Developments

Unified framework and digital platform.

The Act consolidates four procurement regimes into one and mandates a central supplier register, simplifying processes and lessening duplication, boosting SME participation.

Competitive flexible procedure. Replacing antiquated multi-stage procedures, this new format enables authorities to tailor tenders proportionately, while ensuring adherence to procurement objectives, balancing flexibility with fairness. However, bespoke designs may introduce inconsistency and selectiveness by contracting bodies.

Transparency and standstill rules. Mandatory transparency notices and an eight-day compulsory standstill before direct awards ensure accountability but can slow emergency procurements.

SME and social value focus. The Act embeds SME considerations and social value in tender design, supported by updated policy guidance, to enhance access for small businesses and drive local economic impact.

Debarment and exclusions, a national debarment list, and tighter exclusion grounds, including national security risks, offer stronger safeguards but risk being weaponised against smaller suppliers with limited compliance capacity.

Contract management & remedies. Mandatory performance reporting and enhanced legal remedies empower suppliers to challenge breaches, yet success hinges on administrative literacy and effective procurement oversight.

Geographical Reach

The Act applies across England, Wales and Northern Ireland, covering central and local government, devolved health bodies, utilities and some defence contracts. Scotland retains its existing regime, continuing to adhere to EU-aligned regulations.

Strengths and Weaknesses

Strengths

- Simplification: Unified rules reduce complexity.
- Flexibility: New tendering formats accommodate bespoke market needs.
- SME access: Central registration and policy emphasise slight supplier inclusion.

Weaknesses

- Framework domination: A heavy reliance on frameworks may limit new market entries.
- Execution gap: Authorities may struggle to design proportionate, flexible procedures without guidance.
- Transparency fatigue: Excessive notices may overwhelm small suppliers.

Have the Issues Been Remedied?

The Act addresses EU-era inefficiencies by consolidating rules, enhancing access for SMEs, and increasing transparency. However, concerns about framework overuse remain unresolved. Effectiveness will depend on the enforcement of policies, supplier training, and cultural adaptation within public bodies.

Examples from Other Jurisdictions

- EU public procurement: Introduces similar central portals, such as TED (Tenders Electronic Daily), and allows reserved contracts for SMEs, although these contracts are often complex and challenging to manage.
- Canada's modernisation of procurement emphasises open calls, small-business set-asides, and timely payment, paralleling the UK's focus on SMEs.
- Australia employs "limited tender" processes, which incorporate transparency measures similar to those used in direct awards and standstill rules.

Legislative Reach & Retained Law

Most EU-derived regulations have been repealed or replaced by the Act and SI 2024/692. However, devolved Scottish regulations remain in force for their public bodies, and framework agreements made before 24 February 2025 remain under the old rules. Authorities must now navigate a dual legal landscape until full adoption and transitional compliance are complete.

Conclusion

The Procurement Act 2023 is an overhaul, pruning EU-era redundancies and providing a unified, modern procurement system driven by transparency, SME access, and flexibility. Its successes, including the centralised platform, competitive and flexible procedure, and SME-friendly provisions, should reduce red tape and spur innovation.

However, pitfalls remain. Overusing frameworks could hinder market dynamism, while granular transparency rules may burden lean suppliers. The Act's promise hinges on effective implementation: training procurement officers, equipping SMEs, and establishing robust oversight. Looking ahead, the government's National Procurement Policy Statement and evolving social value requirements, especially under the incoming public-interest framework, will shape procurement outcomes. Due to emerging cases, such as those linked to Grenfell, regular reviews of national security exclusions and debarment processes are likely to become more frequent. If well executed, the Act could ultimately mark a transformative shift toward inclusive, efficient, and strategic public procurement. However, the next few years will define whether its weighty ambitions translate into real-world change.

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