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Response to the CMA Call for Evidence: Issues relating to NFC access on iOS

Introduction

Japan Association of New Economy ("JANE") welcomes the opportunity to respond to the CMA's Call for Evidence, "Issues relating to NFC access on iOS," published on 30 June 2026. JANE is a Japanese business association dedicated to promoting innovation, entrepreneurship and market competition. JANE has been consistently engaged in the legislative process of Japan's Mobile Software Competition Act (the "MSCA") and in the development of the Guidelines issued by the Japan Fair Trade Commission ("JFTC") (finalised in July 2025), submitting detailed views on access to operating-system functionality and, in particular, on how access to NFC functionality should be provided. JANE has also made submissions to the CMA — in February and August 2025 in response to the SMS investigations, and in April 2026 in response to the Call for Evidence — consistently emphasising that securing fair access to OS functionality is a central issue for restoring competition in the mobile ecosystem.

The purpose of this response is to offer, in a form useful to the design of the UK regime, the experience of designing and operating Japan's comprehensive regulation of mobile platforms — among the first in the world — together with the insights JANE has gained in that process. Although market conditions and legal frameworks differ between Japan and the UK, the structure of the problem — NFC access under the vertically integrated control of the OS and hardware by a single provider — is common to both, and we believe the accumulated debate in Japan can serve as a useful reference for the UK.

We set out the key points of this response at the outset:

- **Technology approach:** We support a dual-technology approach that secures access to both HCE and SE. It is the developer who is best placed to judge the optimal method from the standpoint of technology, security and economic rationality; neither the regulator nor the platform provider should lock in a single method. This is the same position JANE has expressed in Japan's guideline process.
- **Fees (primary position):** NFC access should be provided free of charge. Japan's Guidelines treat the provision of access free of charge and without restriction, on equivalent terms, as a clear standard of lawfulness, and squarely characterise as prohibited conduct the imposition of monetary burdens likely to make entry substantially difficult; this structure offers a strong reference framework for fee design in the UK as well. The CMA itself assesses that current fees are likely to constitute a significant barrier to entry (paragraph 44), and the "clear justification" referred to in paragraph 47 of the Call for Evidence is present here.
- **Fees (supplementary position):** Even if some fees were to be permitted, it should be capped at a strictly cost-based level (an LRIC standard), and a value-based

approach should not be adopted. In addition, the following should be stated as matters of principle: a prohibition on the stacking of multiple fees under different names; a prohibition on circumvention, including through delegation to third parties; prevention of the recovery in the UK of costs incurred in complying in other jurisdictions; and time limits on application handling together with fee transparency.

- **The effectiveness lens:** What the debate in Japan and the CMA's own analysis both show is that "formal opening" and "substantive entry" are different things, and whether the latter is achieved depends on the design of the access conditions — above all, the fee. In the UK, despite the formal existence of an access route, the CMA itself notes that no new entry has been observed for 18 months (paragraph 19), illustrating the consequences that can arise where the conditions are not effective.

1. Japan's Regulatory Framework and Experience (the perspective of this response)

1.1 The position of NFC access under the MSCA and the Guidelines

Japan's MSCA prohibits a designated provider from impeding "use with equivalent functionality" by other businesses of the OS functionality that the provider itself uses to provide its own software (Article 7, item 2), and the JFTC Guidelines expressly address, among the illustrative examples of prohibited conduct, the NFC (near-field communication) functionality used to provide payment apps. Three aspects of the Guidelines' approach are particularly important:

- **A free-of-charge, unrestricted safe harbour:** The Guidelines set out a clear standard — namely, that "where use of the OS functionality is permitted free of charge, without restriction, and with equivalent functionality" the conduct is not regarded as "impeding" use.
- **A prohibition on impeding fees:** While formally permitting use, "requiring monetary burdens such as usage fees for the OS functionality that are likely to make it substantially difficult for other businesses to use that OS functionality with equivalent functionality to provide their own software" is squarely positioned as an illustrative example of prohibited conduct. In other words, the lawfulness of a fee is judged not by its label or by theoretical explanation, but by real-world effectiveness — whether entry and use are in fact possible.
- **A prohibition on procedural delay:** Failing, over a prolonged period, to complete the measures necessary to make functionality available even though a qualifying application has been made is also treated as an illustrative example of prohibited conduct. This makes clear, as a matter of regulatory design, that the effectiveness of access depends not only on fees but also on the design of the procedures.

This structure — "free and unrestricted = a clear standard of lawfulness / fees that make entry substantially difficult = prohibited" — is simple and workable as a discipline for securing the effectiveness of a platform's opening of functionality, and we believe it offers a strong reference framework for the design of the fee principles the CMA is considering in this Call for Evidence.

1.2 Points JANE raised in Japan's guideline process

In the guideline process (its submission of June 2025), JANE raised the following points regarding NFC access, each of which resonates directly with the design of the UK regime:

- **Freedom to choose the technology method:** NFC functionality can be used via a hardware SE method or via an HCE method; where either method can technically provide equivalent functionality, each individual app business should be able to choose the method it considers optimal from the standpoint of technology, security and economic rationality.
- **Coverage of standards and use cases:** If the APIs corresponding to the NFC Type F method widely used in Japan's electronic-money payments (ISO 18092; JIS X 6319-4) are left outside the scope of the opening, businesses that rely on the local market's principal payment infrastructure cannot in substance obtain the benefit of the opening. The effectiveness of the opening depends, to the same degree as the choice of method, on whether the range of standards and use cases opened is suited to the realities of the local market.
- **Preventing circumvention through delegation structures:** Where the development or operation of NFC or the SE is delegated by the designated provider to a third party, the responsibility for preventing a situation in which that delegate — alone or in collusion with the designated provider — substantively impedes use by imposing unreasonable conditions rests with the designated provider as the delegating party.
- **Vigilance against cross-jurisdictional cost pass-through:** Permitting access that is free in one jurisdiction to be charged for in another gives businesses both the incentive and the opportunity to recover, in the latter, the costs of complying in the former, and risks unfairly harming the interests of businesses and consumers in that jurisdiction. JANE raised this concern in the Japanese context, but as similar regulation is now being put in place in parallel across multiple jurisdictions, it is a structural problem that authorities in every country should be alert to in common.

1.3 Lessons drawn from Japan's experience

The central lesson from the accumulated debate in Japan is that "the existence of an access route" and "the realisation of competition" are not synonymous. Whether the opening of functionality delivers competition and innovation depends on the totality of the design of the conditions: (i) whether the fee is at a level and of a structure that does not make entry substantially difficult; (ii) whether the range of standards and use cases opened is suited to the realities of the market; (iii) whether the procedures are predictable and prompt; and (iv) whether circumvention through re-labelling or delegation structures is prevented. The detailed submissions below answer the UK's questions from this perspective.

2. Our Understanding of the Situation in the UK

JANE's understanding of the situation in the UK rests essentially on the facts and assessments the CMA itself has set out in this Call for Evidence: namely, that (i) Apple has historically restricted third-party access to NFC in the UK, reserving it to its own Apple Pay/Wallet (paragraph 14); (ii) since October 2024 Apple has offered access through the "NFC & SE Platform," but this is conditional on acceptance of prescribed terms and payment

of a fee to Apple (paragraph 18); (iii) in the 18 months since that platform became available, no new product or service has been observed to launch in the UK (paragraph 19); (iv) the principal reasons identified by stakeholders are the lack of commercial viability owing to high access fees and the fragmentation of technology methods across jurisdictions and platforms (paragraph 20); and (v) current fees are likely to constitute a significant barrier to entry (paragraph 44).

As we understand it, the access route currently available in the UK sits under contractual terms (including the applicable fees) that Apple can set and vary at its discretion; for in-store payment use cases it requires a PSP licence or a contract with a licensed PSP; and it lacks any independent monitoring or dispute-resolution mechanism. Viewed through the design-of-conditions lens set out in section 1.3, the UK's current situation does not meet the requirements of effectiveness in any of the dimensions of fees, procedures or circumvention prevention, and the outcome of 18 months without entry is consistent with these conditions and, in our view, corroborates the height of the barrier to entry that the CMA suggests at paragraph 19.

As the CMA itself notes (paragraph 16), in the European Economic Area, where Apple provides NFC access free of charge, several apps — including PayPal, Curve and Klarna — have in fact launched using NFC. JANE refers to this not as a judgment on the merits of any particular jurisdiction's regulatory framework, but as a comparative illustration of the importance of the design of conditions: under the same provider and the same hardware, whether entry succeeds turns on how the access conditions are designed.

3. Views on the Technology Approach (the questions at paragraph 43 of the Call for Evidence)

3.1 Basic position: a dual-technology approach founded on developer choice

JANE supports a dual-technology approach that secures access to both HCE and SE. The relative merits of the methods are not fixed once and for all; the optimal solution differs according to the use case, existing development assets, security design, offline requirements and economic rationality. It is the developer who best knows these circumstances, and the judgment of which method to use should be left to the developer. In Japan's guideline process, too, JANE argued that where either method can technically provide equivalent functionality the developer should be able to choose the optimal method, and this response maintains that position consistently for the UK.

3.2 Assessment of HCE-only

An HCE-only approach has real advantages. As the CMA notes, it entails the lowest entry cost for businesses that have already developed HCE solutions for the EEA or Android (paragraphs 20(b)–(c); 23(b)), and the implementation time and cost are also relatively limited (paragraph 33). HCE has a long track record of use on Android and, while securing security through techniques such as tokenisation, can provide a readily scalable route to entry.

At the same time, HCE-only has limits. As the CMA itself notes (paragraph 34), there are already real examples — such as digital car keys — where the industry standard presupposes the SE; combined with the technical constraints on offline use, there is a risk

that HCE-only would be insufficient to support innovation across the full range of current and future use cases. Given that the UK Government emphasises next-generation payments such as A2A in its National Payments Vision, and that the CMA expressly has digital ID, digital keys and future digital currencies within its scope (paragraph 9), a design is needed that does not leave behind future use cases requiring reliable operation in offline environments or the use of tamper-resistant hardware.

3.3 Assessment of SE-only

While an SE-only approach could technically cover current use cases (paragraph 36), the record of the past 18 months in the UK already demonstrates the lack of effectiveness under the current conditions (paragraphs 19; 38). In addition, forcing developers with HCE assets for the EEA or Android to re-develop for the SE method would bring delay to entry and duplicative investment (paragraph 38). It should also be borne in mind that the SE method entails additional steps — development of the applet, verification by a third-party body, and signing and hosting by the platform provider — and is structurally prone to the exercise of platform-provider discretion at each stage of access. The concern that led Japan's Guidelines to treat prolonged application handling itself as an illustrative example of prohibited conduct was directed precisely at this kind of structure.

3.4 Our view on the cost argument regarding the dual approach

The CMA notes that providing both technologies may be more costly, "particularly for Apple" (paragraph 41). This, however, should not be overstated, for two reasons. First, as the CMA itself indicates, Apple already operates both HCE and SE architectures in production depending on jurisdiction and use case, and there are examples in the EU of the two being provided in parallel (paragraphs 16; 37 and footnote 23). Providing both in the UK is therefore not new development but an extension of the scope of existing assets, and the additional cost may be expected to be marginal. Second, Apple's marginal cost should be weighed against the fragmentation cost imposed on developers where a single method is locked in (duplicative work to accommodate different methods across jurisdictions and platforms; paragraphs 20(b)–(c)); viewed across the ecosystem as a whole, dual provision is the more efficient.

3.5 The effectiveness of the opening depends on the coverage of standards and use cases (a suggestion from Japan's experience)

As set out in section 1.2, in Japan the APIs corresponding to NFC Type F — the principal payment method in the local market — are not within the scope of the opening, so there is a divergence between the formal opening and the realities of the market. What this experience shows is that the design of the range of standards and use cases opened affects effectiveness to the same degree as the choice of technology method (HCE/SE). In the UK too, whatever method is adopted, we ask that the design (i) encompass the standards actually needed in the UK market (including, in addition to EMV-based payment standards, the standards adopted in fields such as transport, ID and keys); (ii) impose an obligation to maintain and update access as standards evolve; and (iii) not confine the covered use cases to payments but secure the potential for extension to the future use cases the CMA identifies, such as A2A payments, digital ID and digital keys.

3.6 Non-price conditions that should be secured regardless of method

Although the CMA places non-price conditions outside the scope of this Call for Evidence and states that they will be considered separately (footnote 24), because the effectiveness of the technology method is inseparable from the non-price conditions, we set out briefly, in advance, the elements JANE regards as important. Under either method, the following should be secured: (i) parity of functionality and UX with Apple's own wallet (including easy changing of default settings, the launch path for contactless transactions, and access to authentication means such as biometrics and passcodes); (ii) fair, objective, transparent and non-discriminatory (FOTND) eligibility criteria and clear time limits for application handling; (iii) permission for white-label development by technical service providers; (iv) prevention of circumvention through third-party delegation of development and operation; and (v) mechanisms for independent monitoring and prompt dispute resolution. Points (ii) and (iv) are concepts Japan's Guidelines expressly incorporated, and JANE stands ready to contribute actively to the future consultation on these non-price conditions.

3.7 Individual answers to the questions

Paragraph 43(a)(i) (whether investment and innovation are possible under a single method, and residual barriers): As set out in 3.2 and 3.3 above. Under HCE-only, entry becomes possible, mainly in the payments field, but use cases relying on industry standards that presuppose the SE, and future use cases with strong offline requirements, remain as residual barriers. Under SE-only, so long as fees and other access conditions are maintained as they are, entry will continue not to occur.

Paragraph 43(a)(ii)–(iii) (time and cost to launch): As a business association, JANE refrains from submitting, in this consultation, information concerning the individual business operations of particular member companies, such as their implementation time and cost. Such information includes matters that are commercially sensitive for each company and whose handling should be judged carefully by each company, so it would not be appropriate for the association to aggregate and disclose it. That said, the CMA itself has already provided useful analysis on this point: for businesses with existing HCE assets (for the EEA or Android) the time and cost of implementation are relatively limited (paragraph 33), whereas the SE method entails additional steps of development and verification (paragraph 38). Consistently with the CMA's own analysis, JANE considers that precisely this difference in implementation burden across methods supports this response's position (section 3.1) that the developer itself should be able to choose which method to use.

Paragraph 43(b) (benefits and costs of dual, and the criteria for the investment decision): Under a dual approach, developers can choose the method in light of their own use cases, existing assets and security design, and can avoid duplicative investment and delay to entry. The criteria for the investment decision are the industry standard of the target use case (whether or not it presupposes the SE), the scope for sharing development assets across jurisdictions and platforms, and the access conditions (including fees) of each method. From this standpoint, it is important that differences in fees and other conditions do not artificially distort the choice of method (section 4.2(h)).

4. Views on Fees (the questions at paragraph 65 of the Call for Evidence)

4.1 Primary position: NFC access should be provided free of charge

JANE considers that NFC access should be provided free of charge. While the CMA takes the view that, from the standpoint of proportionality, a requirement to provide access free of charge may be excluded "absent clear justification" (paragraph 47), this is precisely a case in which that "clear justification" is present. The reasons are as follows.

- **The CMA's own assessment that the core barrier to entry is the fee:** The CMA assesses that current fees are likely to constitute a significant barrier to entry (paragraph 44) and reports that the first of the principal reasons for the absence of entry, identified by stakeholders, is the lack of commercial viability owing to fees (paragraph 20(a)). Where the variable impeding entry is the fee itself, removing it — that is, making access free — is the most direct fit with the objective of the intervention (unlocking innovation).
- **Consistency with Japan's regulatory design:** As set out in section 1.1, Japan's Guidelines position the case "where use of the OS functionality is permitted free of charge, without restriction, and with equivalent functionality" as a clear standard of lawfulness, and squarely treat monetary burdens likely to make entry substantially difficult as an illustrative example of prohibited conduct. A free-of-charge rule is the standard with the lowest adjudication cost and the least scope for dispute for both regulator and business and is superior in operability.
- **The commercial viability of free provision is demonstrated by Apple itself:** Apple has chosen, as a matter of its own commercial judgment, to provide NFC access free of charge in the European Economic Area (see paragraph 16 of this Call for Evidence). That free access is compatible with Apple's investment incentives and business model is thus demonstrated by Apple's own conduct, and there is no reasonable basis for supposing that free provision is unworkable in the UK alone.
- **Prevention of cross-jurisdictional cost pass-through:** As set out in section 1.2, permitting access that is free in another jurisdiction to be charged for in the UK would give the incentive and opportunity to recover in the UK the costs of complying elsewhere, unfairly harming the interests of UK businesses and consumers. This structural concern, which JANE has raised in the Japanese context, applies equally to the UK.
- **The nature of NFC access:** The incremental cost of providing NFC access is the limited one of providing and maintaining the APIs, and Apple already recovers consideration through the sale of hardware. Moreover, the emergence of a diverse range of contactless services by third parties can enhance the appeal of the device, generating an indirect benefit for Apple as well.

For the avoidance of doubt, what should be free of charge is NFC access itself; this does not preclude the existence of general developer-programme fees and the like that developers bear on the same basis as other developers.

4.2 Supplementary position: principles for the design of any permitted fee

Even if the CMA were to permit some fee, we consider that the intervention cannot achieve its objective unless the following principles are secured. We address them below following the structure of the questions at paragraph 65.

(a) Views on the effectiveness of each proposed approach

Of the three approaches, the only one acceptable from the standpoint of effectiveness is the strictly cost-based approach. The value-based and downstream-linkage approaches should not be adopted as stand-alone fee-setting principles, except where the latter is used in a complementary way as a cap (the reasons are given at (e) and (f)). Under any approach, it should be borne in mind that, in addition to the fee level itself, the complexity and opacity of the fee structure dampen the incentive to enter. This chimes with the approach of Japan's Guidelines, which judge the lawfulness of a fee not by its label but by real-world possibility of entry.

(b) Alternative measures to be considered

First, a model of "making NFC access itself free of charge and maintaining only general developer-programme fees" should be considered; within the framework of this Call for Evidence, this can also be characterised as a "cost-based approach set at zero." Second, if a fee is to be charged, we propose introducing — alongside the principle for setting the fee level — a mechanism (a substantive-impediment test) that allows the effectiveness of the fee to be reviewed, including ex post, against the standard of "the likelihood of making use with equivalent functionality substantially difficult." This is the analytical framework adopted by Japan's Guidelines; it complements ex ante level-regulation and has the advantage of being able to respond to circumvention through re-labelling and the like.

(c) The cost measure

The measure should be strictly cost-based — that is, the long-run incremental cost (LRIC) directly required to provide NFC access. A broader cost-based measure involving wide allocation of common costs is inappropriate, because under a vertically integrated structure the arbitrariness of allocation cannot be excluded and it approaches value-based pricing in substance. In particular, including in the basis of the UK fee development costs already incurred for regulatory compliance in other jurisdictions should not be permitted (prevention of cross-jurisdictional cost pass-through; section 4.1).

(d) The rate of return

Where a cost-plus approach is adopted, the rate of return should be a modest level commensurate with the risk of the limited service of providing NFC access, and should not reflect Apple's company-wide cost of capital or the profitability of the mobile ecosystem as a whole. The provision of NFC access is a marginal service on top of an already-established hardware and OS base, and its ex-ante risk is low.

(e) Whether value may be taken into account

A value-based approach should not be adopted. As the CMA itself notes (paragraph 56), a fee must not include value that is merely the result of Apple's substantial and entrenched market power; yet the greater part of the value of NFC access on iOS to developers derives precisely from the iOS installed base and lock-in — that is, from the very power that grounded the SMS designation. There is no established method for reliably separating

power-derived value from service-specific value, and the diversity of use cases and future uncertainty that the CMA notes at paragraph 48(b) make this difficulty all the more acute. In practice, a value-based approach carries a high risk of amounting to an endorsement of the monetisation of market power.

(f) Linkage to downstream prices

The downstream-linkage approach (paragraphs 59–62) is useful as a "cap" to prevent distortion of downstream competition, and we support it to that extent. That is, as an additional cap on a fee calculated on a cost basis, it should be ensured that the NFC access fee does not exceed the price of the corresponding Apple downstream product (the approach at paragraph 64(a) and footnote 37). We do not, however, agree with its adoption as a stand-alone fee-setting principle. As the CMA itself recognises at paragraph 61, there are the risk that existing market power and the like are built into downstream prices (61(c)), the difficulty of application to use cases for which there is no corresponding Apple downstream product (61(b)), and the difficulty of setting an appropriate discount level (61(a)); the first of these, in particular, accords with JANE's concern that benchmarking to downstream prices may end up endorsing prices that remain high. Any applicable discount rate (question (f)(i)) should be at a level that secures the margin a third party needs to compete effectively in its own downstream service, and for use cases where there is no corresponding downstream product (question (f)(ii)) the fee should be set on a cost basis rather than by this approach.

(g) The other principles at paragraph 64, and additional proposals

JANE supports paragraph 64(a) (non-distortion of downstream competition), (b) (a choice of multiple fee structures) and (c) (clear and comprehensible fees). Point (b), in particular, is useful in accommodating a diverse range of business models, from single-function apps to multi-function wallets. On that basis, drawing on the experience of the debate in Japan, JANE proposes the addition of the following principles:

- **A prohibition on stacking:** Reconstructing, in substance, the same overall burden by stacking multiple fees under different names (access fees, entitlement fees, transaction fees, authentication fees and the like) should be prohibited. JANE made the same point regarding steering fees in its April 2026 response, and the same principle applies to NFC.
- **A prohibition on circumvention (including through delegation structures):** It should be stated that the regulated fee level must not be offset, directly or indirectly, by raising fees or costs under other names, and that the obligations extend to substantive charging and conditioning through third-party delegation of NFC/SE development and operation. The latter is a point JANE raised specifically, and sought confirmation on, in Japan's guideline process.
- **Time limits and transparency for application handling:** Time limits for handling qualifying applications should be set, and refusals should be required to state reasons. This should be aligned with the approach of Japan's Guidelines, which treat prolonged application handling itself as an illustrative example of prohibited conduct.
- **Prevention of cross-jurisdictional cost pass-through:** The prohibition on recovering in the UK the costs of access made free in other jurisdictions should be made an express consideration in fee review.

- **Ex post verification of effectiveness:** Even after the fee is set, effectiveness should be verified using the record of entry and use as an indicator, and a review clause should be built in so that, where entry does not occur, the fee level and structure are revisited. That the outcome indicator should be "the realisation of entry" rather than "the existence of an access route" is shown by the experience of both Japan and the UK.

(h) Consistency of application across technology methods

The fee principles should apply consistently to both the HCE and the SE method. As the CMA notes at paragraph 63, the fee itself may differ according to differences in the content and cost of the service provided; but even so, it should be ensured that differences in fees do not artificially distort developers' choice of method. The freedom of developer choice set out in section 3.1 has substance only once neutrality of conditions is secured.

5. Conclusion

The CMA's examination of this matter is an important step for the restoration of competition and innovation in the UK's fintech sector and the wider digital economy. JANE calls for (i) a dual-technology approach founded on developer choice; (ii) a fee design that takes free of charge as the primary position and, even where a fee is charged, is strictly cost-based and accompanied by rigorous circumvention prevention; and (iii) an effectiveness-focused regulatory design that takes "the realisation of entry," rather than "the existence of an access route," as its benchmark. We would be glad if the experience of designing and operating the regime in Japan proves useful to the UK's examination, and JANE stands ready to continue contributing to the process, including the formal consultation expected in autumn 2026.

About Japan Association of New Economy

Japan’s newest business association dedicated to creating an environment in which individuals and private companies can maximize their potential for economic and social reform centered on digital. With the basic principle of "Give more autonomy to private sector", JANE publishes numerous policy proposals and statements of both regulatory reform and market creation type every year.

It has a diverse membership that transcends the boundaries of size and industry, ranging from start-ups to large corporations, and from IT companies to construction and manufacturing companies. In addition, more than half of the approximately 50 board members and executives are founders of the company, which distinguishes JANE as an "economic organization where entrepreneurs gather".

In 2022, the year of its 10th anniversary, JANE is further revitalizing its activities under the new slogan "Japan Transformation" as a guideline that encompasses the origin of its activities: the promotion of "innovation, entrepreneurship, and globalization".