Consumer and Competition Policy Directorate
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15 September 2021

Consultation reference: Reforming Competition and Consumer Policy

Please find enclosed my response to the government's consultation on a range of issues in relation to competition and consumer policy. I have set out my personal interest and experience in these matters within the paragraphs below.

Personal background

In the spring of 2020 I was amongst thousands of people who had holiday bookings that could not go ahead because of Covid-19. I experienced considerable difficulties contacting one of the holiday letting agencies that I had booked with. This resulted in me joining a customer support group on Facebook – the Sykes Cottages Unhappy Customers Page. This group now has a membership of over 5,800 people and continues to deal with a wide range of problems that affect consumers with bookings for holiday accommodation in the UK. Reports in newspapers on TV and on social media indicate that these problems are not unique to customers of Sykes Cottages.

Since I joined the Facebook group in March 2020 I have been busy supporting other people with a wide variety of consumer protection issues relating to holiday bookings. This has included working with hundreds of people, on an individual basis, to get refunds for holidays that could not go ahead due to Covid-19. I have also worked with the Which?, the BBC, and independent journalists to increase awareness of some of the issues raised within the Facebook group. I have also made many reports to the Competition and Markets Authority about unfair business practices during the pandemic.

My involvement in the Facebook group has made me aware of a wide variety of consumer protection and competition issues in the holiday letting industry that are directly relevant to the current consultation. I recognise that many of the comments in my submission below are not directly relevant to the specific questions that have been set out in the consultation document but wherever possible I have tried to relate my comments and evidence to chapters or paragraphs within the consultation document.

I hope that my submission will help shape priorities and future developments in this area.

Please note that I am making these comments as a private individual and that I would like the information I provide to be treated as confidential.

I would be willing to clarify or expand on the matters I have raised as required.

Yours sincerely

[redacted]

[redacted]

Response to Consultation: Reforming Competition and Consumer Policy

CHAPTER 1 – COMPETITION POLICY: COMPETITION AND MARKET DOMINANCE

Chapter 1 makes several references to a trend towards less competitive and more concentrated markets and **Questions 1-3** deal with monitoring and strategic direction. Having spent the past 18 months intensively involved with the holiday letting market it is clear to me that this sector has become dominated by two large companies (Sykes Holiday Cottages and Awaze Vacation Rentals group). I believe the activities of these two companies are adversely affecting the holiday rentals market, eroding customer choice and service and reducing competition. Left unchecked their activities threaten the future of a market that has a long tradition in the UK.

The reduction in competition in the sector has been masked by the fact that the largest companies have, in general, grown by taking over smaller companies but the new owners have opted to retain the original brand names. For example the two largest companies, Sykes Cottages and Awaze Vacation Rentals operate under a total of over 40 different brand names in the UK and Ireland.

Many customers of the smaller, historic, brands have only become aware of a change of ownership as a result of issues relating to Covid-19, for example when they have needed to ask questions about refund policies or cleaning arrangements.

The changing nature of the holiday accommodation market has also been obscured by other developments associated with a move toward on-line trading. Such as:

- The proliferation of niche marketing sites that specialise in specific sectors e.g. dog friendly, properties with hot tubs, or a specific geographic area. These sites appear to represent a diversification in the market but in reality the individual properties on these sites must be booked through one of the large letting agencies.
- High profile and international, booking platforms such as Booking.com or Airbnb that can market properties for individual owners but also provide marketing services or holiday letting agencies.

The growth of large holiday letting agencies in the UK has brought some benefits to customers such as access to a large database of properties that can be searched using various criteria. However, these advantages have been offset by some major dis-benefits that have been brought into sharp relief by the Covid-19 pandemic.

Some of these issues relate to the sudden increase in contacts from customers in the light of new announcements about restrictions or relaxations of Covid legislation and guidance. To some extent these sudden changes have overwhelmed many organisations and it is recognised that that the circumstances have been exceptional. However, the pandemic has exposed and highlighted business practices that work against consumers' interest. Some of these will have increased the risk of spreading the virus and some may infringe legislation on consumer protection and competition.

Examples include;

- Poor communication, such as closing contact centres; because the contact centre was 'too busy'. Or giving priority to contacts from customers about new bookings rather than deal with customers with complaints or asking for refunds
- Incomplete or misleading information about Covid-19 related restrictions on company websites. Such as the travel ban between Scotland and England that lasted for several months but which some companies never explained to their customers.
- Centralised contact centres where staff are remote from the properties being let and may have little local knowledge to support customers or answer questions. Many of the smaller companies that have been taken over were specialists in a particular region and had expert local knowledge.
- Booking terms and conditions that do not provide for refunds and impose unfair cancellation charges, even if the property owner or letting agency initiates the cancellation.
- Dynamic pricing systems that can drive up prices with little or no input from the property owners. This was a particular problem when Covid-19 restrictions resulted in bookings being cancelled. Some customers who sought to rearrange their bookings to a later date were finding they were being offered holidays at prices that were higher than the prices offered to 'new' customers. Exploiting distressed customers in this way is probably in breach of the Consumer Protection from Unfair Trading Regulations 2008.
- Pricing software and algorithms that facilitate more general increases in prices as demand for holiday accommodation increases, in some cases with no upper limit on prices. Some companies operate these algorithms in ways that restrict or completely remove price control from the property owners. At times of high demand, as in the summer of 2021, this resulted in prices increasing unilaterally across a region, removing price competition. These algorithms, combined with market dominance and in response to price signals across the sector, have the effect of a cartel with both immediate and longer lasting effects.

  Individual property owners signed with these large agencies were unable to;
  - reduce their prices to facilitate competition
  - ensure that customers do not feel they are being exploited during the pandemic
  - help ensure customers return into the future.

- As holiday letting agencies have grown in size many have abandoned or scaled back their previous practice of regularly inspecting properties. These inspections helped to ensure that they are cleaned and maintaining to an appropriate standard and that safety certificates are kept up to date. Despite the requirement that properties are Covid-safe there have been hundreds of reports of properties in very poor condition with little evidence of appropriate cleaning between guests. In these circumstances some holiday letting agencies have taken only limited action to help the consumer and some are simply directing the customer to take the owner to court. This is a sign of a broken market particularly as letting agencies routinely charge the property owner commission of over 20% on the total price of each booking.
- Many letting agencies do not provide the owners' contact details to customers. This can cause serious difficulties if there are problems about whether the booking can go ahead due

to Covid-19 restrictions or if there are issues with the condition of the property. Many people have been forced to make enquiries through the letting agency but there have been many cases where the letting agency has given different stories to the owner and the customer. This was a particular problem with refunds for Covid-19 affected bookings where customers were asking for refunds and the owner was told instead that the customer was happy to rearrange to a later date.

- During 2020 and 2021 there have been numerous reports of bookings being cancelled with little or no notice and in some cases the customer has travelled to the property to find it already occupied. Routinely the letting agency has explained the property has been double booked or there has been an unexpected problem with the property that has prevented the booking from going ahead. In some cases alternative accommodation can be found but the customer is normally expected to pay for any increase in price. Where alternatives are not available the letting agency/owner will only offer a refund for the cost of the holiday. Additional compensation for a lost holiday or other consequential expenses is exceptional. Many customers affected by these late cancellations suspect that they are the result of the property owner and/or the letting agency have found a new customer who is prepared to pay a higher price. A few customers with bookings cancelled due to damage to a property have travelled to the property and found that the property is occupied by other holiday makers.

There are also practices that impinge on the owners of the properties that are being let to consumers including:

- Contracts that are heavily weighted in favour of the letting agencies; such as owners expected to pay Covid-related refunds to customers in full while the letting agency seeks to retain all of its commission for the cancelled booking.
- Onerous and unreasonable clauses for cancelling the agency/owner contract, often with severe penalties if the contract is broken for any reason.
- Continued listing of properties on an agency's website even though they have been withdrawn from letting through the agency. 'Ghost-listings' on the websites of the letting agencies, and their affiliates, give customers the impression that the property is no longer available to rent at all. As a result customers are encouraged to look for similar properties nearby, the owners of these 'ghost' properties lose business, and fair competition is undermined.

The range of issues in the sector illustrated above, many of which are inter-related, strongly suggest that a market study/investigation is needed as a first step towards making changes to ensure that the market operates fairly, competitively and in the best interests of all parties.

As part of this reform there is a strong case for introducing compulsory registration of holiday lets. This would serve a wide range of purposes beyond consumer protection, including improving local planning and raising local taxes. But their primary purpose would be to address some of the problems highlighted in 2020 and 2021 where dirty, poorly maintained and even unsafe properties were being marketed at premium prices. Although such properties are probably in the minority, a

combination of inexperienced, incompetent or greedy property owners, and letting agencies that have no vetting or inspection regimes, has resulted in many customers having spoilt or abandoned holidays. While some customers have sought financial or legal redress, some letting agencies make this difficult; for example by refusing to provide the owners contact details.

Although a registration scheme, administered through local authorities perhaps, might involve additional costs for property owners and, in turn, customers, it would serve to increase consumer confidence in the sector and drive out owners and letting agencies who are reliant on out-of-date photographs to secure bookings for a property that has not been properly cleaned or maintained.

'FAKE REVIEWS' AND PREVENTING ONLINE EXPLOITATION OF CONSUMER BEHAVIOUR (Paras 2.30 to 2.48.)

Consumer reviews of holiday letting agencies have been the subject of much debate and analysis during the Covid-19 pandemic. One feature of these discussions has been around the role of the holiday letting agency in the 'total holiday experience' that is being reviewed. Before the Covid-19 pandemic most reviews of a holiday let would be based on the way the holiday property was presented, the facilities available within the property, any interactions with the owner and the proximity to local attractions etc. Unless there were problems with the initial booking or payment arrangements most consumers would have little reason to consider or comment on the performance of the holiday letting agency. In practice, this means that the 'historic performance' of holiday letting agencies on consumer review websites has largely been determined by the efforts of the property owners and whether the property and the locality met the customer's expectations.

During the Covid-19 pandemic many holiday bookings have not been allowed to go ahead. Large number of consumers had reason to post reviews on a range of issues such as the ability to contact the company, the knowledge and attitude of call centre staff, and company policies and practices regarding cancellations, rearrangements and refunds. As a result many holiday letting agencies saw their rating on consumer review sites fall, particularly during the first national lockdown. For example, in February 2020, prior to the pandemic, the long-term rating for Sykes Cottages on one of the largest review sites, Trustpilot, was 4.6 out of 5 stars. By June 2020 the rating had fallen to 3.3 stars.

Many people on social media have questioned the veracity of reviews that have appeared on Trustpilot since March 2020. Including;

- Reviews suggesting that a letting agency was "easy to contact" when the contact centre of the company concerned was closed for three weeks at the start of the pandemic, or, at other times, it took several hours to get through on the telephone.
- Reviews suggesting that call centre staff were pleasant and helpful when many people had experienced precisely the opposite.
- Reviews suggesting that a full refund was paid within a few days when most people's experience was that refunds were taking over 40 days.

The view that many reviews were “fakes” was reinforced by other features of these reviews, such as;

- A sudden and dramatic increase in the number of ‘invited’ reviews. For example, in January to March 2020 there was an average of 750 new consumer reviews for Sykes Cottages on Trustpilot each month. In April 2020 the number increased to over 5,600. This increase was incredible given that holiday cottage accommodation was close due to Covid-19 legislation.
- Clusters of individual reviews that were extremely brief or failed to mention anything specific about the property that had been booked or its location.
- Reviews that contained a large number of spelling mistakes or poor grammar suggesting they had not been written by people with a good grasp on English.
- Adjacent reviews that used similar wording and were attributed to people with similar names or surnames with common themes e.g. Oakes, Beech and Birch.

Demonstrating that any particular review was “fake” would be difficult but there is good evidence that some individuals and companies offer commercial services to generate artificial reviews. The potential for ‘fake’ reviews is clearly real and the possibility serves to undermine confidence in all consumer reviews. And although many review websites state that they have measures in place to prevent “fake” reviews many independent investigations have shown such protection measures can be bypassed.

The sudden influx of negative reviews from consumers at the start of the Covid-19 pandemic has resulted in several changes in the way holiday letting agencies manage consumer reviews.

Some letting agencies decided to increase the number of ‘invites’ they sent to customers asking for reviews. The logic of this approach appeared to be that the company could send invites to people who had been on holiday in 2019 and early 2020 so their experience would not be influenced by the impacts of Covid-19. The reviews would help offset the large number of uninvited, but predominantly negative, reviews that were being posted by customers who were unable to get refunds for cancelled bookings.

Another tactic that appears to have been used by several letting agencies is to send invitations to customers who have recently rearranged their Covid-19 affected booking or who have made a new booking following the announcement of Covid-19 restrictions being lifted. In general these people will have had a positive experience so are likely to give favourable reviews. At a time when holidays cannot go ahead due to Covid-19 such behaviour by letting agents is, perhaps, understandable but it is also misleading. Moreover, there is evidence that some companies introduced a further bias into the review process by not inviting all of their customers to leave reviews. For example, people who were contacting the companies about refunds were not all being invited to leave reviews. Many people on Facebook have reported this phenomenon.

This inherent bias in the way some companies invite reviews goes beyond Covid-19. One review website, Feefo, allows companies to determine which customers can leave a review. For example customers of Sykes Cottages were only allowed to leave a review on Feefo if they had completed a holiday with the company. This meant that a customer with a booking that was cancelled, for any reason, could not leave a review on Feefo. More generally Feefo also allows companies to run ‘campaigns’ to invite customer reviews at particular times. This means that a company can decide

to invite reviews when the company is operating well and to stop them when it is not doing so well. Crucially the information about the selectivity of the review process is not evident on the review websites, making it impossible to assess the overall review scores that are presented to consumers.

Q42. Should government add to the list of automatically unfair practices in Schedule 1 of the CPRs the practice of (a) commissioning consumer reviews in all circumstances or (b) commissioning a person to write and/or submit fake consumer reviews of goods or services or (c) commissioning or incentivising any person to write and/or submit a fake consumer review of goods or services?

Commissioning or incentivising any person to write and/or submit fake consumer reviews of goods or services should be added to the list of unfair practices in Schedule 1 of the CPRs. Requesting or incentivising legitimate reviews also requires careful consideration and control. This is because the act of inviting reviews introduces many opportunities for selectivity and bias that can give an incomplete or distorted impression of goods and services. Consideration should be given to including 'invitations to review' within the scope of 'misleading practices' as set out in regulations 5 and 6 of the CPR's.

Q43. What impact would the reforms mentioned in Q42 have on a) small and micro businesses, both offline and online b) large online businesses and c) consumers?

In recent years consumers have become increasingly reliant on consumer reviews as a tool to guide the purchase of goods and services. Most consumers will be aware of the potential for fake reviews but they will expect traders and review websites to be taking action to minimise their impact. Introducing additional controls to prevent fake reviews and stop other misleading practices might increase costs but I suspect most customers would expect traders to treat this as an unavoidable expense of trading online.

Q44. What 'reasonable and proportionate' steps should be taken by businesses to ensure consumer reviews hosted on their sites are 'genuine'? What would be the cost of such steps for businesses?

Businesses, both traders and consumer review sites, should seek to ensure that consumers have experience of the goods or services being reviewed. It is imperative, however, that these steps do not exclude consumers who, through no fault of their own, have not had a "complete" experience. For example consumers with holiday bookings that could not go ahead for some reason must not be prevented from leaving reviews about the way they were treated and refunds were paid.

Q45. Should government add to the list of automatically unfair practices in Schedule 1 of the CPRs the practice of traders offering or advertising to submit, commission or facilitate fake reviews?

Yes, such practices have no legitimate purpose.

Q46. Are consumers aware of businesses using behavioural techniques to influence choice that affect their purchasing decisions? Is this a concern that they would want to be addressed?

There are three areas that should be addressed.

1. Selective use of consumer reviews

Having collected reviews from individual consumers it is important that traders and review sites present the reviews in ways that are meaningful, understandable and fair.

Unacceptable practices include;

a. Removal or editing of reviews that critical of the goods or service. Many companies have policies that are vague and give them too much freedom to remove customer reviews that are critical. For example one holiday letting agency has the following rule that it applies to reviews about individual properties on its website.

   - "The feedback must be clear, relevant and unbiased to other guests who may potentially stay at the location reviewed"

   This vaguely worded rule has been used to remove critical but factual comments from customers.

b. Selective presentation of aggregate measures, such as the average review score over the past 12 months. For example, not stating that these reviews were not collected over the full 12 month period or were only collected from a subset of customers with an incomplete experience of the goods or service, such as those customers who had only made a holiday booking.
c. Selective presentation of only some of the reviews made by customers. For example Trustpilot offers its clients a 'widget' called a "Trustbox" that can show the 15 most recent reviews that have been posted about a company. In theory this software can provide a current snapshot of how a company is performing. However, the system can be modified by the company to show only positive reviews. For example, one holiday letting agency has used a Trustbox on its website to present just four and five star reviews. Other, less favourable, reviews are only visible by going to Trustpilot. The masking of poor reviews is clearly designed to influence purchasing decisions.

2. 'Ghosting' – the listing of properties on holiday accommodation sites that are no longer to book via that particular site

Many holiday letting sites (and their affiliate listing sites) continue to list properties for months or even years after the owner has ended their contract with the letting agency. In many cases the property is still available to book directly with the owner or via another agency but this is not made clear by the original agency. Typically the 'ghost listing' says "the property is no available to book". This creates the false impression that the property has been withdrawn from the market and the customer should look for another property. This can result in the owner of the property losing new business and the potential customer has, or appears to have, a reduced

choice. Superficially 'Ghost listings' might appear to be the result of poor or slow administration by the letting agency but many owners of holiday lets have been struggling for years to get their properties removed from a holiday letting agencies website. Whatever the explanation it is clear that letting agencies have a vested interest in retaining 'ghost listings' on their website. They encourage potential customers to look elsewhere on the letting agency's website for a similar property nearby. They may also serve to increase the total number of properties that are on the letting agency's books, increasing its attractiveness of the large letting agency to the owners of new holiday properties. An exaggerated number of properties may also influence investment in the letting agency.

'Ghost listing' of properties should be added to the list of banned practices in Schedule 1 of the CPRs.

3. 'Spurious' awards

Many customers are influenced by companies having won awards for their products or services. These awards often have grand titles and are associated with considerable marketing effort and expenditure. Few customers are aware of the background to these awards or understand the voting arrangements. In some cases a little research can reveal awards that are not as they first appear and a relatively easy to manipulate using different email address and by using different devices to submit entries.

One such award scheme that was highlighted in 2020 was the "British Travel Awards". These annual awards have a wide range of categories including international and domestic holidays. The concern about these awards is that although they are promoted as being voted on by consumers, the organisers allow and encourage employees of the competing companies, their friends and their families to vote for the employee's company. Moreover the employees of some holiday companies have even reported incentive schemes involving prizes for the employees who have voted the most times.

The potential for such awards to distort consumer behaviour is clear and regulatory action should be considered. Consumer award schemes should, as a minimum, prohibit entry by the employees of the participating companies and their friends and families.

TACKLING NON-COMPLIANCE ON REFUNDS (Paragraphs 2.51 to 2.53)

This section of the consultation highlights how the pandemic resulted in the cancellation of many holidays and other events. It also refers to the work of the Competition and Markets Authority (CMA) in securing refunds for many consumers who had made payments, in advance for these services.

Paragraph 2.53 refers to undertakings given by businesses to provide refunds to consumers. It also states that the CMA has acted robustly to ensure that these commitments are upheld.

I am one of many customers who received a refund from Sykes Cottages as a direct result of the undertaking given to the CMA in July 2020. However, as a member of the Sykes Cottages Unhappy Customers page on Facebook I consider that the CMA has failed many thousands, perhaps tens of thousands of other customers of Sykes Cottages and many more customers of other holiday letting agencies. I have set out below some of the issues but there are many other examples. I believe the fundamental problem is that the CMA is more used to dealing with "business to business issues" (mergers, market dominance and price-fixing) than the practical aspects of how companies and consumers interact. In particular the CMA has failed to grasp how best to deal with undertakings that require actions to be taken by individual consumers.

In June and July 2020 the CMA accepted undertakings from two holiday letting agencies, Vacation Rentals (now Awaze Vacation Rentals) and its subsidiaries and Sykes Cottages (and its subsidiaries). These undertakings involved legally binding commitments from the two companies to give refunds to consumers with holiday bookings that could not go ahead due to Covid-19. These undertakings have been widely reported as being a successful regulatory intervention by the CMA. The reality is somewhat different.

a. Consumers who cancelled or rearranged their spring/summer holidays before 23 March 2020 are outside the scope of the undertakings. This means that the many thousands of consumers who acted following the Prime Minister first televised address on 16 March 2020 have been unable to obtain a refund. This is despite the fact that the Prime Minister told everyone in the UK, "now is the time for everyone to stop non-essential contact with others and to stop all unnecessary travel". Many elderly and vulnerable people, and those who were due to go on holiday with such people, acted on the basis of this instruction. As did many people in front-line jobs who knew that their employer would cancel pre-arranged leave because of the pandemic. Had these people waited until 23 March 2020 they would have fallen within the scope of the undertakings. The decision of the CMA to use 16 March 2020 rather than 23 March 2020 as the start date for the undertakings has resulted in many thousands of consumers being penalised for acting promptly and following clear instructions from the Prime Minister to help protect public health. The CMA has failed to protect the interests of these consumers, many of whom are financially or physically vulnerable.

b. Consumers who were already on holiday on 23 March (or were due to be on holiday on that date) are also excluded from the scope of the undertakings. So even though the Prime Minister instructed everyone in the country to "stay at home" on 23 March 2020 the undertakings given by both holiday letting agencies make no provision for partial refunds where the contracted service could not be provided in full because of lockdown legislation.

c. The undertaking given by Vacation Rentals to the CMA in June 2020 meant that customers who either cancelled or rearranged their Covid-19 affected booking after 23 March 2020 could claim a full cash refund. This was consistent with the statement on cancellations and refunds given by the CMA on 30 April 2020. In contrast the undertaking given by Sykes Cottages meant that only people who had cancelled their holiday booking could claim a refund. Customers who rearranged their booking to a later date, even if they were given no other option, were not, in general, entitled to claim a refund. The CMA has failed to explain these inconsistencies.

Sykes Cottages has stated that over 65,000 customers rearranged their holiday bookings during the first national lockdown. It is likely that a large number of these people, (50%) would have wanted a refund, particularly those who were forced to compromise on the dates of their rearrangement and/or the composition of their holiday group.

d. The undertaking given by Sykes Cottages did make provision for refunds where a rearrangement had been made and there was a "vulnerable person" in the group (Para 11.iv.d of the undertaking). The definition of a vulnerable person included anyone who was aged 70 or over, pregnant or had any one of a range of medical conditions that made them highly susceptible to the virus, including relatively common conditions such as diabetes and asthma. However, in order to obtain a refund under the 'vulnerable person clause', customers had to apply to Sykes Cottages. There were three problems with this approach;

   - The undertaking did not require Sykes Cottages to notify customers about this route to access a refund, nor was there a requirement to advertise its existence. As a result the vast majority of people who qualified for a refund under this clause were simply not aware that they could make a claim.

   - If customers did become aware of the 'Vulnerable Person clause' (for example through social media) claims were routinely refused by Sykes Cottages, at least initially. This failure to deal appropriately with Vulnerable Person claims was highlighted by the consumer organisation Which? in October 2020. [https://www.which.co.uk/news/2020/10/coronavirus-sykes-cottages-gives-vulnerable-customers-the-runaround-on-refunds/]

     However, despite the fact that many consumers have been denied refunds to which they are legally entitled to, the CMA has taken no further action against Sykes Cottages.

   - In responses to Freedom of Information Requests the CMA has confirmed that it has no information about the number of customers who might have qualified for refunds under the Vulnerable Person clause. The CMA has also confirmed it has no information about the number of refunds made by Sykes Cottages under this clause.

     I estimate that a 20- 25,000 bookings might have qualified for refunds under the 'Vulnerable Persons' clause but perhaps only a thousand qualifying customers have received refunds. The consumers who made these bookings and rearrangements, many of whom are vulnerable themselves, have been poorly served by the actions of the CMA.

In summary I feel that the CMA was ill prepared to adequately address the consumer protection issues that arose from the Covid-19 pandemic and has approached undertakings solely from a regulator/company perspective. Little thought has been given to the perspective of the individual

consumer. This failure must be addressed if the CMA is to take a wider role in consumer protection issues into the future. With this in mind I have responded to some of the specific questions raised in Chapter 3 – Consumer Law Enforcement.

Q55. Do you agree with government's proposal to empower the CMA to enforce consumer protection law directly rather than through the civil courts?

The CMA should be given powers to enforce consumer protection law directly but it is imperative that the CMA becomes more consumer-focused in the way it goes about enforcement action. At present the expertise and mind-set of the personnel in the CMA is on competition and mergers. Consumer protection is viewed in the abstract, and it appears the CMA considers the impact on consumers from a top down perspective. This approach has left many consumers unsupported and Citizens Advice and Trading Standards have been unable to fill the gap.

The CMA also needs to increase its technical knowledge of certain business sectors and how these can impact on consumer protection to ensure that it is not mislead by individual companies or business sectors. The CMA needs to take a more collaborative approach in assessing consumer protection issues. The CMA also needs to recognise that it has made mistakes and been inconsistent in the way that handled some of the issues relating to cancellations and refunds for UK holiday accommodation.

Q63. Should there be a formal process for agreeing undertakings that include an admission of liability by the trader for consumer protection enforcement?

Undertakings should always include an admission of that there has been a breach of consumer protection legislation. Without an admission of wrongdoing the trader is able to dismiss the undertaking as a technicality and this increases the likelihood of similar offences into the future by the same trader or others in the sector.

Q64. What enforcement powers should be available if there is a breach of consumer protection undertakings that contain an admission of liability by the trader, to best incentivise compliance?

Where a company have been required to give an undertaking to the CMA this should be reported in the annual accounts filed with Companies House and subject to independent audit. The need to report on the existence of undertakings and on the steps taken to achieve compliance would achieve a number of objectives:

- increase visibility of breaches of consumer protection law,
- help ensure ongoing compliance
- act as a deterrent to non-compliance.