

## OFCOM CLOUD SERVICES MARKET STUDY

### Google's response to Ofcom's Interim Report and Consultation on its Proposal to make a Market Investigation Reference

1. Google welcomes the opportunity to comment on Ofcom's Interim Report and consultation on Ofcom's proposal to make a Market Investigation Reference (**MIR**) and notes the rigorous work that Ofcom has undertaken to date.
2. This response sets out Google's views on Ofcom's Interim Report, including the overall assessment of competition in the UK cloud infrastructure market, as well as addressing Ofcom's preliminary views on egress fees, technical interoperability, and committed spend discounts (**CSDs**) as potential barriers to customer switching and multi-cloud.<sup>1</sup>

#### The UK cloud infrastructure services market is dynamic and competitive

3. Ofcom is correct to observe that cloud computing is rapidly becoming an important part of the UK economy, with a fast growing cloud infrastructure market attracting a diverse range of customers and providers.<sup>2</sup> In particular, as more and more customers embark on a migration from legacy on-premises IT to the cloud, Google agrees with Ofcom's findings that competition for new customers is leading to positive outcomes, with providers investing in product offerings to match product development of rivals, and customers benefiting from product innovation, discounts, and a wide choice of software services from ISVs.<sup>3</sup>
4. Google also agrees with Ofcom's overall findings regarding the competitive structure of the UK cloud infrastructure market – i.e. that **AWS and Microsoft are the two clear market leaders with a combined 60-70% market share** and that there are numerous smaller players, including Google. Given the presence of numerous cloud service providers (**CSPs**) such as IBM, Alibaba, Oracle and OVHCloud (to whom Google is closer in terms of market share than it is to the two market leaders), it is not accurate to describe the market as having only "*three hyperscalers*".<sup>4</sup>
5. Google believes that – with the exception of certain unilateral practices discussed in Chapter 7 of the Interim Report – the evidence in Ofcom's Interim Report shows that **competition in UK cloud services is generally working well**, as is evidenced by the broad set of CSPs across IaaS, PaaS and SaaS. Indeed, the UK cloud market bears many hallmarks of healthy competition, including: strong evidence of competition for product innovation (including products like Google's Anthos and BigQuery Omni); evidence that CSPs are responding to customer demand for open source technologies, for example by adopting containers;<sup>5</sup> and evidence of successful entry and expansion (e.g. OVHCloud, Scaleway). Customer feedback also supports this view of the competitive landscape with "*a good proportion of qualitative respondents relatively comfortable about the competitiveness of the market.*"<sup>6</sup> The Context Consulting Report finds that "*there are **widely-held views that the presence of multiple***

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<sup>1</sup> Ofcom Cloud Services Market Study Interim Report – "*Our interim findings – in brief*".

<sup>2</sup> Ofcom Cloud Services Market Study Interim Report, Chapter 1.

<sup>3</sup> Ofcom Cloud Services Market Study Interim Report, Chapter 1 sections headed "*Overview*" and "*Our interim findings – in brief*" and para. 1.15.

<sup>4</sup> Ofcom Cloud Services Market Study Interim Report, paras. 3.46-7, 3.74, 5.120, 5.127, 5.144-5, 5.161, 6.18(c), 8.43 and 10.1(c).

<sup>5</sup> Ofcom Cloud Services Market Study Interim Report, para. 1.15.

<sup>6</sup> Context Consulting Market Research Report, March 2023, slide 15.

**providers, as well as numerous deals and pricing offers are all signs that this market does function effectively”.**<sup>7</sup>

6. We set out below some initial observations in respect of Ofcom’s concerns regarding egress fees, interoperability and CSDs, as well as explaining our view that an MIR would not be the appropriate tool to address issues pertaining to unilateral conduct identified in Ofcom’s Interim Report.

#### Google does not consider all egress fees to be a significant barrier to switching and multi-cloud

7. Ofcom has raised a preliminary concern that egress fees can discourage customers from using services from more than one CSP and might make it more costly to switch.<sup>8</sup> However, for the reasons explained below, any regulatory intervention targeting all egress fees would be unnecessary and disproportionate.
8. Importantly, there are different types of egress traffic that would meet Ofcom’s broad definition of egress fees<sup>9</sup> which are entirely unrelated to switching and/or multi-cloud usage. This includes, for example, use of a given CSP’s network infrastructure in the ordinary course to deliver content to end users or applications which can result in data being served outside the Google network.
9. Our egress fees are reasonable charges for the use of our network infrastructure. Any time egress traffic occurs, a customer is utilising the CSP’s network infrastructure in some capacity, which requires investment from as well as ongoing costs for CSPs. Google in particular has made significant investments in its network infrastructure over years to ensure that its cloud delivers high-quality experiences for customer network traffic.<sup>10</sup> Google considers that it is reasonable to allow CSPs to cover the costs they incur for facilitating these data transfers. Moreover, Google also considers that the ability to charge egress fees plays an important role in ensuring CSPs’ ongoing investment in network expansion/improvement. Preventing providers from being able to charge for data egress at all poses a real risk to competition by discouraging continued investment, innovation, and expansion in cloud network infrastructure.
10. Our egress fees are also fair to customers. First, Google only charges customers egress fees for what they use. Second, CSPs charging only at the point of egress (i.e. when data is transferred out of a given CSP’s cloud platform) avoids customers being double-charged for both the egress and the ingress involved in a given data transfer. Third, egress fees (covering all types of egress traffic) account for only a small proportion of an average customer’s total spend with Google Cloud, and the proportion of total spend which egress fees relating to switching/exit would represent is therefore even smaller.
11. Google therefore considers that any regulatory intervention targeting all egress fees would be unnecessary and disproportionate.

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<sup>7</sup> Context Consulting Market Research Report, March 2023, slide 15.

<sup>8</sup> Ofcom Cloud Services Market Study Interim Report – “Our interim findings – in brief”.

<sup>9</sup> Ofcom Cloud Services Market Study Interim Report, Annex A8.

<sup>10</sup> See, e.g., [Google network infrastructure investments | Google Cloud Blog](#).

### Technical interoperability barriers erected by certain legacy providers can impede switching and multi-cloud

12. An open source and open access approach is firmly rooted in Google's DNA, and is a key driver of our cloud strategy. Google Cloud has always been a strong advocate of multi-cloud and customer choice. Google Cloud's services are generally based on open or standardised technologies, and are designed to be compatible and technically interoperable with other cloud services wherever it is possible to do so. We agree with Ofcom's findings that there are clear benefits for customers in adopting a multi-cloud strategy to get access to the best quality services for their needs, build resilience into their cloud architecture, and strengthen their bargaining power with providers.<sup>11</sup> Google also notes Ofcom's findings that Google is "*one of the biggest adopters and promoters of open-source technologies*".<sup>12</sup>
13. However, we also note Ofcom's preliminary findings that UK customers are not yet able to reap the full benefits of multi-cloud today.<sup>13</sup> Many cloud providers and customers in Europe have advocated for more openness and transparency on software licensing (such as the [CISPE and CIGREF Fair Licensing Principles](#)). Google supports this view and at Google Cloud we are committed to openness and fair licensing. We share the wider industry's concern that the unfair licensing practices and commercial strategies deployed by certain legacy on-premises IT providers are causing significant harm to the cloud sector<sup>14</sup> and UK customers at this critical inflection point by creating commercial lock-ins. Google believes these unfair licensing practices,<sup>15</sup> which Ofcom considers to be beyond the scope of its market study, represent the most significant barrier to interoperability and multi-cloud in the market. Google welcomes Ofcom's continued engagement with this issue together with the CMA.

### Committed spend discounts are evidence of healthy competition and deliver significant customer benefits

14. Google agrees with Ofcom's finding that discounts on cloud services related to a customer's cloud spend are a positive and normal feature of the cloud services markets, generally leading to lower prices, greater competition, and potential efficiencies.<sup>16</sup> As one of the many types of discounts to suit different customer demands, CSDs are no different: Google's customers generally welcome CSDs because they drive down unit prices and bring additional cloud spend predictability for customers who have made their initial cloud migration and generally have good visibility over their cloud usage and needs. As Ofcom notes, Google already provides various tools and resources to help its customers forecast commitment, monitor use, and explore alternatives where cloud spend commitments are unlikely to be met.<sup>17</sup>
15. CSDs can also be an important competitive tool for smaller competitors such as Google to compete effectively against incumbent providers to win incremental workloads – often as a secondary cloud provider – and persuade customers who currently place all of their business with a single provider to try and adopt a multi-cloud

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<sup>11</sup> Ofcom Cloud Services Market Study Interim Report, para. 1.14

<sup>12</sup> Ofcom Cloud Services Market Study Interim Report, para. 4.102.

<sup>13</sup> Ofcom Cloud Services Market Study Interim Report, para. 1.14

<sup>14</sup> See, e.g., Professor Frederic Jenny (for CISPE), [Cloud Infrastructure Services: An analysis of potentially anti-competitive practices](#), October 2021.

<sup>15</sup> As discussed in Chapter 7 of Ofcom's Interim Report.

<sup>16</sup> Ofcom Cloud Services Market Study Interim Report, para. 8.46.

<sup>17</sup> Ofcom Cloud Services Market Study Interim Report, para. 5.175.

model, generating additional customer benefits. Google therefore considers that placing restrictions on cloud spend discounting could lead to unintended consequences and potentially create a less competitive marketplace.

### Customers and the wider sector share our concerns around unfair licensing restrictions, which limit competition on the merits and reduce customer choice

16. Google notes that a number of stakeholders in the cloud computing industry, including customers, CSPs and industry trade associations such as CISPE, have made submissions to Ofcom regarding the software licensing practices of certain legacy on-premises IT providers – in particular, raising concerns that these licensing restrictions and commercial practices disincentivise or restrict customers from freely using other third party cloud providers, which in turn stifles CSPs' ability to compete for customers on the merits.<sup>18</sup>
17. We welcome Ofcom's recognition of the seriousness of these concerns.<sup>19</sup> However, we also agree that any single-firm conduct issues are likely beyond the scope of a market study and would be better addressed by Ofcom and/or the CMA through a standalone investigation.

### Conclusion

18. Cloud computing is delivering transformational benefits across the UK, and these benefits are reinforced by strong competition across all layers of cloud services. We believe that Ofcom's Interim Report shows that, with the exception of certain unilateral behaviours and harmful commercial practices (identified in Chapter 7 of Ofcom's Interim Report) competition in the UK cloud services market is generally working well.
19. Accordingly, we consider that in the absence of market-wide features of concern (noting, as explained above, that in our experience egress fees and CSDs are not material barriers to switching and multi-cloud), an MIR would be inappropriate and would place a disproportionate burden on smaller CSPs. To the extent that Ofcom has indeed obtained evidence of unilateral conduct that is limiting effective competition on the merits (e.g. by restricting switching and multi-cloud and/or by raising artificial barriers to interoperability), such conduct would be most appropriately dealt with via standalone investigation under the Competition Act 1998, as this approach would enable the CMA to resolve the issue promptly whilst also mitigating against the significant resource burden that an MIR would place on smaller CSPs, including Google, who do not engage in these behaviours.
20. Google looks forward to further engagement with Ofcom in the remainder of this market study.

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<sup>18</sup> Ofcom Cloud Services Market Study Interim Report, Chapter 7.

<sup>19</sup> Ofcom Cloud Services Market Study Interim Report, Chapter 7.