Microsoft submits new Activision Blizzard deal to win over UK regulator

Publication Date: 2023-08-22

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Section: Technology

Tags: Microsoft, Computing, Competition and Markets Authority, Activision Blizzard, Ubisoft, Games, Technology sector, news

Article URL: https://www.theguardian.com/technology/2023/aug/22/microsoft-new-activision-blizzard-deal-uk-cma-ubisoft-call-of-duty

Microsoft has made changes to its proposed takeover of the video game maker Activision Blizzard as it tries to win over the UK competition regulator that blocked the $69bn (£54bn) deal. The Competition and Markets Authority (CMA) on Tuesday said it would investigate the new proposals, under which Microsoft will not acquire cloud rights outside Europe for existing Activision desktop computer and console games, or for new games released by the developer during the next 15 years. The move revives the US tech company's hopes of completing the takeover of the company behind international hit titles such as Call of Duty, World of Warcraft and Candy Crush after the CMA blocked it in April, citing concerns it could allow the company to dominate the nascent cloud gaming market. Streaming games from cloud servers is currently a small niche, but the CMA argued that the takeover of a maker of blockbuster games by the leading provider of cloud gaming could prevent healthy competition from forming. However, the UK regulator had appeared increasingly isolated after its EU counterparts passed the deal and the US competition regulator lost a court request to block it. Microsoft had reacted with fury when the UK initially blocked the deal. Brad Smith, the company's vice-chair and president, said the decision had "severely shaken" confidence in the UK's business environment. Smith changed his tone on Tuesday. He said in a company blog that Microsoft had proposed a "substantially different transaction under UK law", and that he hoped a CMA review could be completed before the acquisition agreement expires on 18 October. "Under the restructured transaction, Microsoft will not be in a position either to release Activision Blizzard games exclusively on its own cloud streaming service Xbox Cloud Gaming – or to exclusively control the licensing terms of Activision Blizzard games for rival services," he wrote. "We believe that this development is positive for players, the progression of the cloud game streaming market, and for the growth of our industry," he added. The CMA said that, under the new deal presented to regulators, the cloud streaming rights to Activision's games outside the European Economic Area would be sold to its French rival developer Ubisoft prior to Microsoft's acquisition. Ubisoft will make an undisclosed one-off payment to Microsoft, and will be able to license Activision content to any cloud gaming provider, potentially including multi-game subscription services. Microsoft had already made legal commitments to allow Call of Duty games on rivals to its Xbox console, and to allow Activision Blizzard games on rival cloud streaming platforms. Alex DeGroote, an independent analyst, said it was a "convoluted and surprise deal restructuring", adding: "Consumers and gamers will be mystified by the new deal, but ultimately Microsoft just wants to get this $69bn deal over the line." Alex Haffner, a competition partner at the UK law firm Fladgate, said the presentation of a new deal was "not quite what many had expected", because it would require the CMA to start its process from the beginning. "Theoretically this leaves the merging parties open to the prospect of another lengthy drawn-out process to deal with competition concerns raised," he said. "In reality, however, it is hard to believe Microsoft would have taken this new course without a high degree of confidence it will now in due course (finally) get a regulatory green light from the CMA." Sarah Cardell, the CMA chief executive, said the deal did not yet have a "green light" to proceed. "The CMA has today confirmed that Microsoft's acquisition of Activision, as originally proposed, cannot proceed," she said. However, the updated deal was "substantially different from what was put on the table previously". "This is not a green light," she said. "We will carefully and objectively assess the details of the restructured deal and its impact on competition, including in light of third-party comments." Bobby Kotick, the Activision Blizzard chief executive, said in an email to employees that "nothing substantially changes with the addition of this divestiture", including the price to be paid. He added that the deal had been a "longer journey than expected".