

Big tech is trying to weaken new digital markets regulator, Rishi Sunak warned

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Big tech is trying to use its vast coffers to neuter the powers of the UK's new tech regulator, Rishi Sunak has been warned, as a fight over the courts becomes the latest battleground for overseeing Silicon Valley. Under the digital markets, competition and consumers bill, which is passing through parliament, the Competition and Markets Authority (CMA) will be empowered to set strict new rules on large online platforms such as Apple's App Store, Amazon's Marketplace and Google's search engine. But a technical dispute has become the focus of heated lobbying from the companies the bill seeks to cover, as well as their competitors in other industries. Firms such as Apple, Meta and Microsoft have told the House of Lords that they want the ability to appeal against the new Digital Markets Unit's (DMU) decisions in a "full merits" review, allowing them the chance to fight unfavourable decisions from every angle. That stands in contrast to the current draft of the bill, which gives businesses the right to ask for a judicial review of cases, but only one that assesses whether the DMU follows its own rules. A broad coalition of organisations, including trade bodies for mid-sized tech firms, the newspaper, publishing and bookselling industries and smaller e-commerce sites wrote to Rishi Sunak calling for the government not to bend under such pressure. The Guardian is a member of the News Media Association, which coordinated and signed the letter. "The judicial review standard for appealing CMA decisions must be maintained to ensure that the objectives of the new pro-competition regime can be realised," the joint letter said. "Judicial review is a tried and tested mechanism for appealing regulatory decisions across forward-looking regulatory regimes in the UK, including the CMA's existing merger control and market investigation powers." The organisations warned that the "unlimited legal budgets" of the companies the DMU intends to regulate meant they "could leverage their resources in the courts to obstruct and delay the entire regime". Speaking to peers on Tuesday, a big tech executive said a judicial review would not be the right fit for such an exercise. "The JR standard is more focused on process and procedure," said Kyle Andeer, an Apple legal VP. "From our perspective, there really needs to be a strong merit-based review that focuses on the evidence supporting the outcomes here." Microsoft's Chloé MacEwen said the judicial review standard could impose "uncertainty" in the system. "We're very conscious of the UK's ambitions, especially for new investment, and for science and tech superpower status. We are quite supportive of regulation, but what we are less sure about is uncertainty." The two were joined by representatives of Amazon, Meta and Google, all of whom agreed that they would prefer to face an appeals standard that let them query whether the regulator's decision "might not be the right one". Tina Stowell, the chair of the Lords committee holding the hearing, said on Tuesday that Apple had a reported legal budget of \$1bn a year, and that one single legal staffer at the company was paid \$26m in 2021. "I suspect that is larger than the whole of the CMA's legal budget," she said.