



# **Competition and Markets Authority**

## Annual Report and Accounts 2016/17

(For the year ended 31 March 2017)

Annual Report presented to Parliament pursuant to Section 25(4) of the Enterprise and Regulatory Reform Act 2013

Accounts presented to the House of Commons pursuant to section 6(4) of the Government Resources and Accounts Act 2000

Accounts presented to the House of Lords by Command of Her Majesty

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# Overview



# Overview

The Competition and Markets Authority works to promote competition for the benefit of consumers, both within and outside the UK. Our aim is to make markets work well for consumers, businesses and the economy. We are an independent non-ministerial department. We employ around 600 people, who work mainly at our office in London and we have representatives in Scotland, Wales and Northern Ireland.

This section of the CMA Annual Report 2016/17 gives a short summary of our performance over the course of the year. It aims to help the reader understand the CMA, what we do, how we have performed, how we are governed, and the key risks to the achievement of our objectives.



# Chairman's foreword

In 2016/17, we have carried out a wide range of work to make markets work better for consumers, businesses and the economy. We have also reached an important milestone – our first three years as the UK's primary competition and consumer agency.

Since we assumed our powers, we've made a difference in important aspects of millions of people's lives: to how they insure their car at home and hire one abroad, how they bank, how they get good legal representation, and how they find the best deals online.

This year, we published final reports and implemented wide-ranging packages of remedies in two of the biggest market investigations ever undertaken by a UK competition authority, into the £10 billion energy sector and the £35 billion retail banking sector. Along with the legal services market study, which we concluded in December 2016, these in-depth whole-market reviews have laid the foundations for significant changes to these sectors to the benefit of households and businesses across the UK.

To protect consumers, we committed to step up our enforcement of competition and consumer law – and this year we have done so. We reached findings that competition law had been broken in nine investigations in 2016/17, with penalties of £100 million including the biggest fine in the history of the UK competition regime, and we secured the first ever company director disqualification for breaking competition law. And through our consumer enforcement we are helping, for example, to ensure that people can trust online reviews of products and services, are not misled on price discounts when buying groceries and get a fair contract from their cloud storage provider.



One of the reasons the completion of our first three years is an important milestone for us is that for the first time the evaluation of our impact on consumers is based solely on CMA work, rather than also that of our predecessors.

We have a target, set for us by government and measured over a rolling three-year period, to deliver £10 of direct consumer benefit for every £1 we spend. To the best of our knowledge it is the toughest target of its type in the world and a useful one as it touches on value for money for the taxpayers who fund us.

Our work in the first three years is expected to achieve benefits to consumers well in excess of £3 billion – significantly greater than 10 times our cost to the taxpayer. And this figure is an underestimate, as it does not, for example, capture the impact of our advocacy work, nor the deterrence effect of our enforcement and merger investigations.

Successfully concluding several major projects this year has delivered much of this consumer benefit, as we have ensured that millions of households and businesses across the UK are not only protected from anti-competitive and unfair practices, but also benefit from better competition across a range of key markets.

The merger of the Office of Fair Trading and the Competition Commission presented us with opportunities to approach previously separate work – but with the same overall purpose, to make markets work well – in a more joined-up and efficient way. And as a single agency we have become more than the sum of our parts.

One way we achieve this is through our continued improvements to merger control. We have developed a smooth end-to-end approach, with more streamlined processes and a degree of staff transition between the phases that prevents duplication and waste.

A second example is how we design, test, implement and monitor remedies arising from our merger and market investigations. As a single agency, we have ensured better continuity in handling remedies throughout their lifetime. We learn from each stage to inform the next, applying lessons from monitoring existing remedies to how we design new ones which reflect a clearer understanding of how consumers actually behave and which will better address the problems we are trying to solve or prevent.

Continuing to learn and develop is important to us and we know there's more to do based on our experiences to date, which is why, for example, we are making changes to how we conduct market investigations.

So as we complete the first chapter of the CMA, I am satisfied that we have built a strong organisation, fit for the challenges of the future. The long-term investments we have made, in our people, our processes and our systems, are really starting to pay off. And we will continue to invest for the future, including potentially for an even greater role in the economy once the UK leaves the European Union.

While there remains a significant journey towards fully achieving our organisational mission and embedding a 'competition culture' across the UK, we believe that what we have achieved for consumers, businesses and the economy shows we are on the right track.

A handwritten signature in black ink, reading "D A Currie". The signature is written in a cursive style with a long horizontal line underneath it.

David Currie  
**CMA Chairman**

# Chief Executive's report

I will begin my reflections on the highlights of the year with work which is at the centre of our purpose as an organisation: to protect consumers from anti-competitive practices and unfair trading.

## Effective enforcement of competition and consumer law

It is now clear that the investments we made over our first two years are paying off through enforcement of greater scale, at greater pace and with greater impact.

We launched 10 new civil competition enforcement investigations – more than double our target for 2016/17, exceeding our target for launching new cases for the third year running. We issued nine infringement decisions, compared to three in 2015/16, and imposed £100 million in fines, compared with £46 million in 2015/16 and £0.7 million in 2014/15. We have made good progress this year in other cases, issuing Statements of Objections in five investigations.

Alongside penalties for companies, we have worked to underline individual responsibility for illegal anti-competitive practices. By securing the UK competition regime's first company director disqualification for a competition law breach we send a powerful signal that such behaviour will not be tolerated.

Company fines and personal sanctions are, however, a means to an end. Our ultimate aim is to protect consumers and other businesses by ensuring that companies understand and comply with the law. We therefore complement our enforcement with innovative communications activity to raise awareness of the rules, for example running a 'Stop Cartels' social media campaign.



We have made real efforts to streamline our processes and make them more efficient – always without compromising on fairness and rigour – successfully decreasing the average time to carry out competition enforcement investigations against a rolling three-year average. With greater enforcement comes a higher risk of litigation, and currently three of our decisions are facing challenge in the Competition Appeal Tribunal. The UK competition system has one of the toughest judicial regimes in the world, which requires that our legal analysis and our procedural approach must meet the highest standards.

In our consumer enforcement, we continue to examine issues relating to unfair and misleading practices in the online and digital economy. Following our review, major global companies including Apple, Google and Amazon committed to improve their practices and ensure that they provide their customers with fair terms and conditions for cloud storage services. In relation to online reviews and endorsements, we built on our work in 2015/16 to secure commitments from several websites to not suppress unfavourable reviews, and from a UK-based marketing firm to not arrange undisclosed paid-for advertising from widely-followed social media personalities. But we also look at more traditional



concerns: in 2016/17 we secured commitments from a major supermarket chain, Asda, to improve its promotional practices around 'was/now' and multi-buy deals, and strengthen its compliance controls.

### Finishing what we started in major markets

The CMA's mission is to make markets work well for consumers, businesses and the UK economy, using all the tools at its disposal, including enforcement, advocacy and whole-market reviews. In 2016/17 we set out to 'finish what we started', principally by bringing our market investigations into energy and retail banking to successful conclusion.

We implemented innovative remedies which should, over time, significantly improve these markets of vital importance to millions of households and businesses, as well as to the UK economy. Alongside measures to drive forward competition and innovation, we did not shy away from stepping in to protect consumers, imposing a price cap for the four million pre-payment customers in the energy market.

Market investigations are complex projects which demand significant resources. Our agility and flexibility allowed us to swiftly transfer highly-skilled staff who had previously worked on these investigations to new enforcement, markets and mergers projects.

During the year we concluded our market study into legal services, another sector which really matters at key points in many people's lives, but which we found is not working well for either individual customers or small businesses. We set out remedies which challenge legal services providers and regulators to do more to help customers navigate the market and get value for money.

We await a formal UK government response to recommendations we made to it in this study and in the energy investigation, although it has committed to implementing our recommendations in the retail banking

investigation. Since our finding that UK customers have been paying £1.4 billion a year more than they would in a fully competitive market, energy policy has remained a topic of intense public debate. The incoming government has committed to extending the price protection to more customers on the poorest value tariffs, but to do so alongside supporting initiatives to make the switching process easier and more reliable.

We also published the interim report in our Digital Comparison Tools market study, finding that they generally work well for consumers, who really value the service they provide, but that improvements may be necessary to help more people get even better information and find the best deals. This includes looking more closely at whether these tools give enough information explaining what they do, whether competition between them is as strong as it could be, and whether the way that comparison tools are regulated works in the best way for consumers.

We published the interim report in our other ongoing market study, into care homes for the elderly in England and Wales, in June 2017.

### Refining how we investigate mergers

Reviewing mergers is another way we protect consumers to ensure that any harmful effects, which can include higher prices, lower quality or reduced innovation, are prevented.

We are continuing to find ways to improve the efficiency of our merger control and minimise burdens on businesses. Having embedded an efficient, effective and targeted process, we have sought to make further improvements throughout the year.

Our more targeted approach means that, despite considering over 600 transactions a year, we formally investigate only around 60, versus the 100–120 annually during the OFT/CC<sup>1</sup> years. We are also continuing to make good use of our powers to accept undertakings in lieu of a Phase 2 reference, to minimise both the burden

<sup>1</sup> The Office of Fair Trading and the Competition Commission; the CMA's predecessors.

on business and the cost to the taxpayer of these in-depth reviews. At Phase 2 we cleared one out of eight cases without requiring remedies, compared to eight out of 12 in 2015/16. We prohibited one merger (ICE's completed acquisition of Trayport), requiring the CMA's first full divestment – a decision we successfully defended in court. We continue to review cases across all sectors of the economy, intervening where necessary to protect UK consumers and publishing well-reasoned and consistent decisions to give as much predictability to firms and their advisers as possible.

### Remedies that get the right result

The creation of the CMA as a unitary competition and consumer agency presented clear opportunities to improve how markets and mergers remedies are designed, tested, implemented, monitored and enforced. We have sought to take advantage of these by making practical enhancements to the remedies process, learning from past experience of putting our decisions into practice. These steps are already delivering benefits.

In 2016/17 we implemented all of our remedies without extensions to the statutory timescales, exceeding our Annual Plan commitment, and we have worked with sector regulators to increase our collective understanding of consumer behaviour to improve the effectiveness of future interventions. We have continued to make good progress with our reviews of existing remedies, lightening the administrative load on affected businesses and allowing us to make best use of taxpayers' money by focusing our monitoring and enforcement on those remedies of greatest value to consumers and markets.

### A trusted adviser

We have remained a strong voice for competition across the UK and overseas, advising and challenging policy-makers domestically and supporting the development of the competition and consumer regimes internationally. Our advocacy team worked on a wide range of

issues, engaging with national, devolved and local government officials and lawmakers both publicly and privately to encourage pro-competitive policy-making in the interests of consumers. This year we have successfully influenced UK government policy, including through formal recommendations on the draft Higher Education and Bus Services Bills. We have also written to several local authorities to highlight the effect that proposed or existing regulations could have on taxi and minicab passengers, and have worked with devolved governments on a variety of issues. Our role as a trusted adviser will become increasingly important as the government prepares for the UK's exit from the European Union.

### Strengthening the CMA, strengthening our partnerships

We have continued to refine how we work and to invest in new technology, in our processes and in our people to meet our ambition to become a world-leading competition and consumer agency.

Although we have made improvements to how we conduct our cases and projects we know that there is more we can do to improve, drawing on our experiences to date. This is why, for example, we are making changes to improve how we carry out market investigations, arguably the most complex projects a competition authority can undertake.

Our effectiveness, now and in the future, relies on working well with others and we have sought to strengthen our partnerships across the competition and consumer landscapes. This includes working closely with sector regulators and the UK Competition Network to ensure that the concurrency arrangements continue to work well, with progress being made across the sectors during the year.

A particular highlight has been our role in the International Consumer Protection and Enforcement Network (ICPEN). We concluded a successful 12-month Presidency of this vital global partnership in July 2016, passing the baton to the German authority, having contributed

significantly to the development of the Network's capability and to consumers' interests across the world.

As part of providing a supportive working environment, the CMA is committed to promoting good mental health and wellbeing in the workplace, tackling stigma and fostering an environment where colleagues feel comfortable talking about mental health issues. In February 2017 we were proud to sign up to a detailed action plan as part of the 'Time to Change' pledge.<sup>2</sup>

### Key risks and challenges

Wider developments will have a bearing on our role and our work in the coming years, notably the UK's exit from the EU and new government economic strategies.

The implications of Brexit for the competition and consumer protection regimes, and for the CMA, will depend on the outcome of the exit negotiations and the terms of the future relationship with the EU. It does, however, appear likely that exit from the EU will bring the CMA a bigger role still, further expanding our existing position as a leading global competition authority.

Transition to new arrangements will require careful planning, including on how to handle in-flight cases and how to ensure that the CMA is sufficiently resourced for a greater caseload.

We will play a full part in assisting Brexit preparations, but our principal focus will be on delivering our duties under the existing legislative framework to ensure that consumers and businesses get a better deal and are protected from anti-competitive and unfair practices.

The question of whether markets are currently functioning in consumers' best interests is an area of increasing focus in political and public debate. Our role of protecting consumers based on strong evidence and careful analysis is all the more important in this climate. We will remain a strong voice for competition and for consumers, including in our statutory role as an adviser within

government, to make sure it has appropriate prominence in public policy debates. Where necessary we will argue, both behind the scenes and through our powers to comment publicly, including on draft legislation, against short term interventions which risk sustained improvements in consumer outcomes over the long term.

We continue to face the challenge of a rapidly evolving economy, in which online and digital transactions play a large and growing part as well as underpinning most other commercial activities. Alongside bringing opportunities for consumers, technological development presents some risks and raises some important questions of policy and law. 'Challenger' businesses, innovative business models and new technologies have the potential to disrupt markets, both online and offline, often (but not always) to the benefit of consumers. We will remain active in the digital sphere and in emerging sectors. We will invest further in our in-house expertise to ensure we understand new markets and practices and keep up to date with their rapid evolution.

A technicality arising from an ongoing litigation case has led to the CMA accounts being qualified in 2016/17. The Comptroller & Auditor General has given assurance that this does not represent a failing of financial management and that the CMA acted appropriately in its financial treatment of the case.

### Looking ahead

We believe that our direction of travel is right and we will continue to push ahead with our work on all fronts. We will remain active in markets large and small – enforcing the law, protecting consumers, preventing anti-competitive mergers and making markets work well for households and businesses across the UK.



Andrea Coscelli  
**Acting Chief Executive and Accounting Officer**  
22 June 2017

<sup>2</sup> <https://competitionandmarkets.blog.gov.uk/2017/02/09/its-time-to-change-our-minds-on-mental-health/>


# A year in highlights

## Civil competition enforcement

Infringement Decisions	Fines
This year <b>9</b>	<b>£100 million</b>
2015/16 <b>3</b>	<b>£46 million</b>
2014/15 <b>1</b>	<b>£0.74 million</b>

## Mergers in numbers

A more targeted approach



**Phase 1 decisions**

2014/15.....82

2015/16.....62

2016/17.....**57**

**57** Phase 1 merger reviews were completed. ‘Substantial lessening of competition’ was found in **14** mergers, undertakings in lieu were accepted in **9** mergers, and **5** were referred to Phase 2.

Of the **8** Phase 2 merger decisions, **1** was cleared, **5** were cleared with remedies, **1** was abandoned and **1** was prohibited.

# Consumer benefit

The CMA benefits the consumer by greatly exceeding our cost to the taxpayer.



## Influencing UK legislation

We made formal recommendations to Ministers on two draft Bills, which the government accepted.



On the Bus Services Bill

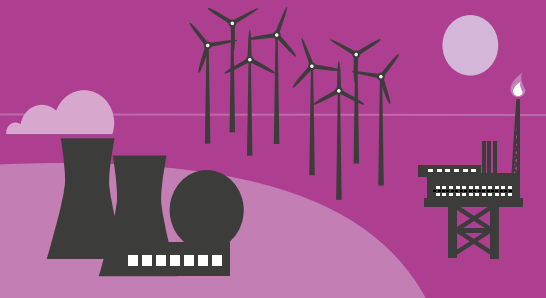


On the Higher Education and Research Bill

Efficiency	this year	2015/16	2014/15
Less complex Phase 1 mergers completed within 35 working days	81%	74%	23%
Average working days for all Phase 1 merger cases	34	34	37
Merger and market remedies implemented without extension to statutory timetable	100%	100%	100%



# What has the CMA done for us



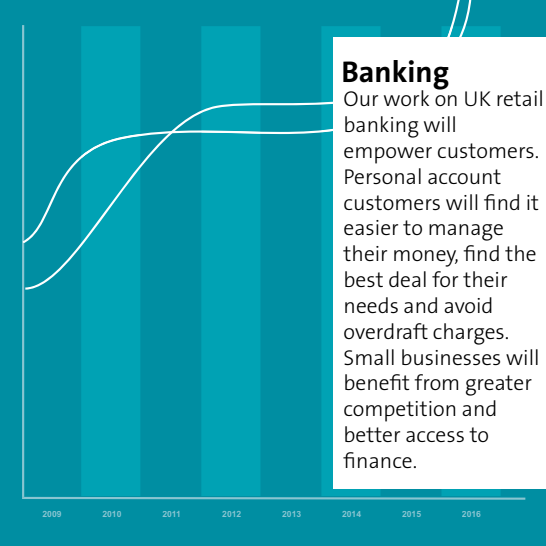
## Energy

We're tackling problems which mean that customers are paying £1.4 billion each year more than they would in a fully competitive energy market. And we've stepped in to protect pre-payment meter customers with a temporary price cap, saving them £300m pa.



## Cloud storage

Around 1 in 3 British adults use cloud storage to keep music, photos and important documents safe. We've made sure that millions of cloud storage customers will benefit from fairer contract terms to help them choose the best service for them.



## Banking

Our work on UK retail banking will empower customers. Personal account customers will find it easier to manage their money, find the best deal for their needs and avoid overdraft charges. Small businesses will benefit from greater competition and better access to finance.



## Ladbrokes/Coral

By requiring Ladbrokes/Coral to sell 350-400 betting shops to rivals, we've made sure the merger of two of the country's largest bookmakers wouldn't reduce competition and choice for customers.



## Legal services

We've challenged providers and regulators to help customers understand the services on offer and choose the best deal for them – whether they're buying a property, resolving a dispute or getting expert advice.

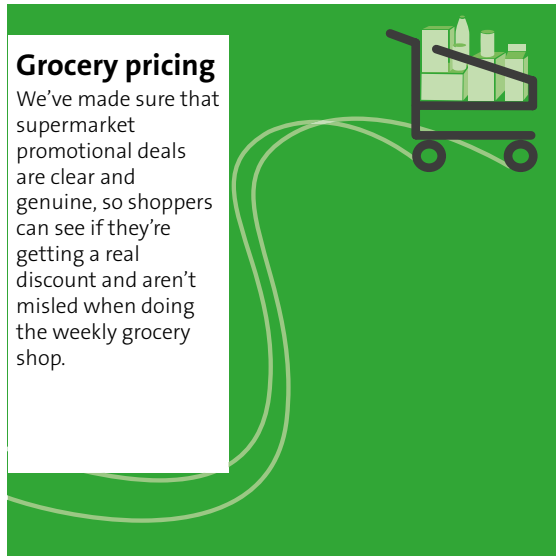
### Medicines

We've cracked down on companies which overcharge the NHS for some medicines. As UK taxpayers and NHS users, we all lose out if the NHS pays too much because of illegal anti-competitive practices.



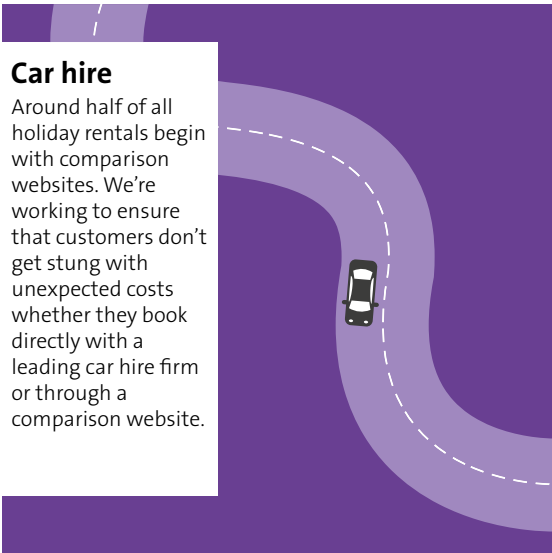
### Grocery pricing

We've made sure that supermarket promotional deals are clear and genuine, so shoppers can see if they're getting a real discount and aren't misled when doing the weekly grocery shop.



### Car hire

Around half of all holiday rentals begin with comparison websites. We're working to ensure that customers don't get stung with unexpected costs whether they book directly with a leading car hire firm or through a comparison website.



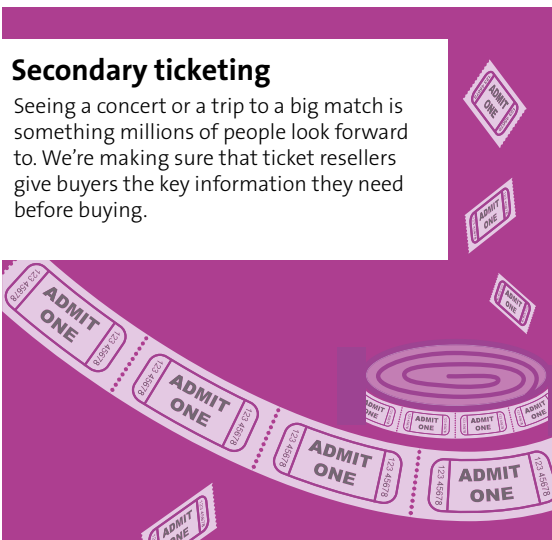
### Higher Education

For most students going to university is an expensive, once-in-a-lifetime event and one where they should receive the best possible experience. We're making sure universities treat students fairly by clamping down on practices which might break consumer law.



### Secondary ticketing

Seeing a concert or a trip to a big match is something millions of people look forward to. We're making sure that ticket resellers give buyers the key information they need before buying.



### Online reviews

Millions of people look at online reviews and endorsements before making decisions such as where to stay on holiday, or which plumber to use. We've tackled some illegal practices so that people can trust reviews they read online.



# About us

Under the law, the CMA has a duty to promote competition, both within and outside the United Kingdom, for the benefit of consumers.

We are an independent non-ministerial government department. We took on our powers as the UK's lead competition and consumer authority in April 2014, and brought together most of the roles and responsibilities of the Competition Commission and the Office of Fair Trading into our new authority. We take an integrated approach to our work, selecting those tools we believe will achieve maximum positive impact for consumers and the UK economy. We have a UK-wide remit and, although most of our staff are located in our London office, we have representatives in Scotland, Wales and Northern Ireland.

The CMA's functions include:

- to investigate mergers that have the potential to lead to a substantial lessening of competition
  - to conduct studies and investigations into particular markets where there are suspected competition and consumer problems
  - to investigate individual businesses to determine whether they have breached UK or EU competition law and bring proceedings against individuals who commit the criminal cartel offence or whose behaviour makes them unfit to be a director
  - to enforce a range of civil and criminal consumer protection legislation, tackling issues which suggest a systemic market problem or which affect consumers' ability to make choices
  - to promote stronger competition in the regulated industries (gas, electricity, water, aviation, rail, communications and health)
  - to conduct regulatory appeals and references in relation to price controls, terms of licences or other regulatory arrangements under sector-specific legislation
  - to give information or advice in respect of matters relating to any of the CMA's functions to the public and to ministers.
-



# CMA vision and strategy

Our **mission** is to make markets work well in the interests of consumers, businesses and the economy, and our overall **ambition** is consistently to be among the leading competition and consumer agencies in the world. Underpinning our mission are **five strategic goals**:



## Deliver effective enforcement

to deter wrongdoing, prevent consumers from losing out from anti-competitive mergers or practices, and ensure that business and individuals understand the law



## Extend competition frontiers

by using the markets regime to improve the way competition works and by applying competition law and policy in the regulated sectors, alongside sector regulators



## Refocus consumer protection

by working with our partners to promote compliance and understanding of the law, empowering consumers to make informed choices, leading policy development and pursuing precedent-setting cases



## Achieve professional excellence

by managing every case efficiently, transparently and fairly, and ensuring all legal, economic and financial analysis is conducted to the highest international standards



## Develop integrated performance

by bringing together staff from different professional backgrounds to form effective multi-disciplinary teams, complementing the work of other consumer, regulatory and enforcement authorities and acting as a trusted competition adviser across government

### By achieving these goals, the CMA will be:

- an agency that has a beneficial impact on consumer welfare and on productivity and growth in the economy
- a respected and influential independent authority in the UK and abroad
- a great place to work

# Government priorities for competition and markets

The CMA's vision and strategy are set out on the previous page. We also have regard to a non-binding ministerial statement of strategic priorities for the CMA, which sets out governmental priorities while recognising our constitutional and operational independence. In December 2015, the government published a new Strategic Steer.<sup>3</sup>

The Steer emphasised the contribution that open and competitive markets can have on productivity, and we agree; when markets are open and competitive, that stimulates innovation, helps to increase productivity, and ultimately supports consumers via economic growth. We published a detailed paper exploring the links between competition and productivity in 2015,<sup>4</sup> and in scoping our work we are now considering whether poor productivity in particular sectors is

an indicator of competition and market problems that we may be able to help address.

The Steer underlined the importance of the CMA's work to promote competition, with the CMA working closely with sector regulators who have concurrent competition powers and with others to ensure that competition is used effectively, as well as helping government to avoid imposing unnecessary regulatory or legislative barriers to competition. It explicitly encouraged the CMA to make recommendations on government interventions at a local level, working with local authorities across the UK to seek to ensure that their activities do not have an adverse effect on competition. The Steer reaffirmed the government's commitment to implement CMA recommendations unless there is a strong policy reason not to do so.

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<sup>3</sup> [www.gov.uk/government/consultations/competition-regime-competition-and-markets-authority-governments-strategic-priorities](http://www.gov.uk/government/consultations/competition-regime-competition-and-markets-authority-governments-strategic-priorities)

<sup>4</sup> [www.gov.uk/government/publications/productivity-and-competition-a-summary-of-the-evidence](http://www.gov.uk/government/publications/productivity-and-competition-a-summary-of-the-evidence)

# Governance

**The CMA is an independent non-ministerial government department, with a primary duty to promote competition for the benefit of consumers, both within and outside the United Kingdom. We are a unitary authority with both Phase 1 and Phase 2 of market and merger investigations being managed by the CMA, although with clearly defined responsibilities and fresh decision-makers between Phases to avoid confirmation bias. More detail on our governance can be found on page 87.**

## CMA Board



### **David Currie (Chairman)**

David Currie is the Chairman of the CMA and was appointed in July 2012. He is also Member of the Board of the Dubai Financial Services Authority, and sits on the crossbenches in the House of Lords as Lord Currie of Marylebone. Previous career highlights include being the Founding Chairman of Ofcom (2002–09) and Dean at Cass Business School (2001–07).



### **Alex Chisholm (Chief Executive) – until July 2016**

Alex Chisholm was the Chief Executive of the CMA and was appointed in January 2013. He is also Trustee and Deputy Chair at the international charity Breadline Africa. Prior to joining the CMA, Alex was Chairperson and Commissioner of Ireland's communications regulatory agency, and Chair of Ireland's Economic Regulators Network. Alex stepped down from his role on 3 July 2016, following his appointment as Permanent Secretary at the Department of Energy and Climate Change.



### **Dr Andrea Coscelli (Acting Chief Executive) – since July 2016**

Since 4 July 2016, Andrea Coscelli has been Acting Chief Executive of the CMA. Prior to taking up this role, Andrea was Executive Director, Markets and Mergers, in which he ensured strategic leadership of the markets portfolio and acted as a decision maker in important merger cases. Andrea has held previous roles as Director of Economic Analysis at Ofcom, Vice-President in the European Competition Practice at Charles River Associates, and Associate Director of Lexecon Ltd. Andrea is also co-founder of the Association of Competition Economics.



**Dr Michael Grenfell (Executive Director, Enforcement)**

Michael Grenfell is Executive Director, Enforcement, a role in which he leads the CMA’s activities enforcing competition law and consumer protection law. Michael joined the CMA in 2014 as the Senior Director of Sector Regulation and Concurrency, a post he held until his appointment to lead the CMA’s Enforcement work in 2015. Before joining the CMA, he was a solicitor specialising in competition law, including from 1998 to 2013 as a Partner at the law firm Norton Rose Fulbright. He was also a member of the City of London Law Society Competition Committee.



**Rachel Merelie (Acting Executive Director, Markets and Mergers)**

Rachel Merelie is Acting Executive Director, Markets and Mergers, a role in which she leads the CMA’s mergers and markets work and manages associated work streams to provide value to markets and consumers.<sup>5</sup> Rachel is also Head of the Delivery Profession in the CMA. Previously Senior Director, Sector Regulation at the CMA, Rachel was appointed Acting Executive Director, Markets and Mergers in July 2016. Before joining the CMA, Rachel was Inquiry Director and then Senior Director, Inquiries at the Competition Commission and was previously Business Planning and Strategy Manager, Ernst & Young and Executive Manager, Cap Gemini Ernst & Young.



**Erik Wilson (Executive Director, Corporate Services)**

Erik Wilson was appointed as Executive Director, Corporate Services in September 2013. Erik ensures the CMA has first-class support functions, including human resources and organisational development, finance, communications and business systems. Before joining the CMA, Erik was Director of the Executive Office and Strategy Group at the Office of Fair Trading (OFT). Erik also previously held corporate and support service leadership roles both within the OFT and across the Civil Service.



**Sarah Chambers (Panel Member, Non-Executive Director) – since October 2016**

Sarah Chambers was appointed as a Panel Member Non-Executive Director of the CMA in October 2016, having been a Panel Member of the CMA (and previously the Competition Commission) and of its communications and utility panel since 2013. She is also a Member of the Qualifications Committee of the Bar Standards Board, Panel Member of the Judicial Appointments Commission, Chair of the Applications Panel of the Renewable Energy Consumer Code, and Member of the Civil Aviation Authority Consumer Panel. Sarah has previously held roles as Chief Executive of the Postal Services Commission, Director of Consumer and Competition Policy, Department of Business, Innovation and Skills, and Director of Renewable Energy, Department of Energy and Climate Change.

<sup>5</sup> Rachel will cover the role of Executive Director, Markets and Mergers on an interim basis until a permanent Chief Executive is appointed. As part of this interim arrangement, Rachel attends the Board in an advisory capacity, but is not a formal member.



**Professor Amelia Fletcher OBE (Non-Executive Director)  
– since October 2016**

Amelia was appointed Non-Executive Director in October 2016. She is also Professor of Competition Policy at the Centre for Competition Policy and Norwich Business School at the University of East Anglia, Non-Executive Director of the Financial Conduct Authority and Payment Systems Regulator, a member of the Enforcement Decision Panels at Ofgem and the Civil Aviation Authority, and a member of the Royal Economic Society Council and the expert advisory board to the National Infrastructure Commission. Amelia has previously held roles as Chief Economist, Senior Director of Mergers and Senior Director of Policy at the Office of Fair Trading, and as economic consultant at London Economics and Frontier Economics.



**Alan Giles (Non-Executive Director)**

Alan Giles was appointed in July 2013 and has the additional responsibility of being Chair of the Remuneration Committee, having previously chaired the Audit and Risk Assurance Committee until 31 December 2016. Alan is also a Non-Executive Director of Perpetual Income & Growth Investment Trust plc and is an Associate Fellow at Saïd Business School, University of Oxford and an Honorary Visiting Professor at Cass Business School. Alan's previous roles include being Non-Executive Director of Rentokil Initial Plc, Non-Executive Director at the OFT, Chairman of the Fat Face Group, CEO of HMV Group, Managing Director of Waterstones Booksellers Ltd and Executive Director of WH Smith Group Plc



**Professor William Kovacic (Non-Executive Director)**

William (Bill) Kovacic was appointed in July 2013. Bill has been an adviser on antitrust and consumer protection issues to governments around the world since 1992. His previous roles include being Chair of the US Federal Trade Commission (FTC), Vice Chair for Outreach of the International Competition Network and General Counsel at the FTC. He is a Professor of Law and Policy and Director of the Competition Law Centre at the George Washington University Law School and is a visiting Professor at the Dickson Poon School of Law at King's College London. Bill is co-editor of the Journal of Antitrust Enforcement.



**Anne Lambert CMG (Panel Chair, Non-Executive Director) – since  
October 2016**

Anne was appointed as a Panel Member Non-Executive Director in October 2016. She is also the CMA's Panel Chair having taken up the role following Roger Witcomb's retirement. Anne is currently a Governor of Portsmouth University and a Trustee of the Woodland Trust. She was awarded a CMG in 2006 for her work as the UK's Deputy Permanent Representative to the EU. Anne has previously held roles as Deputy Director General of the Office of Telecommunications, Director of European and Government Affairs for the National Air Traffic Services (NATS), and Chair of European Satellite Services Provider SAS for NATS.



#### **Jill May (Panel Member, Non-Executive Director) – until September 2016**

Jill May was appointed in July 2013. As a Panel Member, Jill is appointed to groups conducting Phase 2 merger inquiries and market investigations. Jill is currently also a member of the Council of Durham University, a member of the Complaints Committee of the Independent Press Standards Organisation and a Non-Executive Director of the Institute of Chartered Accountants in England and Wales. Her 25 year executive career was spent in financial services, latterly as a Managing Director responsible for group strategy at UBS AG. Jill's term as a Non-Executive Director came to an end in September 2016.



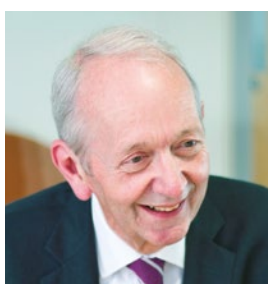
#### **Professor Annetje Ottow (Non-Executive Director)**

Annetje Ottow was appointed in July 2013. Annetje's other roles include being Dean of the Faculty of Law, Economics and Governance at the University of Utrecht and Professor of Public Economic Law at the same university. Annetje is also Non-Governmental Advisor to the International Competition Network. Career highlights include roles as Vice President and Non-Executive Board Member of the Dutch Post and Telecommunications Authority, and as Visiting Professor at several universities around the world.



#### **Jonathan Scott (Non-Executive Director) – since October 2016**

Jonathan was appointed Non-Executive Director in October 2016. He has the additional responsibility of being Chair of the Audit and Risk Assurance Committee. Jonathan is also a Gambling Commissioner and a member of the audit committee of the Press and Assessment Board of the University of Cambridge. He was previously Senior Partner and Chair of Herbert Smith and post-merger, Herbert Smith Freehills, a leading global law firm, from 2010–15. He was responsible for setting up the Brussels office of Herbert Smith and subsequently led the competition group for 12 years. He retired as Chair and as a partner in 2015.



#### **Roger Witcomb (Panel Chair, Non-Executive Director) – until September 2016**

Roger Witcomb was appointed in July 2013. Roger chaired the Remuneration Committee from July 2015 until his term of appointment on the Board ended on 30 September 2016. He also retired from the role of Panel Chair, but remains a Panel Member of the CMA while his remaining inquiries are completed. Formerly Chairman of the Competition Commission, Roger has also been a Non-Executive Director for several companies, including Anglian Water and Infracore (a developer of infrastructure projects in developing countries), and was the Chair of Governors at the University of Winchester.

*The Board is supported by the CMA's Chief Economist and General Counsel who attend Board meetings in an advisory capacity*

**Dr Mike Walker (Chief Economist)**

Mike Walker was appointed in September 2013. Mike advises on complex cases and ensures consistently high quality advice from the CMA's economists. Mike was previously a Vice President at Charles Rivers Associates. He remains an academic at King's College, London, and the College of Europe in Bruges.

**Sarah Cardell (General Counsel)**

Sarah Cardell was appointed as General Counsel in September 2013. Sarah ensures consistently high quality legal work at the CMA, advises on the most important cases and acts as a strong advocate for competition, building relationships across the legal sector in the UK and internationally. Sarah was previously a Legal Partner of the Markets Division at Ofgem and Partner in Slaughter and May's Competition Group.

Since April 2016 the CMA has participated in the Women On Board scheme which seeks to give talented senior women board-level experience. Angela MacDonald, Director of Operational Excellence at HMRC, has joined the Board for meetings in an advisory capacity.<sup>6</sup>

To view the full biographies please visit [www.gov.uk/cma](http://www.gov.uk/cma)

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<sup>6</sup> Rebecca Lawrence, Director of Finance and Commercial, Paul Latham, Director of Strategy, Communications and Devolved Nations, and Erika Lewis, Director of Governance and Performance also attend the Board.

# CMA Panel

Decisions on Phase 2 mergers, market investigations and regulatory appeals are made by Groups drawn from the CMA Panel. Each Group has at least three members and is led by an Inquiry Chair. The CMA Panel Chair and panel members are appointed by the Secretary of State for Business, Energy and Industrial Strategy. The Groups make their decisions independently of the CMA Board. Whilst the Board is kept informed about resourcing, efficiency, the application of CMA policy and the staff processes that support the work of the Panel, its oversight role does not extend into the substance of decisions by Groups at Phase 2. On 1 October 2016, Anne Lambert succeeded Roger Witcomb as the CMA Panel Chair.

## Inquiry Chairs



### 1. Professor Martin Cave OBE

Martin Cave (appointed in January 2012) is an economist specialising in competition issues and the regulation of network industries. He was a member of the Competition Commission from 1996 to 2002. Martin is also a specialist communications and utility panel member.

### 2. Phil Evans

Phil Evans (appointed in April 2014) was previously an independent consultant on consumer, competition and trade issues, and a senior consultant to Fipra International. He is on the advisory boards of the American Antitrust Institute and the Loyola University Consumer Antitrust Institute. Phil's term of appointment ended on 31 March 2017.



### 3. Anne Lambert

Anne Lambert CMG (appointed in September 2014) spent 30 years in the UK Civil Service, focusing on regulation and EU affairs. She is also a Governor of the University of Portsmouth and a Trustee of The Woodland Trust. Anne is a specialist communications panel member and was appointed as Panel Chair on 1 October 2016.

### 4. Professor Philip Marsden

Philip Marsden (appointed in April 2014) is a competition lawyer and a Professor of Law and Economics at the College of Europe, Bruges, teaching the core LLM competition course. From 2008–2014 he was a Non-Executive Director on the Board of the Office of Fair Trading. Philip's term of appointment ended on 31 March 2017.

### 5. Simon Polito

Simon Polito (appointed in January 2012) was a

City solicitor with international law firm Hogan Lovells. He has over 30 years' experience as a specialist in UK and EU competition law and has practised in both London and Brussels. Simon is also a specialist utility panel member.

### 6. Professor Alasdair Smith

Alasdair Smith (appointed in January 2012) has been a Professor of Economics at the University of Sussex since 1981 and was Vice Chancellor of the University from 1998 to 2007. He is a member of the Determinations Panel of the Pensions Regulator. Alasdair is also a specialist communications and utility panel member.

### 7. John Wotton

John Wotton (appointed in April 2014) practised as a solicitor with Allen & Overy LLP throughout his career, retiring in 2012. He is an external expert for NHS Improvement, the sector regulator for health services in England.

Panel members		
Lesley Ainsworth	John Krumins	Jayne Scott
Marisa Cassoni	Professor Robin Mason	Ed Smith (appointment term ended on 31 March 2017)
Sarah Chambers	Jill May	Bob Spedding
John Harley	Anthony Morris	Professor Jon Stern
Rosalind Hedley-Miller	Stephen Oram (appointment term ended on 31 March 2017)	Tim Tutton
Professor Tom Hoehn	Jeremy Peat (appointment term ended on 12 September 2016)	Jonathan Whitarcar (appointment term ended on 12 September 2016)
Katherine Holmes	Andrew Popham	
Michael Hutchings	Gavin Robert	

### The following members will remain on the CMA panel until the conclusion of their assigned casework

Robin Aaronson (appointment term ended on 31 March 2017)	Malcolm Nicholson (appointment term ended on 30 April 2017)
Roger Finbow (appointment term ended on 30 April 2017)	Roger Witcomb (appointment term ended on 31 March 2017)

# Performance summary

## Funding

The CMA is accountable to Parliament for its expenditure. Parliamentary approval for its spending plans is sought through the Main Estimates presented to the House of Commons, specifying the estimated expenditure and asking for the necessary funds to be voted. The department draws down voted funds in-year from the Consolidated Fund as required.

The Estimates include a formal description ('ambit') of the services to be financed. Voted money cannot be used to finance services that do not fall within the ambit. The 2016/17 Estimate for the CMA is available at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/517801/main\\_supply\\_estimates\\_2016-17\\_web.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/517801/main_supply_estimates_2016-17_web.pdf)

In the 2015 Spending Review, HM Treasury awarded the CMA a Resource Departmental Expenditure Limit (Resource DEL) of £69.4 million and a Capital Departmental Expenditure Limit (Capital DEL) of £2.2 million for the financial year 2016/17. The Resource DEL included a ring-fenced budget of £3.5 million to cover depreciation and placed a limit of £18.9 million (including £1.1 million of depreciation) on administration expenditure.

In 2016/17 Supplementary Estimates Resource DEL was increased by £70 million to cover possible litigation costs. No change was made to Capital DEL. The CMA's Net Cash Requirement increased by £70 million to £139.1 million, reflecting the cash requirement of movements in Resource DEL.

## Outturn

For the year ended 31 March 2017 the CMA reported comprehensive net expenditure of £135.5 million. This compares to £66 million for the year to 31 March 2016.

As set out in the Statement of Parliamentary Supply, the CMA's 2016/17 Resource DEL outturn was £64.5 million, compared with an Estimate of £139.4 million. Of this total variance saving of £74.9 million, £70 million related to a provision for litigation costs which scored against Resource AME rather than Resource DEL and £1.9 million related to ring-fenced depreciation. The remaining saving of £3 million represents 2.2% of the CMA's Estimate Resource DEL limit. This net saving arose from various reasons, including adjustments relating to rent smoothing required as CMA intends to break its lease at the break date, a reclassification of research costs from Resource to Capital under a new ESA10 rule as well as a ruling in SR15 which allows CMA to offset 50% of litigation costs against Competition Act 1998 fines income received through the Trust.

The Capital DEL outturn of £1.8 million was lower than the Estimate by £0.4 million.

The CMA's Net Cash Requirement outturn of £64.1 million was £75 million lower than Estimate (£139.1 million). This variance arose predominantly from litigation costs which did not eventuate in year.

### Creditor payments, target and performance

The CMA's target is to pay suppliers promptly in line with the department standard terms and conditions, which are to pay all undisputed invoices within 30 days of receipt of invoice. In 2016/17, 98.6% of undisputed invoices were paid within the 30 day target (2015/16: 95%). This reflects the continued improvement of the CMA's systems and processes.

HM Treasury guidance is that government departments should aim to pay 80% of undisputed invoices within five days. In 2016/17 CMA paid 57% of invoices within five working days (2015/16: 53%). The department will continue to work to improve systems to ensure we meet this target in 2017/18.

### Going concern

The going concern basis is set out in note 1.16 of the CMA's financial statements. The financial statements for the CMA in respect of the year to 31 March 2017 are prepared on a going concern basis in accordance with the Financial Reporting Manual issued by HM Treasury.

The Statement of Financial Position at 31 March 2017 shows net liabilities of £80,842k (2015/16: £9,581k). Provision for resource and capital expenditure for 2016/17 for the functions performed by the CMA have been included in Estimate submissions, which have been approved by Parliament.



# How we measure performance

We have a well-developed reporting framework. An overall framework sets out the performance the government expects of the CMA, describing how it will fulfil the performance reporting requirements of the Enterprise and Regulatory Reform Act 2013, and recognising the CMA's full operational freedom to make case decisions and prioritise its use of resources and its activity.







These expectations are reflected in our strategic goals (see page 15) and in turn in a number of key commitments and initiatives set out in the CMA's Annual Plan. These were intended

as a challenging, ambitious set of targets to work towards based on our known budget and portfolio and are set out at the start of each chapter in this report along with an indication of whether we have achieved the commitment. More widely we have ensured that we have reported on our framework and strategic priorities within the text of our Performance Analysis. Performance reporting through our Annual Report is underpinned by more detailed management reporting and performance measures which are reviewed regularly by the CMA's Executive Committee and Board.



# Enforcement

## Commitments

-  Launch as many new civil competition enforcement investigations as possible, where we have the requisite evidence, with four as a minimum.
-  Open new criminal investigations and pursue prosecutions as appropriate, having regard to lessons from our most recent case as well as the change in the law in respect of cartel activity occurring from April 2014.
-  Continue to improve processes and challenge our ways of working to decrease the time taken to conclude competition enforcement investigations against a rolling three-year average benchmark.
-  Launch as many consumer cases or projects as possible where we have the requisite evidence, with three as a minimum.
-  Make appropriate use of advisory and warning letters in the case of suspected breaches of competition law, encouraging compliance without the need for a full formal investigation, and reinforcing this by publicising the broad facts where appropriate.
-  Conclude our consumer enforcement cases effectively either by agreement or by proceeding to litigation, with the majority to be concluded within 18 months of being publicly opened.

### Key

-  **Achieved**
-  **Partially achieved**
-  **Not achieved**

Effective enforcement of competition and consumer law is central to our purpose and to our function as an organisation. It is critical both for stopping unlawful anti-competitive conduct and unfair trading where it is ongoing and for deterring future breaches. It is thus key to making markets work well, both by protecting consumers and by protecting the competitive dynamic, which is the spur to increased productivity and economic growth.

## Competition law enforcement

To protect consumers, and in line with our Annual Plan commitment, we have sharply stepped up the pace, scale and impact of our enforcement to protect consumers – without sacrificing hard-won improvements to analytical rigour and quality of decision-making.

We exceeded our target for launching new cases for the third year running, launching 10 new cases – more than double our target for 2016/17. In the five years April 2010 to March 2015 we opened an average of 6.8 cases per year.

### Competition Act 1998 cases opened in 2016/17

Hydrocortisone tablets (Ch. I and Ch. II)  
 Medical equipment (Ch. II)  
 Precast concrete drainage products (Ch. I)  
 Energy price comparison websites (Ch. I) \*  
 Pharmaceutical products (Ch. II)  
 Light fittings (Ch. I)  
 Solid fuel products (Ch. I)  
 Auction services (Ch. I and Ch. II)  
 Consumable goods (Ch. II)  
 Products and/or services to the construction industry (Ch. I)

Ch. I refers to investigations under Chapter I of the Competition Act 1998, which covers illegal collusion and coordination; Ch. II refers to investigations under Chapter II of the Competition Act 1998 which covers abuse of a dominant position and includes excessive pricing.

\* Referred to the CMA by Ofgem

We imposed fines in nine infringement decisions under the Competition Act 1998 (CA98), compared to three in 2015/16. This includes the biggest fine yet under the UK competition regime – £84.2 million on Pfizer for charging excessive and unfair prices to the NHS (see our Phenytoin case study on page 32).

We cracked down on cartels in the modelling agency sector,<sup>7</sup> in the sale of posters online (see our case study on page 31),<sup>8</sup> in the supply of furniture components,<sup>9</sup> and another by suppliers of galvanised steel water tanks.<sup>10</sup> The last of these followed a related criminal investigation, which concluded in 2015 with one conviction following a guilty plea and two acquittals following trial by jury.

Whilst retaining high professional standards of fairness and rigour, we continue to work to decrease overall timescales for competition enforcement investigations, measuring this against a rolling three-year average benchmark of previous cases. For contested cases (those in which our decisions are appealed), the average duration for 2014–17 is 39 months, down from 118 months for 2011–14 (the last three years of the Office of Fair Trading (OFT)). For all cases in which we reach an infringement decision, the average duration for 2014–17 is 25 months, compared to 35 months for 2011–14.

Alongside the cases we concluded in 2016/17, we have made good progress in a range of others, issuing Statements of Objections in five investigations in markets ranging from laundry services to light fittings to further cases in the pharmaceutical sector. This includes an investigation in which we allege that Actavis UK charged excessive and unfair prices to the NHS for hydrocortisone tablets, increasing the price of 10mg tablets by over 12,000% since 2008.<sup>11</sup> In a related investigation, we allege that Actavis UK and Concordia entered into anti-competitive agreements under which Actavis UK incentivised Concordia not to enter the market with its own competing version of the drug.<sup>12</sup>

<sup>7</sup> <https://www.gov.uk/cma-cases/conduct-in-the-clothing-footwear-and-fashion-sector>

<sup>8</sup> <https://www.gov.uk/cma-cases/online-sales-of-discretionary-consumer-products>

<sup>9</sup> <https://www.gov.uk/cma-cases/supply-of-products-to-the-furniture-industry-suspected-anti-competitive-arrangements>

<sup>10</sup> <https://www.gov.uk/cma-cases/investigation-into-the-supply-of-galvanised-steel-tanks-for-water-storage>

<sup>11</sup> <https://www.gov.uk/cma-cases/pharmaceutical-sector-anti-competitive-practices>

<sup>12</sup> <https://www.gov.uk/cma-cases/pharmaceutical-sector-anti-competitive-agreements>



## Amazon Marketplace cartel

Amazon Marketplace is an online platform where traders can sell their products alongside Amazon's own offerings.

Our investigation found that two traders, instead of competing fully on price, had agreed not to undercut each other. Automated repricing software was used to achieve this price coordination. Online pricing tools, such as automated repricing software, can also help sellers compete better, for the benefit of consumers. In this case, however, the parties used the software to implement an illegal agreement to deny customers these benefits.



This is a new development and we will now be on the lookout for businesses using such software to covertly distort markets, particularly in an age of increasingly 'intelligent', 'self-learning' technologies and algorithms.

Our investigation into the companies took just over eight months from start to finish – a record for the UK competition regime.

What also stands out in this case is that, alongside imposing a six-figure fine on one of the companies, we secured our first company director disqualification for breaking competition law which, as well as protecting the public, sends a powerful message that directors must take personal responsibility for complying with competition law.

As part of our approach of supporting enforcement outcomes with strategic communications, and in the build up to 'Black Friday', we launched a targeted communications campaign to increase this case's profile among businesses trading online. With the help of online marketplace providers, we told suppliers that they must not agree to fix their prices when selling online. Although it was not a feature of this particular case, we also warned software providers that they too risk falling foul of competition law if they help their clients use software to facilitate illegal price-fixing agreements. You can read more about how we use targeted communications to increase the impact of our cases on page 38.

## Phenytoin

Phenytoin is an anti-epilepsy drug which many thousands of people across the UK rely on. In December 2016, we fined pharmaceutical companies Pfizer and Flynn Pharma nearly £90 million for abusing their dominant position in the market by charging excessive and unfair prices to the NHS for this important medicine. We also ordered the companies to reduce their prices.



Our extensive and detailed investigation found that prices for Phenytoin increased by up to 2,600% overnight after Pfizer debranded the drug in 2012. These price increases cost the NHS around £48 million in 2013 alone.

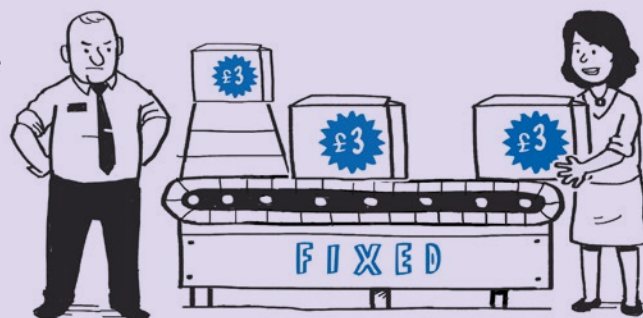
If the NHS unnecessarily pays too much for medicines because of anti-competitive practices, there is less money to go round for other treatments. So all of us, as users of the NHS, lose out. And when the NHS faces unnecessarily higher charges, all of us who fund the NHS through our taxes – that is, millions of ordinary taxpayers – could also face tax bills that are higher than they need be because of anti-competitive practices.

This is our biggest fine to date and sends a clear message to the sector that we are determined to crack down on such behaviour. Competition enforcement in the pharmaceutical sector remains an important element of our portfolio, with several investigations underway.

The phenytoin case is currently subject to appeal.

## Tackling resale price maintenance

In 2016, the CMA found that two businesses, one supplying commercial refrigerator catering equipment and the other supplying bathroom fittings, had broken competition law by preventing retailers from selling their products online at prices of their own choosing. This amounted to illegal online resale price maintenance (RPM) as it is vertical price-fixing, preventing retailers from offering lower prices and setting their prices independently to attract more customers.



We imposed a fine of over £2 million on the supplier in the commercial refrigerator catering case, and over £780,000 on the manufacturer in the bathrooms case. The suppliers' fines were each reduced for setting up a comprehensive competition law compliance programme that included staff training. Each supplier also benefited from a 20% fine reduction because it admitted breaking the law and fully co-operated with the CMA under a settlement agreement.

The message from these cases is clear: the CMA takes RPM seriously and is focused on tackling anti-competitive practices that puts the many potential benefits of e-commerce at risk.

Alongside pursuing civil enforcement action against companies for their involvement in cartels, we can also seek disqualification of individuals as directors and prosecute individuals for the criminal cartel offence.

During the year we secured the first ever disqualification of a company director for breaking competition law, using our range of powers to penalise wrongdoing and sending an important signal that directors must take personal responsibility for complying with competition law.<sup>13</sup> You can read more about this case in our Amazon Marketplace cartel case study on page 31.

Following a guilty plea by one individual, we continued our criminal investigation into suspected cartel activity in the supply of pre-cast concrete pipes to the construction industry. We closed this criminal investigation in June 2017<sup>14</sup>; the civil investigation remains

ongoing.<sup>15</sup> Our intelligence and investigation teams continue to develop leads in relation to allegations of other cartels.

We have also continued to invest in our cartels capability by improving our investigation tools. This includes expanding the availability of Nuix, a system which allows us to organise and analyse large amounts of evidence gathered during our raids and investigations.

A number of our civil enforcement cases have followed criminal investigations. In the galvanised steel water tanks case referred to on page 30, we fined three firms more than £2.6 million for illegally fixing prices of tanks, rigging bids for contracts and sharing markets between 2005 and 2012. And in a furniture parts case, which began as a criminal investigation, we imposed fines of £2.8 million for a cartel involving three companies that fixed prices and shared out which customers they would supply.

<sup>13</sup> <https://www.gov.uk/cma-cases/online-sales-of-posters-and-frames-director-disqualification>

<sup>14</sup> <https://www.gov.uk/cma-cases/criminal-investigation-into-the-supply-of-products-to-the-construction-industry>

<sup>15</sup> <https://www.gov.uk/cma-cases/supply-of-precast-concrete-drainage-products-civil-investigation>

## Staying ahead in the digital age



Online aspects of markets have become a major focus of our work.

Rapid technological advances and the adoption of new ways of doing business are feeding disruptive innovation, especially in consumer markets. This is helping to stimulate further innovation, open up new markets and force incumbents to improve their offer. Such change can benefit consumers through greater choice, but it can be confusing as the old rules may no longer apply.

Over the year we have continued to use our full range of competition and consumer protection tools to seek to drive better competition and choice in online markets. And we have sought to promote competition and protect consumers in a way that still allows businesses to respond in new and innovative ways to evolving technologies, markets and consumer demands.

Using competition law, we imposed a fine for price collusion on Amazon Marketplace, where two traders used price-matching software to put their agreement not to compete on prices into practice. In two other cases we clamped down on resale price maintenance online and, in a further case, we have alleged that Ping, one of the world's best-known golf club manufacturers, prevented its authorised retailers from selling Ping golf clubs online,

potentially in breach of competition law. That investigation remains ongoing.<sup>16</sup>

Trust in online markets is essential if the digital economy is to develop towards its full potential. We want to be sure that 'what we're seeing is what we're getting'. In the consumer protection part of our portfolio we have been examining behaviour which may jeopardise this trust, including in connection with online reviews and contracts for cloud storage services, so that customers are treated fairly.

And we are undertaking a market study of digital comparison tools, including price comparison websites, because of their importance for shoppers navigating the online world.<sup>17</sup>

We have publicly argued for legislative and regulatory frameworks that allow new or disruptive business models which harness technological advances to develop, while ensuring that consumers remain adequately protected. For example, in 2016/17 we responded to regulatory proposals in taxi and minicab markets in London and Sheffield. You can read more about these in a case study on page 60.

We are building our expertise in identifying potential issues online, be it through our use of social media to track trends and engage directly with the public, or through our investment in forensic intelligence capabilities to capture and process digital evidence ever more effectively.

The digital revolution will continue to change how markets and businesses work. We need to make sure that our practices and interventions keep pace with that evolution. This will require boldness in tackling issues quickly in rapidly evolving markets, but also prudence to ensure that the CMA and other decision makers do not intervene in ways which inadvertently undermine or inhibit online innovation.

<sup>16</sup> <https://www.gov.uk/cma-cases/sports-equipment-sector-anti-competitive-practices>

<sup>17</sup> <https://www.gov.uk/cma-cases/digital-comparison-tools-market-study>

Consumer enforcement cases opened in 2016/17	Consumer enforcement cases concluded in 2016/17
<p>Improving review site practices</p> <p>Non-disclosure of paid endorsements (social media)</p> <p>Car hire intermediaries terms and conditions</p> <p>Secondary ticketing compliance review</p> <p>Secondary ticketing enforcement investigation</p> <p>Online gambling terms and conditions</p> <p>Care homes compliance review</p>	<p>Groceries pricing practices</p> <p>Improving review site practices</p> <p>Non-disclosure of paid endorsements (social media)</p> <p>Undisclosed online advertising</p> <p>Cloud storage terms and conditions</p> <p>Secondary ticketing compliance review</p> <p>Higher education terms and conditions</p>

## Consumer enforcement

We can also use consumer law to achieve change across markets that are not working well for people.

Following changes in 2014, local Trading Standards Services (TSS) have lead responsibility for national enforcement of consumer law. The CMA's focused enforcement role in the consumer protection landscape involves market-wide practices and, in particular, those that make it difficult for consumers to exercise informed choice. We also lead on consumer policy development, both domestically and internationally, in areas where we have specific responsibility such as unfair contract terms or where we have particular expertise.

In December 2016 the National Audit Office published its review of the consumer protection landscape in England and Wales. It found that the CMA is achieving good impact in addressing market-wide consumer issues and generates at least £74 million of direct financial benefits to consumers, more than 12 times its cost to the taxpayer for these functions.

Exceeding our Annual Plan commitment for the third consecutive year, we publicly launched seven projects in 2016/17. Our projects can be either initial reviews across a sector, or enforcement cases targeted at one or more companies. The challenges arising from the UK's increasingly digital economy remain a particular focus of our consumer enforcement; all but one of our new consumer enforcement cases opened in 2016/17 has online or digital features.

You can read about our secondary ticketing compliance review and investigation, as part of our work in the Consumer Protection Partnership, in the Partnership and Advocacy chapter on page 55.

Unlike our markets and mergers work, our consumer enforcement activity has no statutory timescales, although our internal target is to complete our cases and projects within 18 months of publicly launching them. For the second year running, we concluded all consumer enforcement cases within this timeframe, compared to 80% in 2014/15.

Major companies committed to change their practices following our work. You can read more below about commitments from Apple, Google, Microsoft and others following our cloud storage project. In April, Asda committed to change its promotional practices around 'was/now' and multi-buy deals, and strengthen its compliance controls, following our investigation into groceries pricing practices. And Glasgow University committed to change a contractual term so that students wouldn't be prevented from re-enrolling or graduating if they owe non-tuition fee debts, such as unpaid

accommodation or library fees.

We are currently unable to fine companies who break consumer law by misleading or mistreating consumers, so we very much welcome the government's commitment to give us additional powers to seek fines in our consumer enforcement, complementing our powers to impose fines when companies break competition law. Many of our sister agencies in Europe already have such powers and we think this will make a real difference to our ability to ensure that all companies treat their customers fairly.

### Cloud storage

We take a close interest in unfair terms, particularly in the digital economy. Prompted by concerns from customers about price and service changes, we looked at cloud storage services and found that they can offer many benefits. Around one third of British adults rely on cloud providers to keep things like family photos, music, films and important documents safe.

Although most people told us they use free services that came with their devices and were satisfied with the services provided, we also heard some complaints and found that some people may not be choosing services that are right for them. There were some terms and conditions which caused concern, for example, giving companies the ability to change the service or terms of the contract or suspend or terminate the contract, for any reason and without notice.

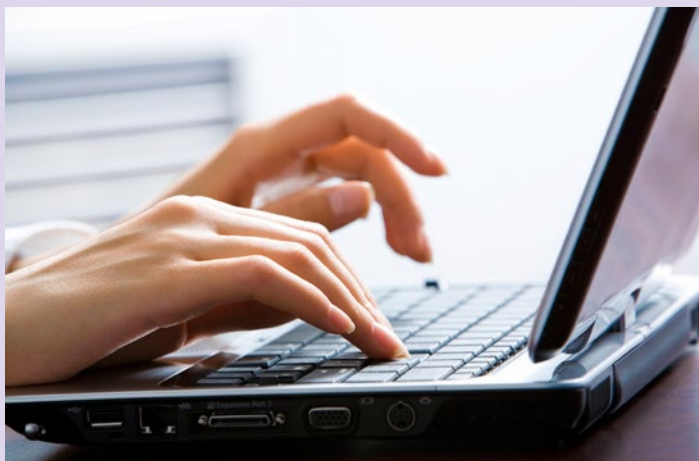
We believe it is important that customers are treated fairly and are not hit by unexpected price rises or changes to storage levels. We worked with the industry to improve compliance with consumer law and as a result 10 companies gave commitments to provide their cloud storage customers with fairer contracts. Among this number are Amazon, Apple, Microsoft, Google, BT and Dropbox, who between them hold over 90% of the UK market.

As a result, millions of cloud storage customers will benefit from fairer terms.



## Online reviews and endorsements

Online reviews have become a powerful and valuable source of information, helping people to make informed choices about what to buy. Misleading reviews and endorsements put these benefits at risk: businesses could reap commercial rewards for the wrong reasons and honest firms who play by the rules lose out.



In 2015, we issued a call for information to help us understand better this rapidly developing part of the online economy. In 2016, acting on concerns raised by this report, we pursued five enforcement cases, successfully stopping bad practices. These included review sites suppressing negative reviews, and the publishing of fake reviews and unlabelled advertising where social media celebrities are paid to promote a product without making this clear to consumers. Alongside this enforcement, we also worked to promote best practice within the sector.

We collaborated with our international counterparts to agree a common set of global principles for the sector through our Presidency of the International Consumer Protection and Enforcement Network (ICPEN). In the UK, we worked closely with key industry stakeholders, speaking at numerous events on the importance of honesty and transparency in marketing. The campaign was well received and the CMA's guidance welcomed; it is now referenced in template contracts supplied by trade associations for marketing professionals working with online influencers. The Government Communication Service shortlisted the CMA's campaign for an Excellence Award.

## Promoting compliance

We know that most businesses want to comply with the law and we are committed to helping them do so. Improved compliance leads to markets which work better for consumers, businesses and the economy as a whole.

Enforcement and compliance work are two sides of the same coin. For example a compliance campaign which is based on a successful enforcement case can significantly amplify the deterrent effect of that case. This, in turn, can help to ensure that businesses understand the law better, are more likely to comply with it, and are more likely to report illegal activity if they become aware of it – a virtuous circle.



One example of this is our recent cartel enforcement case against a group of local estate agents. We discovered this case from intelligence gathered as a result of a 2015 compliance campaign based on earlier enforcement action in this sector.

As part of our focus on encouraging others to report potential breaches of the law, we ran two workshops for NHS staff on how

to spot and stop anti-competitive behaviour by suppliers of medicines to the NHS when they purchase medicines and other clinical services. This built on the impact of the large fines we recently imposed on pharmaceutical companies. We are currently developing

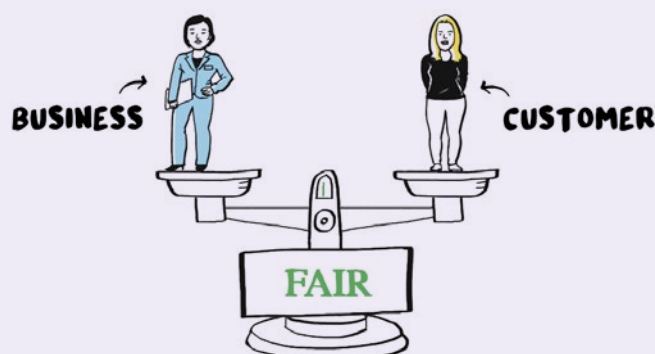


this workshop content into an e-learning tool. Similarly, we worked with procurement professionals and anti-fraud teams – particularly in local authorities – to help them spot illegal cartels in bids for public contracts. We have also developed an open-access e-learning module to help these buyers spot bid-rigging,<sup>18</sup> and we secured the support of professional organisations to distribute it to their members. We will also soon publish a free tool that allows procurers to screen bid data and check for signs of suspicious activity in tenders.



<sup>18</sup> <https://builtintelligence.com/pages/learn-how-to-spot-bid-rigging>





Our new 'Cracking down on Cartels' digital marketing campaign raised awareness about cartels and also encouraged those who have witnessed or been part of a cartel to report it to us. Our social and website advertising was placed over 11 million times and led to over 12,000 clicks and other engagements. During the campaign over 7,000 people visited our new Cracking down on Cartels webpage<sup>19</sup> and we saw a doubling in cartel reporting.

We also sought to educate businesses on resale price maintenance following our cases involving suppliers of catering equipment and bathroom fittings and we raised awareness of how competition law applies to online trading following a price-fixing cartel by two sellers on Amazon Marketplace.



We extended the reach of all our competition law campaigns by contacting over a thousand law firms across the UK, requesting that they share our advice with their SME clients. We have also promoted compliance in the nations and regions of the UK, holding outreach events in both Scotland and

Manchester. And we have translated our animated videos and 60 second summaries into Welsh to promote these to a Welsh-speaking audience.












As part of our consumer law compliance activity we focused on increasing awareness of the rules on unfair contract terms, running a digital marketing campaign to help businesses understand what makes a contract term fair or unfair. We knew from our research that 54% of those surveyed don't understand the rules on unfair contract terms well, which could have a direct effect on how they treat their customers. We have therefore launched a suite of materials tailored for SMEs, which our research showed were the least aware of this issue. These materials, which include simple guides and videos, explain in a straightforward and user-friendly way what makes a term unfair and how to treat customers fairly. We ran a digital marketing campaign to raise awareness of unfair contract terms and point people to our help and guidance. The campaign ran across Facebook, LinkedIn, Twitter and YouTube for four weeks. During that time our videos were viewed just under 50,000 times on YouTube, and over 169,000 times on Facebook.

<sup>19</sup> <https://stopcartels.campaign.gov.uk/>



# Markets and mergers

## Commitments

-  Following the conclusion of the energy and retail banking market investigations, commence a review of how we carry out market investigations.
-  Launch two to four new markets projects in the course of this year, including one on the subject of price comparison websites.
-  Launch one to two new pieces of policy or markets work in the regulated sectors.
-  Clear at least 70% of merger cases that are less complex (and therefore do not require an issues meeting and case review meeting) within 35 working days.
-  Publish guidance on how to interact with the CMA on non-notified mergers including the operation of our mergers intelligence work.
-  Launch a review of the CMA's Commentary on Retail Mergers.
-  Launch an internal project to consider the use of formal information-gathering powers across the CMA's mergers and markets portfolio at both Phases.
-  Launch a review of 30 to 40 older, mostly behavioural, merger remedies using a similar approach to the review of 76 structural merger remedies conducted in 2015/16.
-  Launch three to four further reviews of existing merger or market remedies in the course of this year.
-  Launch an internal review of the practical, legal and policy considerations involved in the design, implementation, enforcement and monitoring of remedies in regulated sectors.
-  Implement Phase 2 merger and market investigation remedies without the need for an extension to the statutory deadline in at least 70% of cases, as measured as a three-year average of all relevant merger and markets cases.

### Key

-  **Achieved**
-  **Partially achieved**
-  **Not achieved**

## Markets

Effective enforcement is only one means by which we make markets work well for consumers, businesses and the economy. Some markets can become uncompetitive and consumers can lose out even where there is no formal breach of competition or consumer law.

The UK's markets regime allows us to look at specific markets or practices and to consider how competition can work better in the interest of customers, be they households or

businesses. We respond to any issues we find through agreeing or imposing remedies, making recommendations to government, or providing guidance and information.

We are responsible for both market studies and market investigations (Phase 1 and Phase 2); independence between these Phases is essential to the effective functioning of the UK markets regime.<sup>20</sup>

## Making major markets work better for households and businesses

We are in markets to secure lasting change and we have prioritised work which allows us to make an enduring difference in regulated sectors. Companies operating in them provide essential services to virtually all households and businesses in the country, so affordability and quality is really important. We have used our range of tools to protect consumers and help them get a fair deal in these multi-billion pound sectors, particularly through market studies and investigations.

### Energy market investigation

In June 2016, the CMA completed the biggest investigation into the energy sector in Great Britain since it was privatised, identifying over 30 measures to increase competition, help

customers get a fairer deal and modernise the market for the future.<sup>21</sup>

The report identified that UK customers have been paying £1.4 billion a year more than they would in a fully competitive market. Around 70% of customers of the 'big six' energy firms are on the most expensive 'default' tariffs and the CMA's analysis showed that they could save more than £300 by switching to available cheaper deals.



With a big increase in the number and market share of independent companies challenging the established providers by offering cheaper fixed deals, the CMA has looked to build on this positive development. Changes have been designed to enable those with the incentive to help people save money by switching, such

<sup>20</sup> Following a Phase 1 market study, decisions to initiate a Phase 2 investigation must be made by the CMA Board, which is independent of the Phase 2 investigation process. If a Phase 2 market investigation is commenced, an independent inquiry group, chaired by independent members of the CMA's expert panel assesses the evidence and directs the investigation.

<sup>21</sup> <https://www.gov.uk/cma-cases/energy-market-investigation>

as price comparison websites (PCWs) and rival suppliers, to bring the benefits of competition to millions more customers.

PCWs will be able to play a greater role in driving down prices and easing the switching process. Industry regulator Ofgem, which is taking forward a number of the measures resulting from the CMA report, is also undertaking a programme to increase customer engagement and awareness. In addition, we recommended the creation of a database of customers who have been on the most expensive tariffs for more than three years. This will allow rival suppliers and Ofgem to prompt them to switch to a better deal by telling them how much they can save based on their actual usage, and giving them direct and easy access to much better deals.

We stressed that these initiatives should be tested with customers beforehand to ensure they are as effective as possible – Ofgem has started trials to do precisely this.

We also stepped in to protect prepayment customers, who don't have the same access to the cheapest deals and whose options to switch are far more limited. As a result, these households, who include some of the most vulnerable customers, had their bills capped from April 2017 – saving them collectively £300 million a year. The cap will remain in place until the roll-out of smart meters removes these disadvantages.

Our investigation found that microbusinesses (those that employ 10 or fewer people) were also losing out in the energy market. Suppliers are required from April 2017 onwards to publish their prices for such customers, whilst contracts that lock microbusinesses into expensive 'rollover' deals have been banned.

We put forward recommendations and orders for a wide range of technical changes – such as

reforming outdated measuring and charging systems, reducing transmission costs and delivering low carbon generation at the lowest cost to customers – as well as calling for Ofgem to have much greater power to push through change and keep the market under close scrutiny.

Modernising this market will ensure it works in customers' interests and prepare it for a world where smart meters and other technological changes transform the way we consume and pay for this essential product.

The UK government has not formally responded to our recommendations, although the incoming government has committed to extending price protection to protect more customers who do not switch from abusive price increases.

## Retail banking market investigation



In August 2016 we announced the Open Banking revolution – a package of measures which will ensure substantial benefits for bank customers for decades to come.<sup>22</sup>

Personal current account customers can save an average of £92 a year by switching, people who stray into overdraft for one or two weeks a month can see that double to an average of £180 a year and small businesses can save around £80.

<sup>22</sup> <https://www.gov.uk/cma-cases/review-of-banking-for-small-and-medium-sized-businesses-smes-in-the-uk>.

Yet switching rates languish at only 3% for personal customers in Great Britain and 4% for small businesses. Our remedies will make it easier for people to find a better deal, exploiting new technology to force banks to work harder for their customers. In total, we expect customers to benefit by up to £1 billion within a period of around five years through our actions.

We launched our retail banking market investigation in November 2014 following the completion of a market study. We found that older and larger banks, which still account for the large majority of the market, do not have to compete hard enough for customers' business, and smaller and newer banks find it difficult to grow. This means that many people are paying more than they should and are not benefiting from new services. We concluded that these failings are having a pronounced effect on certain groups of customers, particularly overdraft users and smaller businesses. They also mean that the sector is still not as innovative or competitive as it could be.

Part of our far-reaching solutions to these problems was to require banks to implement Open Banking by 2018. A body, set up under our Order and chaired by an independent trustee working to the CMA, is now agreeing a system which will allow customers to safely share their data with banks and other providers of financial services, so they can take complete control of their own finances. This will introduce greater competition into the sector by breaking down the barriers which have made it too easy for established banks to hold on to their customers, and increasing the scope for innovation and the introduction of new products and services.

From August 2017 every bank will also have to set a cap on their monthly charge for unarranged overdrafts and tell their

customers what it is. From February 2018 banks must also inform people when they are about to go into overdraft and incur charges so they can take action to avoid them.

And from August 2018, banks must publish independent survey results on how their service quality compares with their rivals – so people can easily compare and choose the one which suits them best.

Switching is to become even easier. In January, Bacs committed to making important changes, such as extending the redirection service operated by the Current Account Switch Service (CASS) within a year. This will further reassure customers that all their payments will be switched from their old account to their new one, helping to overcome a key concern about moving banks.

Small business customers will benefit from Open Banking and from banks having to publish Annual Percentage Rates (APR) for unsecured loans up to £25,000 and the Effective Annual Rate (EAR) for standard tariff overdrafts from August.

Improved comparison services aimed directly at small businesses are also on the way. In March, the Nesta Open Up Challenge launched. It will offer prizes to innovators to build game-changing services, apps and tools for UK small businesses. By September 2018, initial entries will be whittled down to those that are ready to go live.

### Legal services market study

Our year-long study found that competition in the legal services sector in England and Wales is not working well. This is an important sector for individual customers, small businesses and for the economy as a whole; around £11–12 billion a year is spent on legal services in the areas covered by our study, including

commercial, employment and family law, conveyancing, wills and probate.<sup>23</sup>

The lack of sufficient information on price, quality and service means that people find it difficult to choose the right option when seeking legal services which people typically do at crucial points in their lives, for example when they are buying a property, resolving a dispute, or want expert advice on a range of matters. The cost of apparently similar services can vary widely and people also struggle to find enough information to figure out what their legal need is in the first place.

Clear and accurate information is really important in this sector given that people find it difficult to compare and choose legal services providers. People who are equipped with the information they need to assess the services on offer and choose the best deal for them, will not just benefit personally but will also help drive competition, quality and innovation across the whole market. That means a better outcome for everyone and, importantly, fewer people will be discouraged from seeking the help they need.



We set out a range of solutions to these problems, challenging providers and regulators to help customers better navigate the market and get value for money. This includes recommending that frontline regulators act to improve transparency on price and quality, and to revamp the existing Legal Choices website to be a starting point for people needing guidance on buying legal services.

To ensure that these measures make a difference, we will revisit this sector after three years and will intervene if progress is not satisfactory.

We launched a new market study into Digital Comparison Tools (DCTs), such as PCWs and smartphone apps. Our reviews of sectors such as private motor insurance, energy and retail banking have shown that DCTs have become an important way for many people to buy services such as insurance and utilities. If working well, they can play a powerful role in increasing competition and helping consumers to find better deals and switch. For example, our consumer survey showed that in the past year 84% of people looking for car insurance used a comparison site, 67% looking for energy, and 52% for broadband.

Our work so far suggests that digital tools generally work well for consumers, who really value the service they provide. However, our report suggests that improvements may be necessary to help more people get even better deals.

We also launched another new market study into care homes for the elderly in England and Wales, to assess how people find the experience of choosing a care home, to explore whether the current regulation and complaints system gives residents adequate protection, and to examine how well care homes are complying with their obligations under consumer law. We published our interim report in June 2017,<sup>24</sup> launching a consumer enforcement investigation into a number of care homes' charging practices as part of our ongoing examination of the sector.

We will conclude both these market studies in 2017/18.

Following the conclusion of our energy and retail banking market investigations, we launched a review of how we carry out market investigations. In March 2017 we published a consultation on proposals

<sup>23</sup> <https://www.gov.uk/cma-cases/legal-services-market-study>

<sup>24</sup> <https://www.gov.uk/cma-cases/care-homes-market-study>

which we believe will enable us to carry out these complex projects more quickly without reducing their effectiveness. You can read more about this in the Developing the CMA chapter on page 65.

Due to other priorities during the year, we did not fulfil our commitment to launch an internal project to consider the use of formal information-gathering powers across the CMA's mergers and markets portfolio at both Phases.

## Mergers

We operate a fair, efficient and transparent merger control system, protecting consumers whilst minimising burdens on businesses.

We have continued to find ways to improve the efficiency of our merger control, exploiting the opportunities from conducting both Phases under one roof. We take a more flexible and targeted approach than our predecessors and have embedded an efficient end to end process.

We committed to completing 70% of less complex mergers within 35 working days; we achieved 81% and the average number of working days across all Phase 1 cases remained at 34.

The UK operates a voluntary notification regime, which helps businesses and the taxpayer as it helps to ensure we do not spend time investigating mergers that are unlikely to raise any competition concerns. To ensure we keep track of non-notified merger activity, our Mergers Intelligence Committee scans industry transactions – 682 this year – and calls in any which could merit investigation. In 2016/17 the CMA reviewed 13 mergers called in by the Mergers Intelligence Committee, of which nine had already been completed before our investigation began.

Firms can send us an informal briefing on the intended merger if they are unsure if it will fall within our scope, rather than having to submit a formal notification and trigger an investigation. This is an example of the targeted approach we take to merger control, which has helped to maintain a very low number of notified mergers 'Found Not to Qualify' – just three in the past two years combined compared to 10 in 2014/15.

In line with our Annual Plan commitment, we published clear guidance on this process and how our Mergers Intelligence Committee works.

Our approach has helped to ensure that we reviewed only 57 Phase 1 mergers in 2016/17,

Merger performance	2014/15	2015/16	2016/17
% mergers Found Not to Qualify (number)	12 (10)	3 (2)	2 (1)
% of Phase 1 investigations completed in 40 working days	100	100	100
% of less complex merger cases cleared within 35 working days	23	74	81
Average number of working days across all Phase 1 cases	37	34	34

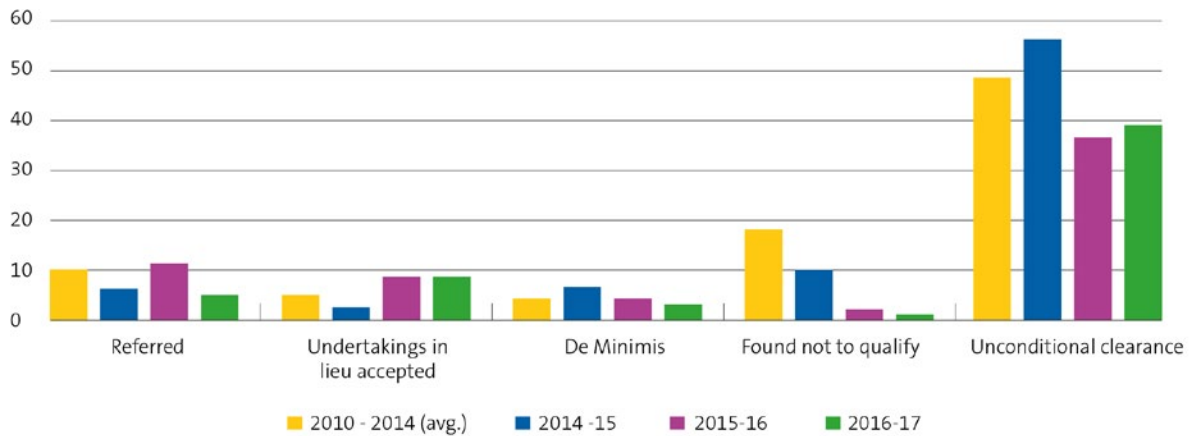


compared to 62 in 2015/16 and an annual average of 84 in the preceding five years. This still equates to us reaching a final decision in at least one Phase 1 merger investigation each week of the year, but it means that we are spending our time looking at the right cases.

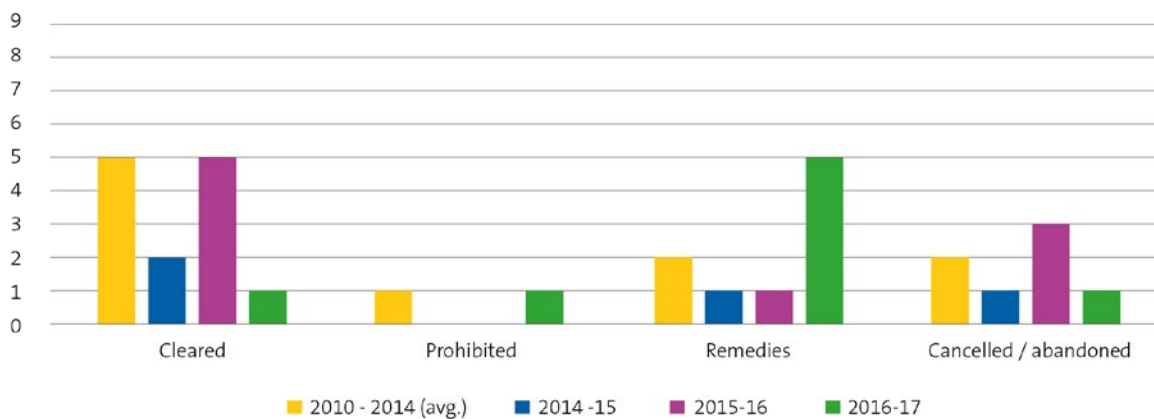
Phase 2 investigations are time-consuming and costly – both for the businesses involved and the CMA. So we only want to carry them out where

we find a competition problem arising from a merger which the companies cannot resolve through offering acceptable undertakings at Phase 1. We have continued to make good use of our power to agree to acceptable undertakings in lieu of a Phase 2 investigation, saving money and time for firms and taxpayers by allowing our concerns to be addressed proportionately and promptly through undertakings in nine separate cases.

### Phase 1 merger outcomes



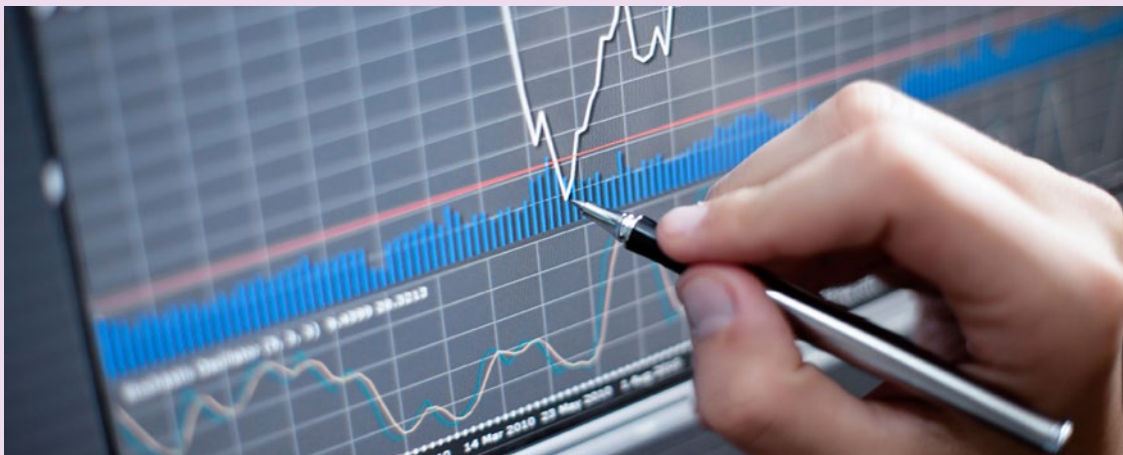
### Phase 2 merger outcomes



Retail mergers account for a significant proportion of the cases which we investigate – one out of every six Phase 1 investigations in 2016/17. Some of the questions that such mergers raise are largely specific to the sector. In line with our Annual Plan commitment, we

reviewed our Commentary on Retail Mergers, which was last published by our predecessor organisations in 2011, to reflect our recent experiences. We published the updated document in April 2017.

## The CMA's first divestment – ICE/Trayport



Intercontinental Exchange, Inc. (ICE) acquired Trayport Inc. (Trayport) in December 2015, before the CMA carried out an investigation of the merger. ICE is the largest operator of exchanges and clearinghouses in European utilities trading. Trayport is a provider of software which underpins around 85% of European utilities trading.

In October 2016, following an in-depth Phase 2 investigation, we found that ICE could use its ownership of Trayport's platform to reduce competition between itself and its rivals. This could lead to a range of adverse consequences for traders and venues in the important wholesale energy markets.

The CMA's group of independent panel members decided that ICE must sell Trayport to a new owner, to be approved by the CMA, in order to preserve competition. This is the first full divestment ordered by the CMA following a merger review.

What also makes this case stand out is that it was our Mergers Intelligence Committee which 'called in' the merger as part of its systematic review of transactions, ensuring that we retain visibility of non-notified mergers.

The companies appealed and in March 2017 the Competition Appeal Tribunal (CAT) upheld our decision that ICE must sell the Trayport business. The CAT remitted one aspect of the divestment remedy back to us for further consideration and the companies have been refused permission to appeal the judgment of CAT to the Court of Appeal.

## High street mergers

The CMA investigates mergers in markets of many shapes and sizes. Often these investigations involve companies the average consumer would not recognise, and products or services which they would rarely (if ever) buy themselves. Some examples from this year include mergers of businesses which make fuel pumps, livestock ear tags, arcade games and self-adhesive labels. Whilst the markets or products may be less familiar

to ordinary members of the public, these investigations are not without merit; a lessening of competition in any part of the economy can ultimately feed through to consumers.



But we also investigate mergers of well-known high street names, making sure that consumers don't lose out as a result. A selection of these from 2016/17 includes mergers of Ladbroke's/Coral, Sainsbury's/Home Retail Group, JD Sports/Go Outdoors, Co-operative/ML Convenience, Sainsbury's Pharmacy Business/Celesio and Cineworld/Empire Cinemas.

Our work in these and other investigations means that customers of these businesses can feel confident that they are protected and getting a fair deal when they buy goods or services from these companies.

## Acadia Healthcare Company/Priory Group No. 1

Typically, patients in need of in and outpatient mental healthcare services are referred by the NHS and local authorities in England and Wales to private providers as the NHS lacks the capacity to provide such services close to the patient's home.

These companies are two of the largest providers of these services in the UK.



Our initial (Phase 1) investigation found that the merger would substantially reduce the number of providers in 20 local areas and across five mental healthcare services – including acute services, psychiatric intensive services, and services for children and adolescents. This could raise prices to the NHS and lower the quality of care given to patients. When we put these concerns to them, the companies agreed to sell 22 hospitals (one of which is unopened) to BC Partners, preventing a loss of choice that could be damaging to the NHS and patients in many parts of the UK.

As a result, we did not need to refer the anticipated merger for an in-depth Phase 2 investigation.

Merger	Outcome	SLC date	Phase 2 decision date
Breedon/Hope	Accepted undertakings in lieu after Phase 1 decision	12/04/2016	
ICE/Trayport	Referred to Phase 2 and prohibited	27/04/2016	17/10/2016
Northern Rail Franchise	Referred to Phase 2 and cleared with remedies	12/05/2016	02/11/2016
Hain/Orchard	Accepted undertakings in lieu after Phase 1 decision	17/05/2016	
Tullett/ICAP	Accepted undertakings in lieu after Phase 1 decision	07/06/2016	
GTCR/PR Newswire	Accepted undertakings in lieu after Phase 1 decision	20/06/2016	
Acadia/Priory	Accepted undertakings in lieu after Phase 1 decision	14/07/2016	
Vtech/Leapfrog	Referred to Phase 2 and cleared	18/08/2016	12/01/2017
Diebold/Wincor	Referred to Phase 2 and cleared with remedies	19/08/2016	16/03/2017
Future/Miura	Accepted undertakings in lieu after Phase 1 decision	07/10/2016	

Merger	Outcome	SLC date	Phase 2 decision date
Dover/Wayne	Accepted undertakings in lieu after Phase 1 decision	10/10/2016	
Co-op/ML Convenience	Accepted undertakings in lieu after Phase 1 decision	19/10/2016	
Novomatic/Talarius	Accepted undertakings in lieu after Phase 1 decision	28/10/2016	
AMC/Odeon	SLC finding; Accepted undertakings in lieu after Phase 1 decision in April 2017	08/12/2016	
Menzies/ASIG	SLC finding; Accepted undertakings in lieu after Phase 1 decision in April 2017	15/12/2016	
Mastercard/Vocalink	Accepted undertakings in lieu after Phase 1 decision in April 2017	04/01/2017	
NFA/Acorn	Accepted undertakings in lieu after Phase 1 decision in June 2017	30/01/2017	
CMFT/UHSM (Manchester Hospitals)	Referred to Phase 2 (fast track) and currently ongoing	27/02/2017	

There was one other SLC finding, Safetykleen/Pure Solve, which was abandoned before any outcome was reached.

## Remedies

A strong remedies process is essential to the overall efficacy of any competition regime as this is very often how competition authorities' decisions are put into practice.

Our integrated approach to market and mergers remedies provides more continuity in the handling of remedies throughout their lifetime, as well as more opportunities for proactive remedies review. As a single agency, we can learn from each stage to improve how we do the next, for example by applying lessons from monitoring existing remedies to how we design new ones.

Over our first three years, we have implemented 100% of new Phase 2 markets and merger remedies without extending the statutory deadline. This includes the wide-ranging sets of remedies in our energy and retail banking market investigations which we put in place within six months of publishing our final reports – faster than under the old, pre-CMA regime.

We are in markets to secure lasting change; we make sure that companies adhere to the remedies we order so that households and other businesses achieve the intended benefits. In 2016/17 we issued directions to Barclays, Lloyds Banking Group, Santander and Aviva for breaching an order arising from the CC's 2011 Payment Protection Insurance market investigation. We also issued directions to Co-op Insurance for not complying with an order arising from the CMA's 2015 private motor insurance market investigation.

Alongside monitoring companies' adherence to our newer remedies, we must make sure that our older remedies continue to serve a useful purpose and do not impose unnecessary costs on businesses or distort how markets operate.

In line with our Annual Plan commitment, we consulted on 40 sets of older merger remedies. We prioritised and reviewed 15 sets based on feedback we received during that consultation.



Of these 10 have been released, four found to have lapsed and one has been retained.

And meeting another Annual Plan commitment, we launched in-depth reviews of three sets of remedies (National House Building Council, BAE Systems and FirstGroup Holdings Ltd.).

As set out in the feature on page 42, we have an important role in both diagnosing problems and prescribing solutions in regulated markets, and many of our remedies are in such markets. To make sure we carry out this role effectively, we carried out an internal review of the practical, legal and policy considerations involved in the design, implementation, enforcement and monitoring of remedies in regulated sectors. We also worked with sector regulators to improve our collective understanding of how consumers in regulated markets behave, so that we can design demand-side remedies that really work.

## Regulatory appeals

The CMA is responsible for references concerning, and appeals against, the decisions of certain regulators,<sup>25</sup> for example on regulatory price caps or modifications of licence conditions.

This is an important part of our role and the decisions being challenged often concern significant sums of money for the regulated companies and affect millions of consumers across the UK. The scale of investment in regulated

sectors – amounting to billions of pounds annually – highlights the importance of an efficient and stable regulatory regime for business.

Alongside an energy licence modification appeal (concluded June 2017), the CMA conducted two regulatory appeals from BT and TalkTalk in 2016/17 following Ofcom's decision on superfast broadband pricing. We also carried out two regulatory appeals from CityFibre and Talktalk in relation to Ofcom's leased lines charge control, publishing final decisions in April 2017.

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<sup>25</sup> These include decisions of regulators such as Ofcom, Ofgem, Ofwat, Monitor, the Financial Conduct Authority, Payment Systems Regulator, Northern Ireland Utility Regulator, Office of Rail Regulation and the Civil Aviation Authority, and the responsibilities conferred more recently by the Health and Social Care Act 2012, the Civil Aviation Act 2013 and the Financial Services (Banking Reform) Act 2013.





# Partnership and advocacy

## Commitments

-  Successfully conclude our term as Presidency of ICPEN, working with national and international partners to deliver a programme of work focused on enforcement on issues of global concern to develop and deliver our consumer portfolio.
-  Continue to play a leading role in the development of consumer protection internationally, particularly in Europe.
-  Carry out and publish research among stakeholders in a range of our concluded projects, to inform further improvements to our project delivery.
-  Based on our work, make recommendations to the government on the impact of policy frameworks on competition in at least two sectors.
-  Work with the National Infrastructure Commission to help it to take full account of competition issues.

### Key

-  **Achieved**
-  **Partially achieved**
-  **Not achieved**

Achieving our mission relies on productive relationships in the UK and internationally. During this year, we have worked hard to sustain and develop partnerships both here and overseas.

In 2016/17, we have continued to play an active role in the Consumer Protection Partnership (CPP)<sup>26</sup> and the UK Competition Network (UKCN). We have also acted as a passionate and expert advocate for competition with policymakers and regulators, nationally and locally. We have discussed key competition and consumer issues in a wide range of forums across the UK including at our Board meetings in Cardiff and Belfast. We have also continued to work closely with the business community to understand emerging commercial and economic issues, and to promote compliance with competition and consumer law (you can read more about this on page 38). And we have continued to work closely with international partners.

<sup>26</sup> CPP membership comprises: CMA, NTSB, Trading Standards Scotland, Northern Ireland's Department for the Economy, CTSI, CItA, CAS, CCNI and the Financial Conduct Authority.

## Highlights of project stakeholder research and consequent actions

In 2016/17 we conducted a survey of stakeholders involved in projects across our portfolio to ensure that we understand their opinions as part of our commitment to continuous improvement of our processes and work practices. It explored the CMA's strengths and weaknesses including how well we performed on the key attributes of working relationships such as objective decision making, commercial awareness and transparency of process. The survey was based on those conducted by the Competition Commission in the past.

It found that:

- overall satisfaction has remained stable since the Competition Commission began the survey in 2009
- most respondents were content with the transition from the Office of Fair Trading/ Competition Commission to the CMA and found that the CMA's processes had become more streamlined as a result
- perceptions of staff are good, with those stakeholders who are involved with the CMA on several cases being significantly more satisfied than those who deal with us on just one case
- the burden on the business or organisation that we are working with remains a perceived issue with a minority of respondents feeling that our demands have been disproportionate
- some expressed dissatisfaction with the CMA's ability to understand the realities of sectors in which we are working
- some felt that the CMA could explain its decisions in clearer, simpler language

Other points raised were about short timescales for provision of information and a desire for more face-to-face meetings.

We have reviewed the survey's findings and are taking them into consideration as we continue to evolve and improve our processes, for example in the review of our approach to market investigations. Further details of our survey are on [gov.uk/cma](http://gov.uk/cma).<sup>27</sup>



## Working in the UK consumer landscape

In 2016/17, we have continued to place the interests of consumers at the heart of all our work. As part of this strategy the CMA works in close partnership with consumer enforcement and advice partners across the UK to ensure that the arrangements for working together are as effective as possible and that we use our expertise and knowledge to ensure consumers are protected.

As part of the CPP we have worked closely together to pool intelligence and identify and tackle the areas of greatest consumer detriment. We have also worked closely with NTSB in England and Wales through the National Tasking Group and with Trading Standards Scotland through the Tactical Tasking Group to ensure that cases are allocated appropriately between Trading Standards Services and the CMA.

<sup>27</sup> <https://www.gov.uk/government/publications/cma-stakeholder-perceptions-survey-201617>

## Secondary ticketing

The CPP recently committed to prioritising work aimed at tackling concerns about compliance with consumer law in the secondary tickets sector, and CPP members, including the CMA, have taken some significant steps towards addressing these concerns.

In December 2016, the CMA launched an enforcement investigation into suspected breaches of consumer protection law which we had identified during a compliance review.<sup>28</sup> We are now using our formal powers to gather information in relation to those suspected breaches. National Trading Standards (NTS) and Trading Standards Scotland have also developed proposed enforcement measures which they will pursue, working closely with the CMA. The government will provide funds for NTS' work. Further, in response to a recommendation from Professor Waterson's independent review of the secondary tickets sector,<sup>29</sup> the CMA has taken forward work with representatives of the live events industry on how unfair terms law applies to ticketing terms and conditions.



## Working across the UK's nations

The CMA is also committed to working on behalf for consumers and business across all the nations and regions of the UK. To do this effectively, we take account of national and regional diversity, including by engaging a range of stakeholders in each nation through our offices in the Belfast, Cardiff and Edinburgh, which provide advice and challenge across the CMA.

In 2016/17, the CMA Board held meetings in Cardiff and Belfast and heard from the business community in the South West of England at an event in Bristol. In Scotland, we have looked to increase awareness of the CMA's role through running a CMA Scotland Seminar Series, working in partnership with Which?, Citizens Advice Scotland, Trading Standards Scotland and others. We also recently met parliamentarians and others at a reception at the Scottish Parliament.

We have a particular focus on understanding the differences between regulatory and complaints frameworks across the UK. This has been vital for understanding how markets work, such as in our care homes<sup>30</sup> and legal services<sup>31</sup> market studies. In Northern Ireland, we meet regularly with the Northern Ireland Authority for Utility Regulation and share best practice on our concurrent competition powers, including our approach to compliance, and we worked with them on their Competition Guidance. We also attend meetings of the Scottish Regulatory Review Group as observers and sit on the Scottish Legal Complaints Commission's Consumer Panel.

## Working in partnership in the regulated sectors

The CMA and the sector regulators have concurrent powers to apply competition law in the regulated sectors.<sup>32</sup> We play a leadership role in overseeing the operation of these concurrency arrangements

<sup>28</sup> <https://www.gov.uk/government/news/ticket-buyers-benefit-from-cma-action>

<sup>29</sup> <https://www.gov.uk/government/publications/consumer-protection-measures-applying-to-ticket-resale-waterson-review>

<sup>30</sup> <https://www.gov.uk/cma-cases/care-homes-market-study>

<sup>31</sup> <https://www.gov.uk/cma-cases/legal-services-market-study>

<sup>32</sup> <https://www.gov.uk/government/publications/competition-and-markets-authority-annual-concurrency-report-2017>

and work with the sector regulators to promote competition in their area of responsibility. These regulated sectors provide essential services to households and businesses, representing about a quarter of the UK's Gross Domestic Product.

In the first two years, the 'building blocks' of the new regime were put in place and cooperation within the regime extended beyond competition enforcement activity to broader policy and markets work. Cooperation has deepened this year: in addition to cooperation on information sharing, case allocation, and case and policy work through the UKCN,<sup>33</sup> we saw a notable increase in secondments which have furthered the sharing of competition enforcement expertise and address resource gaps. We have also worked jointly with the regulators on a series of actions designed to increase the volume and effectiveness of Competition Act 1998 (CA98) enforcement.

In 2016/17, sector regulators have continued to make progress on existing CA98 investigations with the resolution of four investigations, one of which culminated in an infringement decision and one in a commitments decision. Two of these CA98 investigations were closed on the grounds of administrative priority, one of which had been transferred to the CMA.<sup>34</sup> Sector regulators have also recently opened two new CA98 investigations: one in the energy sector and one in the financial services sector.

We and the regulators have undertaken significant markets work including the publication of the final reports in the energy and retail banking market investigations and the design and implementation of remedies which involved us working closely with the relevant sector regulators. The regulators have meanwhile undertaken a variety of market reviews under their sector-specific powers. The FCA has consulted on whether to make a market investigation reference to us on the investment consultancy market as part of its Asset Management market study. We and the regulators have also worked on extensive policy work relevant to the regulated sectors, including our market study into Digital Comparison

Tools and work undertaken by Ofwat on the architecture for retail market opening for non-household water customers in April 2017.

While progress has been made on the delivery of cases, the number of new cases remains below the level that we would like to see. We undertook a project to understand the barriers and opportunities to case opening in the regulated sectors and whether more should be done to increase competition enforcement. We found that regulators remain keen to use their Competition Act powers where appropriate but that some features of the UK's sector regulation framework may mean that issues tackled by competition law in other jurisdictions are often not present, or at least not to the same degree, in the UK; we also found some specific and common challenges the regulators face. We and the regulators are working together to address these challenges. We also note that the number of new cases is only one factor in assessing the impact of the concurrency arrangements and that the CMA and the regulators have delivered extensive markets and policy work that promotes competitive outcomes.

The UKCN has continued to work well throughout 2016/17 and there have been regular meetings of the UKCN Chief Executives as well as of senior director and working level officials. During the year, the UKCN's work has included working on arrangements for the handling of leniency applications in the context of concurrency, holding a know-how sharing workshop on lead generation to assist regulators with identification of potential new Competition Act 1998 cases and considering the resourcing practices of UKCN members for EU and UK competition enforcement cases.

There has also been greater coordination between the UKCN and the UK Regulators Network (UKRN). Meetings of the UKCN and UKRN Chief Executives are now held jointly and there are regular meetings between our Sector Regulation Unit and the UKRN's Director to identify issues of common interest and minimise unnecessary duplication.

<sup>33</sup> UKCN membership comprises: Civil Aviation Authority, Financial Conduct Authority, Gas and Electricity Markets Authority, Northern Ireland Authority for Utility Regulation, Office of Communications, Office of Rail and Road, Payment Systems Regulator, Water Services Regulation Authority. Monitor is an observer of the UKCN.

<sup>34</sup> <https://www.gov.uk/cma-cases/energy-price-comparison-websites-suspected-anti-competitive-agreements>

## Advocacy and partnership across government

Competition can be harmed not only by the practices of businesses, but also by the conduct of government. We promote the benefits of competition across government, and raise awareness of policies, practices and regulations that raise competition and consumer opportunities or concerns. Our ambition is to be seen as a trusted and challenging competition adviser to the UK, devolved and local governments.

We have built on our knowledge to encourage the use of effective competition to improve public sector delivery and to promote more diversity and choice for UK consumers. To support this, we have continued to promote our Competition Impact Assessment Guidelines through a series of events and conversations with UK government departments and devolved administrations, including workshops with the Scottish Government, the Department for Environment, Food and Rural Affairs and the Department for Communities and Local Government.<sup>35</sup> We have also worked with local authorities to build understanding of their impact on local markets and the benefits that competitive markets can bring for local areas.

On two occasions we used our power to make written recommendations to ministers on proposals for Westminster legislation: we commented on the Bus Services Bill and on the Higher Education and Research Bill.<sup>36</sup> Our recommendations on the Bus Services Bill were accepted and will help to shape implementation of the government's proposals. In line with one of our recommendations, the government amended the Higher Education and Research Bill to allow greater flexibility on fee caps, making it easier for

providers to introduce accelerated degrees.

We also wrote to the Department for Education on its plans to reform technical education qualifications<sup>37</sup> and to those conducting Local Area Reviews of further education provision. This has ensured a fuller consideration of competition issues in this policy area.

We responded to the government's consultation on the future of HM Land Registry, highlighting lessons learned from our past work on public sector information and expressing concern over the structure of the proposed privatisation. The government subsequently decided not to proceed with the privatisation.<sup>38</sup>

As part of our work with central and local government, we recently finished the development of a software tool that tests procurement data for signs of potential cartel and bid rigging activity. The tool has now been successfully tested on over 100 central and local government tender exercises and we expect to launch it in summer 2017. We have had a wide programme of engagement with procurement officials to build awareness of cartel risks, which will continue in 2017/18 once the screening for cartels software tool has been published.

We have engaged with the devolved administrations and legislatures on a range of regulatory issues including legal services regulation, district heating regulation, funeral director licensing and bus policy.

We have also responded to the National Infrastructure Commission's (NIC) call for evidence on the National Infrastructure Assessment and have offered further assistance to the NIC in its work.

<sup>35</sup> <https://www.gov.uk/government/publications/competition-impact-assessment-guidelines-for-policymakers>

<sup>36</sup> <https://www.gov.uk/government/publications/taxi-and-private-hire-regulation-cma-letter-to-city-of-sheffield>

<sup>37</sup> <https://www.gov.uk/government/publications/evaluation-of-entry-and-expansion-in-uk-merger-cases>

<sup>38</sup> CMA recommendations on the Buses Bill and on the Higher Education and Research Bill

## Innovation in the taxi and minicab trades

We have continued our advocacy with local authorities around their taxi and minicab regulations. Following a review, we identified several common regulations that were likely to create barriers to entry or expansion especially for operators with new business models, undermine the ability of those new innovative business models to compete with more traditional operators, add complexity or cost to minicab companies' operation, or remove service features that consumers are likely to value. By restricting or distorting competition, such regulations are likely to result in consumers facing higher prices or lower service quality.

We therefore wrote to several local authorities, including in an open letter to Sheffield City Council,<sup>39</sup> to highlight the effect that proposed or existing regulations could have on taxi and minicab passengers. We have had several successes, including Sheffield City Council taking on board our main recommendations. In its evaluation of entry and expansion in CMA merger cases, KPMG noted that if the new regulations had come into force, the anticipated entry and expansion, which were the basis of the CMA's clearance of a merger between minicab operators in Sheffield, would probably not have been realised.<sup>40</sup>

Following on from these successes, we will soon be producing written guidance for all English and Welsh local authorities to help them understand how taxi and minicab regulations can affect consumer welfare.



<sup>39</sup> CMA letter on technical and further education

<sup>40</sup> CMA consultation response on the future of the Land Registry

Advocacy to government	Outcome
Written recommendations to UK ministers on the Higher Education and Research Bill – Department for Education	Bill amended to make it easier for providers to introduce innovative provision, such as accelerated degrees. This bill has now passed into law.
Written recommendations to UK ministers on the Bus Services Bill – Department for Transport	Recommendations accepted; including amending the Bill to make the CMA a statutory consultee on the introduction of franchising schemes. Partnership and franchise proposals to be assessed for competition implications. This bill has now passed into law.
Engagement on plans for private hire vehicle regulation – letters to local transport authorities	Some licensing authorities have amended their regulatory proposals in line with our advice; we are working with the Local Government Authority to share this advice with all licensing authorities
Response to consultation on the future of HMT Land Registry – UK Government Investments	The government decided that HM Land Registry will remain in the public sector
Engagement on Further Education reforms in England and Wales – Department for Education	Competition impacts being considered as part of the reforms to technical education qualifications
Department for Education	Secured access to departmental data on which to test the CMA's screening for cartels tool
Engagement on legal services reform – Scottish Government	Scottish Government committed to review of the regulation of legal services
Engagement on proposals for regulation to address concerns about app-based Private Hire Vehicle services – Scottish Government	Scottish Government has not pursued proposals

## ICPEN Presidency



The CMA held the Presidency of the International Consumer Protection and Enforcement Network (ICPEN) from July 2015 to June 2016.<sup>41</sup> We concentrated on three strategic goals:

- to have a stronger focus on enforcement
- to deliver year-round activity with valuable work products and outcomes
- to increase capability to deliver work of benefit in the future

We also aimed to use the Presidency to help our colleagues in the UK's Trading Standards Services and other UK consumer partners to engage more effectively with their international counterparts, and for UK consumer enforcement and advisory bodies to contribute to and learn from their experience of ICPEN membership.

During our Presidency, ICPEN made good progress and achieved a great deal for the benefit of its members and, most importantly, for consumers. Members worked together to deliver an ambitious year-round programme of work. For example:

- we co-led with other ICPEN members<sup>42</sup> the development of guidelines for businesses involved in the online review and endorsement sector, which will help traders and businesses know which practices to adopt and which to avoid so that consumers get the full picture and can trust that the opinions they read are genuine and unbiased

- we shared our expertise to develop tools and resources for ICPEN members, such as enforcement toolkits on 'international sporting events' and 'misleading advertising of prices'
- we learnt from each other in webinars and workshops to keep up to date with advances in technology, so we can continue to protect consumers as business models and markets become increasingly technical

This programme of work capitalised on the wealth of expertise in ICPEN's diverse membership, and that of others outside the Network. The UK Presidency Team also produced a Presidency toolkit, which covered issues such as developing a programme of work, organising meetings, and staffing a Presidency project team, to help other members undertaking this role in the future.

Holding the Presidency has enabled the UK to take a lead role in maintaining momentum in the Network's development and helping its capability to grow. We have built on the work of previous Presidencies and, we hope, laid further foundations for future Presidencies by achieving our goals to help ICPEN deliver 'better enforcement together'. For 2016/17, the Presidency has been taken up by the Federal Ministry of Justice and Consumer Protection, Germany:

"I am very happy to take up the role of ICPEN President from Nisha Arora and keen to build on the CMA's excellent work during the upcoming German ICPEN Presidency. The strategic steer the CMA has provided to the network in the past year has paved a solid way for our Programme of Work to make the German Presidency's mission, 'Uniting enforcers – Protecting consumers', come true."

Ilona Ulich, Incoming ICPEN President  
**German Ministry of Justice and  
 Consumer Protection**

<sup>41</sup> <https://www.gov.uk/government/publications/cma-icpen-presidency-report-2015-to-2016>

<sup>42</sup> The Australian Competition and Consumer Commission and the Danish Consumer Ombudsman.



## Working in partnership internationally

International cooperation is crucial to the successful delivery of the CMA's competition and consumer work, allowing us to achieve improved casework outcomes and helping us to influence UK and wider law and policy development.

This year, we have also continued to participate actively in the global competition and consumer protection networks. We have continued to work with ICPEN since the end of our Presidency, including co-leading work to better understand the challenges faced by consumers from terms and conditions in the digital economy, and we have worked with the German Presidency to deliver content at best practice workshops and conferences. We also play an active part in the ICPEN advisory group.

In the International Competition Network, we have been co-chairs of the Unilateral Conduct Working Group (alongside the US Department of Justice and the Australian Competition and Consumer Commission) and at the OECD we contribute actively in the work of the Competition Committee and Committee on Consumer Policy. As part of this we have joined the steering group of the recently launched cross-OECD 'Going Digital' project, which is considering cross-cutting policy areas concerning digitisation and its implications for and effects on, for example, the economy, employment and skills, competition and consumers.

We have also worked closely with our European partners, both at the European Commission (EC) and Member State national competition and consumer authorities, and through the EU Consumer Protection Cooperation Network and the European Competition Network. This includes cooperating on enforcement matters as well as other initiatives, such as the EU's Digital Single Market agenda and the Commission's work to empower national competition authorities to be more effective enforcers. Of course, our future relationship with our European partners will be

impacted by the UK's exit from the EU, and we have been working with the UK government to advise it on the different policy choices and scenarios that affect our regime.

We have continued to work with the EC and other European partners on a project concerning the car rental intermediary sector (for example, websites where consumers can find a range of car rental prices). We are currently working with around 30 car rental intermediaries and metasearch providers to improve compliance standards across the sector as a whole, which builds on our earlier work with five major car rental providers to improve the way they deal with their customers. We have also worked with the EC and other international colleagues on subscription traps and social media.

We engaged closely with the EC case team responsible for reviewing the proposed merger between Deutsche Börse and London Stock Exchange. We had regular interactions with the EC throughout this investigation in which we were kept updated and informally shared the CMA's views as its competition assessment was developing. The Commission announced a prohibition on 29 March 2017.

We also liaised constructively with the EC on a number of mergers in which the parties requested to be referred from the EC to the CMA.<sup>43</sup> We cooperated and coordinated closely with the EC to ensure a seamless referral of those cases to the CMA. We also participated in the discussion of the different proposals around the EC's evaluation of procedural and jurisdictional aspects of EU merger control at the European Mergers Working Group and responded to the EC public consultation.<sup>44</sup>

Alongside these multilateral networks, we have continued to strengthen our bilateral links with counterparts around the world, including hosting inbound and outbound visits and secondments and identifying areas for cooperation.





<sup>43</sup> For example, the anticipated acquisition by Mastercard UK Holdco Limited of Vocalink Holdings Limited, the anticipated acquisition by Bupa Finance Plc of the Oasis Healthcare Group Limited, the anticipated acquisition by Heineken UK Limited of Punch Taverns Holdco (A) Limited and the anticipated non-household retail water and sewerage services joint venture between South Staffordshire Water Plc and South West Water Limited.

<sup>44</sup> The CMA response to the public consultation will be published at [http://ec.europa.eu/competition/consultations/2016\\_merger\\_control/index\\_en.html](http://ec.europa.eu/competition/consultations/2016_merger_control/index_en.html).



# Developing the CMA

## Commitments

-  Increase the engagement score in the annual Civil Service People Survey to become one of the Civil Service High Performers, by taking corporate and local action on feedback from our staff as a result of participation in the survey, fulfilling our ambition to make the CMA a great place to work.
-  Comply with the general Public Sector Equality Duty and the specific duties. We will give a progress report on how the CMA is demonstrating its achievement of these against its published objectives and our desire to create an inclusive environment and culture.
-  During the year, meet the government target of paying 80% of undisputed invoices within five working days of receiving them.
-  Find ways to achieve the outcomes we need with leaner project teams and lower resources costs, while ensuring we maintain legal and economic rigour.

### Key

-  **Achieved**
-  **Partially achieved**
-  **Not achieved**

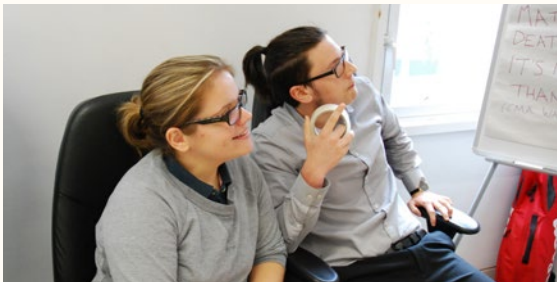
## Organisational development

Throughout the first three years of the CMA, we have developed an organisational culture of continuous improvement. And as we consolidate our work on developing the CMA, we have focused both on improvements to our project working, and on what makes the CMA a 'great place to work'. In 2016/17 we have therefore launched a number of initiatives that promote support for staff both in how they work, but also in the most holistic sense by considering their wellbeing at work.

## Learning from experience and improving how we work

### Optimising project team working

We recently started to consider how our projects could be delivered with more efficiency and in a more streamlined fashion, whilst maintaining rigour. We first held workshops for senior management



which looked at team profiles, roles and responsibilities, quality assurance and internal processes. We then developed a set of actions across a number of themes, including the movement of staff across project phases or tools, governance and accountability, and staff development. The key output from this work was the agreement of 'standard' teams to help the effective allocation of staff to projects.

### Market investigations review

Market investigations are powerful tools that can bring in major changes to make markets work better for consumers and businesses. In our 2016/17 Annual Plan, we committed to review the way we conduct them, taking account of our experience since these were introduced in the Enterprise Act 2002, and

our most recent investigations into energy and banking, as well as legislative changes that came into force in 2014, which reduced the time limit for market investigations from two years to 18 months. We have recently consulted on a number of changes to streamline our current processes and to strengthen synergies between market studies and market investigations.<sup>45</sup> We consider that these changes will enable us to carry out our market investigations more quickly, without reducing their effectiveness. We also believe that they will preserve a fair and robust process and independence of decision-making throughout, which is central to the regime.

### Improvement to merger processes

In our 2015/16 Annual Plan, we committed to review the use of merger notice forms and initial enforcement orders (IEOs) to identify ways in which to improve their effectiveness and see where we could lessen the requirements and restrictions on merging businesses. We have recently completed this review and have found that both merger notices and IEOs are generally being used effectively by the CMA and often work well for companies and their advisers.<sup>46</sup> We have also identified further steps that we can take to ensure our information requests are more targeted and proportionate and to ensure more standardised use of IEOs and plan to issue guidance which reflects our experience.<sup>47</sup> We also recently reviewed a number of merger cases and remedies. You can read more about this on page 74.

### Improvement to competition enforcement processes

We have established a new 'access to file' registry team to support greater efficiency, pace and consistency in our Antitrust work, and we held a roundtable with competition experts on how to best use confidentiality rings and disclosure rooms across our work.

<sup>45</sup> <https://www.gov.uk/government/consultations/updated-guidance-on-the-cmas-approach-to-market-investigations>

<sup>46</sup> <https://www.gov.uk/government/publications/review-of-use-of-the-cmas-merger-notice-and-initial-enforcement-orders>

<sup>47</sup> <https://www.gov.uk/government/consultations/initial-enforcement-orders-and-derogations-in-merger-investigations>

## Time to change

In February 2017, our Chairman, David Currie, signed the Time to Change pledge,<sup>48</sup> promoted by the charity Mind, on behalf of the CMA. This pledge represents our public commitment to tackling mental health stigma and discrimination at the CMA. This commitment was supported by the establishment of a wellbeing and mental health action group which works together with staff to see what can be done to make the CMA a healthy and supportive working environment. We also held the CMA's first ever Wellbeing Week, trained a group of 20 'mental health first aiders', piloted mental health awareness training for managers and set up a wellbeing peer support network, where colleagues can discuss emotional wellbeing difficulties and share tips in confidence. In the coming year, we will be implementing the actions we have committed

to, encouraging staff to talk openly about how they're feeling and promoting 'wellness at work' more broadly.

## Digital transformation programme

In 2016/17, we established a digital transformation programme to deliver business benefits that will modernise the way we work and will also bring us up to standard with the Government Transformation 2020 Strategy.<sup>50</sup> Further, our Digital Forensics Laboratory has also recently been recommended for accreditation to ISO 17025. There is a mandatory requirement of the UK Forensic Science Regulator for all labs submitting evidence into the Criminal Justice System to be accredited by October 2017 and to demonstrate compliance with the Regulator's Codes of Practice and Conduct.

## Staff survey

The 2016 staff survey results showed that our employee engagement index declined two percent to 59%, which means we did not meet our Annual Plan commitment to increase staff engagement. Our results show we still have work to do to achieve our aim of truly making the CMA a great place to work, although analysis shows we have a generally upward trend in those areas where we have focused action in the past three years. Learning and Development particularly has seen an increase year on year.

In 2017, we plan to focus on areas highlighted by the largest declines in results.<sup>49</sup> Each area of the CMA develops a local plan to address the issues raised by the survey and we complement these with a Corporate Action Plan to address CMA-wide issues. This year, our corporate focus will be on the themes with the most decline and/or organisational impact: Improving Respect in the Workplace; Embedding Good Practice and Celebrating Success; Leadership Development and Management Development. The Corporate Action Plan is being led by Senior Directors and we are developing and delivering a set of actions designed to make a difference over a two-year period, with input from staff from across the CMA.



<sup>48</sup> <https://www.mind.org.uk/news-campaigns/campaigns/time-to-change/>

<sup>49</sup> The full results from the CMA's 2016 staff survey can be found here: <https://www.gov.uk/government/publications/cma-people-survey-results>

<sup>50</sup> <https://www.gov.uk/government/publications/government-transformation-strategy-2017-to-2020/government-transformation-strategy#build-better-tools-processes-and-governance-for-civil-servants>

Distinguished speakers		
April 2016	Maarten Pieter Schinkel	Professor of economics at the University of Amsterdam and co-director of the Amsterdam Centre for Law and Economics.
April 2016	Alan Giles	Non-Executive Director of the CMA and Perpetual Income & Growth Investment Trust. He is an Associate Fellow at Saïd Business School, University of Oxford. He is also an Honorary Visiting Professor at Cass Business School.
May 2016	Professor Spencer Waller	Professor at the Loyola University Chicago School of Law and the director of the university's Institute for Consumer Antitrust Studies.
May 2016	Bruno Lasserre	Then President of France's Autorité de la Concurrence.
June 2016	Allan Fels	Former chairman of the Australian Competition and Consumer Commission. He is also a founding member of the International Competition Network. He is currently a professorial fellow in the University of Melbourne, both in the Faculty of Law and in the Faculty of Economics and Business; an adjunct professor at Monash University in the Faculty of Business and Economics; and visiting professor, Division of Social Sciences, University of Oxford. He is the author of numerous publications in the field of competition law and policy.
June 2016	Terrell McSweeney	Commissioner of the Federal Trade Commission.
September 2016	Tim Tutton	CMA panel member and economist specialising in economic regulation. He is currently an independent economic consultant, a non-executive director of Bristol Water plc and an Honorary University Fellow in the College of Life and Environmental Sciences at Exeter University.
October 2016	Ariel Ezrachi	Professor of Competition Law at Slaughter and May and serves as the Director of the University of Oxford Centre for Competition Law and Policy. He is also the co-editor of the Journal of Antitrust Enforcement.
October 2016	Hal Varian	Chief Economist at Google and an Emeritus Professor in the School of Information, the Haas School of Business, and the Department of Economics at the University of California, Berkeley.

Distinguished speakers		
February 2017	Amelia Fletcher and James Edgar	<p>Amelia Fletcher is Professor of Competition Policy at the University of East Anglia and a Non-Executive Director of the CMA, the Financial Conduct Authority and the Payment Systems Regulator. She is also a member of the Enforcement Decision Panels at Ofgem and the Civil Aviation Authority.</p> <p>James Edgar is the Strategy Policy Adviser at Which?</p>

**Creditor payments, target and performance**

The CMA’s target is to pay suppliers promptly in line with the department standard terms and conditions to pay all undisputed invoices within 30 days of receipt of invoice. In 2016/17, 98.6% of undisputed invoices were paid within the 30-day target (2015/16: 95%). This reflects the continued improvement of the CMA’s systems and processes.

HM Treasury guidance is that government departments should aim to pay 80% of undisputed invoices within five days. In 2016/17 CMA paid 57% of invoices within five working days (2015/16: 53%). The CMA will continue to work to improve systems to ensure we meet this target in 2017/18.

**Professional development**

In the CMA, we continue to have a strong commitment to support learning and development for our staff, whether directly through events, distinguished speakers, presentations, online learning and support, or through providing support to extend professional skills or qualifications. The professional development of staff is supported in the CMA by two teams: the Professional Skills Academy and CMA Know-How. The Academy works with the organisation to deliver a curriculum of competition-specific training across five professions: Legal, Economics, Investigations, Remedies Business and Financial Analysis, and Delivery. This schedule of learning is complemented by the Know-How team who, as well as delivering case-specific learning events, also curate and disseminate a comprehensive library of front-line materials covering lessons learned, best practice and precedents.

FoIA requests	
Total number of requests for information under the FoIA	104
Of these:	
Number of requests granted in full	38
Number of requests where advice and assistance were provided to the requester	2
Number of requests refused in full because the CMA does not hold any of the information requested	13
Number of requests refused because the cost of the response would exceed the cost threshold	3
Number of requests where the CMA refused to provide some of the information	19
Number of requests where the CMA refused all the information requested	29

In 2016/17, we focused on consolidating and building our offers for professional development within the CMA, which has included a review of the entire professional skills curriculum to create levels of learning to make it easier for staff to find training suitable for their development needs. We also updated our intranet to ensure that all staff are catered for and to support individual personal development planning. In January 2017 we held a Learning at Work Week that offered events and opportunities for staff to understand more about how learning works in the CMA. In 2016/17, 87% of CMA staff attended at least one Academy or Know-How learning event.

We have also focused on helping our managers to support development in their staff. This included delivering 'handling difficult conversations' training to 160 staff, with 95% reporting that they would be more effective in their job as a result, and launching a new guide to structuring feedback meetings. We also launched a new mentoring scheme for both mentors and mentees. Further, we have supported our staff who wish to complete professional qualifications,

offering these opportunities to more than staff than previously, 44% of whom were from SEO grade or below.

### Apprenticeships

This year, we have built apprenticeships into the CMA's workforce strategy to create a pipeline of early talent and to build future capability. The target for the CMA is 2.3% of the workforce by 2020. With the introduction of the Apprenticeship Levy this year, we launched our Apprenticeship Programme and identified six new apprentices who will commence their learning in 2017/18.

### Public sector equality duty

In April 2015, the CMA published its Single Equality Scheme which described how we would comply with our duties under the Equality Act 2010 from 2015–19.<sup>51</sup> This Scheme seeks to promote equality and diversity in the CMA so that we are not only legally compliant but that we also actively promote and celebrate diversity.

<sup>51</sup> [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/423936/CMA\\_Equality\\_Scheme.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/423936/CMA_Equality_Scheme.pdf)



Our Equality Scheme aims to ensure that we act to:

- eliminate discrimination and harassment
- promote equality of opportunity
- promote good relations and positive attitudes towards all people

In September 2015, we established the CMA's Equality, Diversity and Inclusion (ED&I) group to support the delivery of objectives in the Scheme and to support the CMA in becoming a fully inclusive organisation. Over the year, we have made good progress against the actions set out in the CMA Single Equality Scheme, and have taken a number of steps to promote E&DI, for example, by organising staff-led and external events, facilitating staff networks, and arranging unconscious bias training; we have also made E&DI a core performance objective for all CMA senior leaders. Our work is ongoing and the ED&I group will continue to work with staff across the organisation to deliver the actions to support the Single Equality Scheme. In 2016, we published a progress report on this work.<sup>52</sup>

### General correspondence

At the CMA, we receive a wide variety of correspondence from the public which may also spike in timing across the year. For example, in 2016/17 we received 3,450 items of written correspondence with 1,123 of these arriving in one month in spring. Our correspondence included many reports from consumers and businesses about anti-competitive behaviour or problems in markets. This information is one of the main ways that we get the intelligence that leads us to scrutinise markets or investigate businesses that may be breaking the law. We have a 10-day working target for replying to such correspondence and responded to 98% of this correspondence within this target.

During 2016/17 we received 156 MPs letters. We responded to 100% of these within our target of 15 working days.

### Freedom of Information Act (FOIA) requests

Under the FOIA, any member of the public can request information from the CMA. We aim to be as open and transparent as possible, but for legal reasons we often cannot disclose whether or not complaints have been received about a particular business or whether investigations are underway. However, we only withhold information where we believe that doing so would better serve the public interest than disclosing it. In line with government policy and to support transparency initiatives, we also publish many of our responses on our web pages. In 2016/17, we responded to 99% of the FOIA requests we received within the statutory 20 working day period. We also received and responded to six appeals against non-disclosure of information; our original decision was upheld in these cases.

Where we decide not to disclose information following an appeal, the requester also has a right of appeal to the Information Commissioner's Office; during this period there were no such appeals. In this period, the CMA received no requests under the Data Protection Act 1988.

### Corporate complaints


We take complaints raised against the CMA very seriously. The CMA's complaints procedure consists of a two-stage process. At the first stage, the complaint is handled by an appropriate person with relevant experience, for instance in dealing with the matters to which the complaint relates. A complainant who does not consider the response received at the first stage to be fair and appropriate can escalate the complaint to the second stage, which consists of a review by a more senior official. The CMA's procedure allows for speedy informal resolution of complaints, for instance by a phone call, if that is satisfactory to the complainant, and the CMA is committed to thorough investigation of any complaints raising serious issues about its own conduct. Under these terms, between 1 April 2016 and 31 March 2017, the CMA received one communication which raised issues about our own conduct and which was treated as a corporate complaint; our original decision was partially upheld in this case.

<sup>52</sup> [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/581737/cma-single-equality-scheme-progress-report-2016.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/581737/cma-single-equality-scheme-progress-report-2016.pdf)



# Evaluation and research

## Commitment

-  Publish two economic research projects, including one on the indirect benefits of competition policy to the economy and consumers, and two evaluations of the impact of completed work.

### Key

-  **Achieved**
-  **Partially achieved**
-  **Not achieved**

We are committed to continuous improvement and to strengthening our understanding of the impact of our work on consumers and the economy.

As part of this commitment, we undertake independent evaluations of the impact of at least two cases each year. Through careful evaluation of our activities, we prioritise, target, conduct and follow up our work to maximise our impact and help to demonstrate whether we are delivering on our objectives and providing value for money.

Our evaluation work forms part of our wider portfolio of economics research, which helps us deliver projects more effectively and make better decisions for consumers and the economy.

### Impact estimation

The CMA's performance management framework commits us to achieving direct financial benefits to consumers of at least 10 times our cost to the taxpayer. The target is measured as a three-year rolling average, so for 2016/17 the calculation is

based on cases concluded in the three financial years since April 2014. This is the first impact assessment that includes only cases concluded by the CMA, rather than our predecessor bodies.

The CMA undertakes this assessment itself, with subsequent review by an external academic. Its methodology is based on that developed by the Office of Fair Trading (OFT), validated by successive independent academic reviewers and consistent with approaches now regarded by the OECD as international good practice.

For the period 2014 to 2017 the estimated average direct financial benefit to consumers was £1.2 billion per annum and the ratio of direct benefits to cost was 18.6:1. For this period markets work generated £887 million of the direct financial benefit, with a further £138 million from competition enforcement, £59 million from consumer enforcement and £143 million from merger control.

The methodologies underlying the estimates of direct financial benefit are recognised as being conservative. They do not capture wider impacts of the competition regime, such as the impact of deterrence of anti-competitive mergers and other types of anti-competitive behaviour.

In order to add to our understanding of the wider benefits of our interventions, we have reviewed existing academic studies on the deterrence effects of competition enforcement. This research suggests that interventions by competition authorities can have substantial effects in addition to the direct benefits to consumers.

More information on impact estimation is included in the CMA's Annual Impact Assessment Report.

## Independent evaluations of cases

Our purpose in conducting ex-post evaluations is not merely to quantify our impact, but to learn lessons which we can apply to the conduct of future cases.

In the 2016/17 financial year, we conducted evaluations of eight previous merger cases.<sup>53</sup> We also completed the evaluation of the OFT's 2012 enforcement action in relation to health and fitness contract terms, which was started in 2015.<sup>54</sup>

We commissioned KPMG to evaluate eight cases where mergers were cleared based on entry or expansion of rival firms in the relevant market. The focus of the study was to draw lessons about the CMA's assessment of entry and expansion in merger control. Ex-post evaluations were conducted for the following eight merger cases:

- Sheffield City Taxis/ Mercury Taxis (CMA Phase I, 13th October 2015)
- CooperVision/ Sauflon (CMA Phase I, 4th December 2014)
- Ballyclare/ LHD (CMA Phase I, 26th August 2014)
- Cineworld/ City Screen (CC Phase II, 8th October 2013)
- Web Reservations International (WRI)/ Hostelbookers (OFT Phase I, 2nd August 2013)
- Zipcar/ Streetcar (CC Phase II, 22nd December 2010)
- Cartonplast/ Demes (OFT Phase I, 23rd March 2010)
- NBTY/ Julian Graves (CC Phase II, 20th August 2009)

Following the review of each case, KPMG drew together the findings to make seven recommendations on how we could further improve our work. KPMG recommended that in future cases we should take greater account of the potential cost of new entry into a market, the ability for firms to expand and the impact of local market conditions, including regulatory changes. We are always open to adapting our processes in light of new information and are now planning to implement some changes following these reports.

The other evaluation looked at the OFT's 2012 consumer enforcement action in relation to health and fitness contract terms.

In 2011, the High Court ordered Ashbourne Management Services Limited, a gym management company, not to use certain unfair terms after the OFT opened the case following complaints from consumers about being stuck on lengthy gym contracts they did not use. Following further investigation by the OFT in 2013, six other gym operators agreed to give members better cancellation rights and make their contract terms easier to understand.

We estimate that the OFT intervention saved consumers around £37 million between September 2011 and June 2014.

We also undertook evaluations of remedies in two further merger cases, Global/GMG and Rank/Gala, both merger cases from 2012. These evaluations add to our ongoing programme of remedies evaluations, which allows us to identify best practice and lessons to be learnt for our merger remedies design and implementation processes.

## Economics research

The main purpose of our economics research programme is to help us deliver projects more effectively and make better decisions in our cases. It can also play a role in supporting our strategic priorities and vision and in building our reputation for thought leadership.

Research can help the CMA perform better by:

- improving our analysis of common economic issues
- helping us understand issues better to prioritise cases
- providing tools to help CMA conduct its work more effectively and efficiently

For 2016/17, our main economic research projects have been:

- two published reports on online search
- a literature review on the indirect effects of competition authorities' work

<sup>53</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/606693/entry-and-expansion-in-uk-ex-post-evaluation-kpmg.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/606693/entry-and-expansion-in-uk-ex-post-evaluation-kpmg.pdf)

<sup>54</sup> <https://www.gov.uk/government/publications/unfair-contract-terms-evaluation-of-oft-consumer-enforcement-case>

With e-commerce becoming increasingly important for UK consumers, it is crucial that we understand how companies compete online and how this affects UK consumers in different markets. We therefore decided to conduct some research into consumer and firm's online search behaviour.

The first part of this research was to conduct a review of the available literature.<sup>55</sup> Second, to supplement the literature review and help

fill some of the gaps in knowledge that it identified, the CMA commissioned Research Works, a market research agency, to survey online businesses to understand their views on online search and how they compete online.<sup>56</sup>

A number of interesting findings emerge from research that have relevance to the CMA, including potential tools for assessing competition between online retailers and on the ease of entry and expansion into online markets.

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<sup>55</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/607077/online-search-literature-review-7-april-2017.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/607077/online-search-literature-review-7-april-2017.pdf)

<sup>56</sup> <https://www.gov.uk/government/publications/online-search-business-survey>



# Sustainability

The CMA continues to support the 'Greening Government Commitments: Operations and Procurement (GGCOP)' targets and the government's 'sustainable development strategies' which are designed to reduce the organisation's impact on the environment.

We are a relatively small government organisation, based in a multi-tenanted office building in central London (Victoria House). Our utilities, air-conditioning and the majority of our waste services are provided by our landlord. The building has other tenants from the private sector and the landlord provides limited energy and waste information to individual tenants.

## Flexible approach to working patterns

To make the most efficient use of our workplace, we adopt a hot-desking system, operating in villages to ensure collaborative working and we also encourage our staff to work from home where appropriate. We regularly review our use of office space to ensure that our villages are reconfigured to our case specific teams and we also regularly review any files or equipment that we store. These activities have helped us to comply with the government's Estates Strategy, as we continue to achieve a ratio of approximately eight desks for every 10 members of staff, based upon a density of eight m<sup>2</sup> of total internal space for each employee.

## People

The CMA encourages staff to support charities and local community groups, facilitating a 'give as you earn' scheme and offering up to six days paid special leave per year for staff to undertake volunteering. In the last year, CMA staff have raised money for a number of charities including the British Heart Foundation, Rethink Mental Illness and SANE.

In mid-2016, the CMA set up a Wellbeing and Mental Health Action Group (you can read more about this on page 67).

## Heating, ventilation and air conditioning (HVAC)

The heating, ventilation and air conditioning within Victoria House is controlled by a modern Environmental Building Management System (EBMS) which optimises the building's HVAC equipment for greater efficiency.

The HVAC plant utilises a central system for the entire property which provides economies of scale in terms of energy usage and cost. The cooling to the building is produced using modern efficient chillers operating at optimal levels. The CMA utilises point of use water heaters for most of our hot water needs.

In the last year, the CMA has worked with the landlord to optimise the control of the HVAC plant to reduce energy usage and costs. Furthermore, we have installed additional control and monitoring equipment which will allow the CMA's equipment to be operated in a more efficient manner.

## Lighting

The CMA have installed additional lighting controls in some areas of our property which incorporates presence detection. We also continue to encourage members of staff to switch off lighting in meeting rooms and conference rooms when these facilities are not in operation.

We have further enhanced the savings that we have achieved by installing LED lighting in various areas which significantly reduces the electricity usage required for lighting these spaces.

## Information technology

To further reduce consumption of energy and other resources, we have realised savings through the following initiatives:

- reducing the use of multiple screens for staff and providing efficient screens with the ability to display multiple documents at the same time
- continuing to migrate our services to the cloud through the replacement of our virtual desktop infrastructure and by expanding our use of on-line file hosting services
- installing automated blinds to our hearing rooms, thereby reducing solar gain

We intend to achieve further savings using collaborating and teleconferencing solutions in our hearing rooms and meeting rooms. Through the technologies that we have invested in, we will be able to reduce the need for printing materials for meetings and reduce the need for travel through an improved teleconferencing solution.

## CRC Energy Efficiency Scheme

Victoria House became eligible for the second phase of the CRC Energy Reduction Scheme in 2014. Under the terms of the lease, all tenants, including the CMA, contribute to this scheme through the landlord. The CMA continues to actively support our landlord's Green Forum which is designed to work collectively to reduce environmental impact associated with Victoria House.

## GHG emissions

	Year	Spend (£)	Distance	Miles
Air travel	2014/15	67,880	364,030	65,800
	2015/16	119,120	627,790	93,440
	2016/17	67,690	250,800	46,440
Rail travel	2014/15	35,150	122,200	9,490
	2015/16	41,290	128,860	9,390
	2016/17	52,890	157,984	10,138

The figures reflect the CMA's drive to utilise rail travel as an alternative to air travel wherever feasible.



## Utilities

As the CMA is an occupant of a multi-tenanted premises, the landlord provides utility services. Our consumption is listed in the table below.

	Year	Consumption (kWh)	Emissions (Kg CO2e)
Electricity	2014/15	1,961,300	906,500
	2015/16	1,913,570	884,430
	2016/17	1,643,760	845,290
Gas	2014/15	720,240	132,850
	2015/16	814,880	150,310
	2016/17	993,810	183,370

The reduction in electricity consumption can be attributed to the measures that the CMA have undertaken to reduce consumption within our demise. In relation to the gas consumption, these figures are apportioned across all tenants. We continue to work with our landlord to work collectively to reduce overall utilities usage throughout the property.

## Water

Water is provided by the landlord to Victoria House and consumption for each tenant is based on an apportionment basis.

	Year	Spend (£)	Consumption (m3)
Water	2014/15	18,310	8,640
	2015/16	21,310	9,910
	2016/17	25,030	11,310

With regards to water consumption, these figures are apportioned across all tenants and can increase due to the activities of other organisations. Although we are limited to the extent that we can reduce our water consumption, we have replaced our commercial dishwasher with a modern energy-efficient model and continue to educate our staff in how to reduce water consumption.

### Waste minimisation and management

The landlord handles and manages the majority of our waste and recyclables, along with all of the other tenants within Victoria House. It is not possible to provide details of the CMA's contributions due to the collective manner by which these streams are managed.

We have provided figures for our own recycling activities, which includes recycling 100% of our confidential waste.

	Year	Recycled waste (kg)
Recycled confidential waste	2014/15	19,920
	2015/16	22,920
	2016/17	24,490

The increase in the amount of recycled confidential waste is due to the CMA's increase in operations and the transferring of paper files to our electronic databases.

### Finite resource consumption

We continue our policy of printing through efficient multi-functional devices (MFDs), with no localised printing. The default setting for every print job is set at double-sided monochrome printing to reduce printing costs and our carbon footprint. Printing is further minimised through an improved Electronic Document and Records Management System which enhances digital collaboration and access to centrally-stored documents. We estimate that we used the following amount of paper:

	Year	Reams of paper
Use of paper	2014/15	7,750
	2015/16	10,800
	2016/17	12,480

The annual fluctuation in paper usage is due to the ever-changing business activities of the CMA and their requirement to produce publications.

We intend to achieve future efficiencies by replacing our MFDs at the end of their useful life, with modern and more efficient devices.

### Sustainable procurement

Our purchasing activity continues to comply with the EU public procurement directives in order to achieve maximum value for money and to minimise waste throughout our supply chain. This enables us to control costs and add value, safeguard beneficial supply chain relationships, and ensure that we meet the needs of the organisation.

Our commercial team continues to build mutually beneficial supplier relationships by understanding the inputs and sources of products purchased and ensuring that we comply with equalities standards and other key legislation.

### About our data

The utilities and the majority of our services are provided to the CMA through our landlord and via service charges related to our lease agreement. In the absence of detailed information from our landlord we have used financial information.

We have revised our figures for air travel for 2014/15 and 2015/16 due to a discrepancy in the data previously provided by our supplier.

The amounts indicated are a calculation based on the limited information that is available to a tenant within a multi-tenanted property. All figures are rounded to the nearest 10.

Signed for and on behalf of the CMA



Andrea Coscelli  
**Acting Chief Executive and Accounting Officer**  
22 June 2017



# Accountability report

# Corporate governance report

## Directors' report

### Statutory powers

The CMA is a non-ministerial department. It derives its powers from the Enterprise and Regulatory Reform Act 2013.

The financial statements which follow are prepared in accordance with the accounts direction issued by HM Treasury under Section 6(4) of the Government Resources and Accounts Act 2000. This direction covers the resources acquired, held or disposed of during the year and the use of resources by the CMA.

The financial statements are prepared in accordance with HM Treasury's Government Financial Reporting Manual (FReM) and applicable accounting standards. The financial statements are prepared on an accruals basis

and give a true and fair view of the state of affairs of the CMA and its Statement of Comprehensive Net Expenditure, Statement of Financial Position, Statement of Cash Flows and Statement of Changes in Taxpayers' Equity for the financial year.

### Accounting Officer of the CMA and the CMA Board

The Acting Chief Executive, Andrea Coscelli was appointed the CMA's Accounting Officer with effect 4 July 2016. The CMA Board advises the Accounting Officer in his management and direction of the CMA so that the department achieves its business and financial objectives within agreed resources and budgets. The Board consisted of the Accounting Officer and the following executive and non-executive members:

#### Executive members:

Andrea Coscelli, Acting Chief Executive/Accounting Officer\*

Erik Wilson, Executive Director Corporate Services

Michael Grenfell, Executive Director Enforcement

Rachel Merelie\*\*, Interim Executive Director of Markets and Mergers

\*Following the departure of Alex Chisholm on 3rd July 2016, Andrea Coscelli was named as Acting Chief Executive and Appointed Accounting Officer.

\*\*Rachel Merelie will cover the role of Executive Director of Markets and Mergers on an interim basis until Alex Chisholm's permanent replacement is appointed. As part of this interim arrangement, Rachel Merelie attends the CMA board in an advisory capacity, but is not a formal member.

Non-executive members:	
David Currie, Chair	Jill May**
Alan Giles, Senior Independent Director	Jonathan Scott*
Amelia Fletcher*	Roger Witcomb**
Anne Lambert*	Sarah Chambers*
Annetje Ottow	William Kovacic

\* In October 2016 the CMA appointed five new non-executive directors. One member (Martin Coleman) will join the CMA in October 2017.

\*\*Roger Witcomb and Jill May both left the CMA Board in 2016/17 at the end of their appointment term.

The remuneration of the executive members is determined in accordance with the rules for the Senior Civil Service (SCS). Non-executive members are paid a fee for their services, as determined by the Department for Business, Energy & Industrial Strategy.

### Our staff

The CMA is committed to providing employees with information on matters that affect them and consulting employees regularly so that their views are incorporated into our governance and decision making. During 2016/17 we continued to build on initiatives aimed at strengthening staff participation and consultation, and enhancing communication across the organisation. We provide weekly oral briefings to provide staff with important information on the organisation's business (both internal and external) and its achievements and challenges. These weekly briefings are supplemented by quarterly briefings from the Acting Chief Executive, which provide staff with information on key strategic, economic and operational issues facing the organisation. These briefings also serve to engage staff with the CMA's performance against its strategic objectives

and Annual Plan commitments and enable staff to raise questions and issues of concern.

In 2016 we took part in the Civil Service-wide staff survey to consult employees for their views on how to improve the CMA and how we do our work (see our 'Developing the CMA' section for more information). We have a Staff and Union Representative Executive (SURE) which is made up of Trade Union officials and CMA employees and whose role is to represent the interests of all employees. This group works with the CMA management team to maintain good employment relations.

### Our commitments to equality and diversity

You can read more about our commitments to equality and diversity on page 70.

### Reporting on better regulation

Part 4 of the Regulatory Enforcement and Sanctions Act 2008 requires the CMA to report on its compliance with its duty under the Act to avoid imposing or maintaining unnecessary burdens on business in performing regulatory

functions. The great majority of the work of the CMA, in particular the conduct of market studies and the enforcement of competition law, is undertaken under provisions which either do not confer regulatory functions for the purposes of the Act, or confer functions under competition or mergers law which are expressly excluded from its controls. The CMA has no power to make rules or otherwise impose burdens affecting businesses generally. Our interventions take place in relation to specific businesses or markets and we intervene only in the light of clear evidence of market failure and/or breaches of law that threaten the proper working of markets.

### Pension liabilities

Past and present employees are covered by the provisions of the Principal Civil Service Pension Scheme (PCSPS). Further information on pension liabilities is discussed in the Remuneration Report.

### Auditors

Our resource accounts have been audited by the Comptroller and Auditor General who was appointed under statute and is responsible to Parliament. The notional cost of the audit is disclosed in note 4 of the CMA's financial statements and relates solely to statutory audit work. The auditors did not undertake any non-audit work during the 2016/17 year.

The CMA Directors and I have taken all the steps necessary to make ourselves aware of any relevant audit information and to establish that the CMA's auditors are also aware of that information. In so far as we are aware, there is no relevant audit information of which the Comptroller and Auditor General is unaware.

### Personal data related incidents

No personal data incidents required reporting to the Information Commissioner's Office (ICO) during the 2016/17 year.

### Register of interests

The CMA Conflicts of Interests policy states that a register will be maintained of interests for Board members and their families (i.e. any co-habiting spouse or partner, any co-habiting children or any co-habiting dependant family members). Board members' interests are published online at <https://www.gov.uk/government/publications/cma-register-of-interests> Panel members' relevant interests are disclosed as part of the appointment process for the inquiries in which they are involved.

Signed for and on behalf of the CMA



**Andrea Coscelli**

Acting Chief Executive and Accounting Officer

22 June 2017

# Statement of Accounting Officer's Responsibilities

Under section 5 of the Government Resource and Accounts Act 2000, HM Treasury has directed the CMA to prepare, for each financial year, resource accounts detailing the resources acquired, held or disposed of during the year and the use of resources by the department during the year. The accounts are prepared on an accruals basis and must give a true and fair view of the state of affairs of the CMA and of its net resource outturn, application of resources, changes in taxpayers' equity and cash flows for the financial year.

In preparing the accounts, the Accounting Officer is required to comply with the requirements of the Government Financial Reporting Manual and in particular to:

- observe the Accounts Direction issued by HM Treasury including the relevant accounting and disclosure requirements, and apply suitable accounting policies on a consistent basis
- make judgements and estimates on a reasonable basis
- state whether applicable accounting standards as set out in the Government Financial Reporting Manual have been followed, and disclose and explain any material departures in the accounts and
- prepare the accounts on a going concern basis

HM Treasury has appointed the Acting Chief Executive as Accounting Officer of the CMA. The responsibilities of an Accounting Officer, including responsibility for the propriety and regularity of the public finances for which the Accounting Officer is answerable, for keeping proper records and for safeguarding the CMA's assets are set out in Managing Public Money published by the HM Treasury.

I have taken all necessary steps to make myself aware of information relevant to the audit of the accounts that accompany this Annual Report, and to ensure that my auditors are informed. So far as I am aware there is no relevant information of which my auditors are unaware.

I confirm that the Annual Report and Accounts as a whole is fair, balanced and understandable and I take personal responsibility for the Annual Report and Accounts and the judgements required for determining that it is fair, balanced and understandable.



# CMA Governance Statement

## 2016/17

### Introduction

This Governance Statement sets out the governance, risk management and internal control arrangements for the CMA.

The CMA is the UK's independent competition authority, established by the Enterprise and Regulatory Reform Act 2013.

### CMA Board and committees

The CMA Board consists of the Chair, Non-Executive Directors and Executive Directors (including the Chief Executive). Member biographies can be found on our website.

The CMA Board establishes the overall strategic direction of the CMA, ensures that the CMA fulfils its statutory functions and obligations in relation to the use of public funds and ensures that the principles of good corporate governance are observed. The Board is decision-maker on reserved matters as set out in the Rules of Procedure.

Through the Statutory Authorisations, the CMA Chair, acting on behalf of the Board, authorises staff to exercise the CMA's functions. Oversight of these functions is provided by the Board and two executive committees: the Executive Committee (as well as its sub-committee, the Operations Committee), and the Case and Policy Committee. Minutes of these committees are shared with the Board.

### The Executive Committee

The Executive Committee (XCo) is the overall decision-making body for performance and delivery, under delegated authority from the Board.

As set out in its terms of reference, XCo oversees and takes any necessary decisions relating to: strategy; delivery and performance; portfolio and pipeline; finance and risk; staffing; organisational transformation; regime issues; reputation; and matters relating to the Board, including preparing for and reviewing Board meetings.

XCo also considers and approves recommendations from its sub-committee, the Operations Committee (OpCo), whose purpose is to ensure the CMA has in place, and operates effectively, appropriate and robust procedures and business processes.

OpCo is Chaired by the Executive Director for Corporate Services and is the decision-making body for issues relating to business continuity and information security, and risk, under delegated authority from XCo. It acts in an advisory capacity in relation to finance and staff issues.

Minutes of both XCo and OpCo are shared with the Board.

### The Case and Policy Committee

The Case and Policy Committee (CPC) guides the development of CMA policy across all delivery tools, and provides oversight of cases and projects, ensuring consistency of approach and offering advice on high level legal, economic or policy issues as they arise.

CPC is authorised to take decisions in relation to ongoing policies, cases and projects as appropriate under delegated authority from the Board.

Minutes of CPC are shared with the Board.

The CMA's current Board and committee structures are shown in the diagram on page 89 with details of key members and meeting frequency.

The CMA Chair, David Currie, was re-appointed for a further term of two years, effective from 3 September 2017 to 2 September 2019.

The terms of appointment for two Board members, Roger Witcomb and Jill May, came to an end on 30 September 2016. A campaign to recruit new members was conducted between January and September 2016. Amelia Fletcher, Jonathan Scott, Anne Lambert and Sarah Chambers were appointed to the Board by BEIS on 1 October 2016. Martin Coleman will be appointed to the Board on 1 October 2017.

Alan Giles and Bill Kovacic were both re-appointed for a further term of two years, effective from 1 October 2016 to 30 September 2018. Annetje Ottow was re-appointed for a further term of three years, effective from 1 October 2016 to 30 September 2019.

New appointees to the Board undertook a comprehensive induction programme that included briefing in relation to all aspects of the CMA's governance structure.

The CMA's Chief Executive, Alex Chisholm, left the organisation in July 2016. Under the provisions of ERRA, the Chief Executive is appointed by the Secretary of State. A campaign to recruit a permanent replacement was therefore launched by our sponsor department BEIS in January 2017. Interviews took place in April and May 2017. In the intervening period, the Executive Director of Markets and Mergers, Andrea Coscelli, has taken up the role of Acting Chief Executive.

The Board has two Board sub-committees: the Audit and Risk Assurance Committee and the Remuneration Committee.

## The Audit and Risk Assurance Committee

The Audit and Risk Assurance Committee (ARAC) is chaired by a Non-Executive Director and advises the CMA's Accounting Officer (the Chief Executive) and Board on the appropriateness of the financial statements and whether they are meaningful and understandable, the adequacy of audit arrangements (internal and external) and on the implications of assurances provided in respect of risk and control, with a view to enabling the Board to assure itself of the effectiveness of the CMA's risk management system and procedures and its internal controls including business continuity and information technology.

Following the appointment of new Non-Executive Directors to the Board, Jonathan Scott was appointed as Chair of ARAC from 1 January 2017 to replace Alan Giles and Amelia Fletcher joined the Committee as a member. Alan Giles continues as a member of ARAC until the 2016/17 accounts are laid before Parliament. Bob Spedding, a Panel member with extensive financial experience, joined the Committee as a member on 1 October 2016.

ARAC held four meetings in 2016/17. As Accounting Officer, the Chief Executive attended all of these. The National Audit Office was also represented at each of these meetings.

ARAC received regular ICT updates on IT development from the Director of Business Services, updates on progress against the Finance Improvement Plan from the Director of Finance and Commercial, as well as updates from the CMA's Antifraud and Security Working Group.

ARAC considered a range of issues in 2016/17 including: the introduction of project-based accounting, the strengthening of the financial control environment, improvements in procurement, deep dives on competition enforcement, fraud prevention, and recruitment and retention issues within Corporate Services teams.

The Board receives oral updates on the outcomes of ARAC meetings.

**The Remuneration Committee**

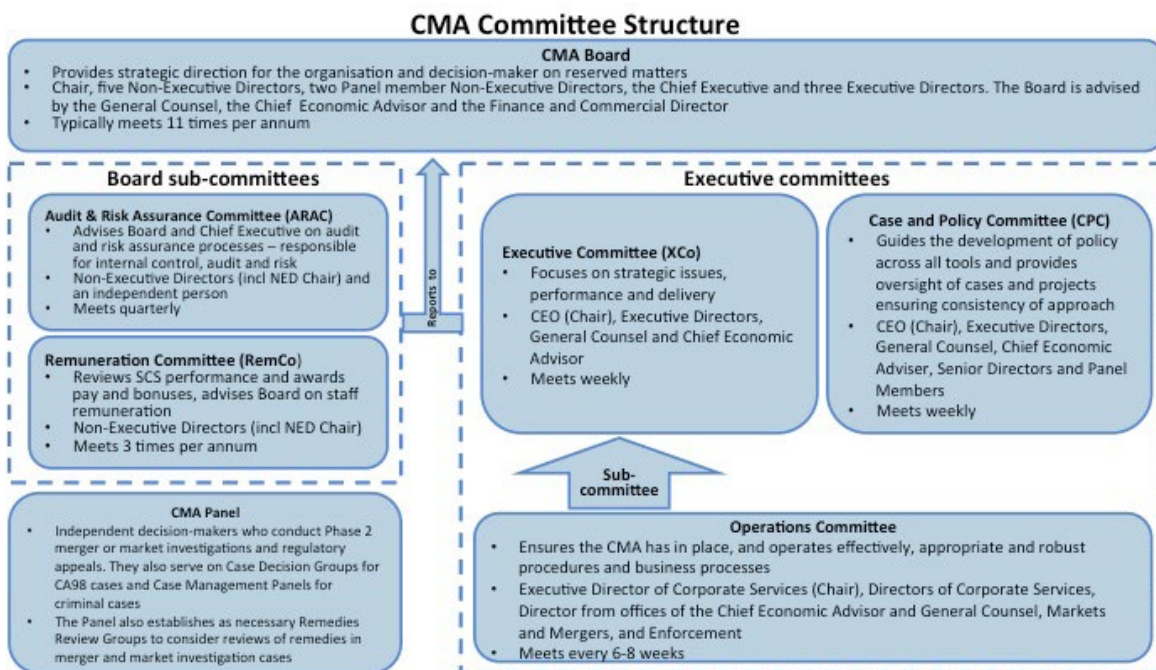
The Remuneration Committee (RemCo) is chaired by a Non-Executive Director and is responsible for reviewing SCS staff performance and considering staff pay and bonus awards.

RemCo met three times in 2016/17. As Accounting Officer, the Chief Executive attended all of these. Alan Giles, Non-Executive Director, was confirmed as Chair of RemCo following the departure of Roger Witcomb, and took office in January 2017.

The Committee’s key focus during 2016/17 was overseeing the SCS performance management process, and approving the 2016 SCS pay remit and CMA SCS pay policy.

In 2016 the CMA received one appeal from an SCS member of staff which was reviewed by a partner organisation in July. The Committee upheld the appeal and made recommendations on amendments to the CMA performance management process which have been actioned.

The Board is updated verbally on the outcomes of RemCo meetings.



## Board attendance

During 2016/17, the Board met formally on 10 occasions.

Attendance of Board members at Board and committee meetings is set out in the table below. The Board is also advised by Sarah Cardell, General Counsel, and Mike Walker, Chief Economic Adviser. Rebecca Lawrence, Finance Director, also attends Board meetings.

Board member	Board	ARAC <sup>1</sup>	RemCo
David Currie	10/10	4/4	2/3
Alex Chisholm <sup>2</sup>	3/3	1/1	1/1
Andrea Coscelli <sup>3</sup>	10/10	4/4	2/2
Michael Grenfell	10/10	N/A	N/A
Rachel Merelie <sup>4</sup>	6/6	N/A	N/A
Erik Wilson	9/10	4/4	3/3
Sarah Chambers <sup>5</sup>	5/5	N/A	N/A
Amelia Fletcher <sup>6</sup>	5/5	3/3	N/A
Alan Giles	10/10	4/4	N/A
Bill Kovacic	10/10	N/A	N/A
Anne Lambert <sup>7</sup>	5/5	N/A	N/A
Jill May <sup>8</sup>	3/5	1/1	N/A
Annetje Ottow	9/10	N/A	3/3
Jonathan Scott <sup>9</sup>	4/5	3/3	N/A
Roger Witcomb <sup>10</sup>	5/5	N/A	2/2

1 Ed Smith attended meetings until March 2017. Bob Spedding attended meetings from January 2017  
 2 Alex Chisholm left the CMA in June 2016  
 3 Acting Chief Executive as of 4 July 2016  
 4 Acting Executive Director as of 4 July 2016  
 5 Appointed to CMA Board in October 2016  
 6 Appointed to CMA Board in October 2016

7 Appointed to CMA Board in October 2016  
 8 Term of appointment to CMA Board ended in September 2016  
 9 Appointed to CMA Board in October 2016  
 10 Term of appointment to CMA Board ended in September 2016

## Board performance

Under the Rules of Procedure, the Board commits to annually reviewing its performance and that of its committees. Due to a very lengthy recruitment process for new Non-Executive Directors, as well as a campaign to identify a permanent Chief Executive, a full review was not carried out in 2016/17. However, an internal review of Board effectiveness in summer 2015 found a well-functioning Board and actions from this review have continued to be taken forward. A full performance review will be carried out in 2017/18 once new members and a permanent Chief Executive have joined the Board.

The Senior Independent Member, Alan Giles, assessed the performance of the Chair in consultation with the Non-Executive Directors, and provided feedback to BEIS.

The CMA Board has continued to participate in the Women On Board pilot scheme, both as a nominating and host organisation. Angela MacDonald, Director of Operational Excellence at HMRC, has joined Board meetings since July 2015. The scheme aims to give talented senior women a board-level development opportunity.

## CMA Panel

Members of the CMA Panel are appointed by the Secretary of State for Business, Energy and Industrial Strategy. The Panel as at March 2017 consisted of a Panel Chair, seven Inquiry Chairs, and 28 Panel members. Two of these members, including the Panel Chair, are also on the CMA Board. More information about each of the members is available on our website.

Members are appointed for up to eight years. They are appointed through open competition for their experience, ability and diversity of skills in competition economics, law, finance and business.

Decisions on Phase 2 markets and mergers work are taken by independent groups of Panel members. Each group has at least three members and is led by a Chair. To preserve

the independence of Panel decision-making, the Board's oversight role does not extend into the substance of decisions by groups on Phase 2 work. The Board is kept informed about resourcing, efficiency, the application of CMA policy and the staff processes that support the work of the Panel.

Panel members who are also Non-Executive Directors do not take part in decisions to make market investigation references for any investigation on which it is anticipated they might form part of a Phase 2 group. In addition, the Panel Chair recuses herself from decisions relating to market studies where a market investigation reference may be under consideration.

By 31 March 2018, all but one of the CMA's current Panel members and Inquiry Chairs will have reached the end of their appointment term. Appointments are made by the Secretary of State for Business, Energy and Industrial Strategy. The Enterprise and Regulatory Reform Act only allows for reappointment for the purpose of continuing to act as a member of a Group constituted under paragraph 36 of Schedule 4 of that Act before the expiry of his or her term of office.

To mitigate the clear business risks arising from the loss of a significant number of Panel members and Inquiry Chairs over the coming 12 months, BEIS launched a recruitment campaign on 27 March 2017. The campaign sought candidates with appropriate senior level experience and skills from the fields of law, economics, accountancy, business, consumer, public policy and regulation.

## Compliance with Corporate Governance Code

Insofar as the Code of Practice for departments applies to non-ministerial departments, the CMA has complied with the requirements.

Conflicts of interest are managed in accordance with the CMA's published Conflicts of Interest policy (annexed to the Board's Rules of Procedure). This policy is followed at the launch of every project and updated quarterly through

the life of a project as necessary.

The Board's Rules of Procedure commit the CMA to carrying out an annual audit of the conduct of the CMA's conflicts of interest policy. The policy was updated in February 2016. A full audit will therefore be carried out in 2018/19 to allow us to determine the effectiveness of these changes. The Governance Improvement Network, which considers best practice for governance across BEIS partner organisations, is looking at the way conflicts of interest are handled across organisations. Carrying out an audit next financial year will also allow us to take note of any improvements arising out of this work and consider whether further changes might be required.

### Risk management

The CMA's risks are identified, monitored and managed at corporate directorate and project level. Directorate and project risks are held on risk registers at the appropriate level and maintained and managed by the relevant directorate or project leader, who are required to identify, manage, review and escalate risks as required. Risks that are considered to have significant potential impact on the delivery of the CMA's objectives are escalated to a corporate risk register. This register was reviewed and updated in 2015/16. The CMA's internal audit in 2015/16 of our approach to risk management was positive and rated as having substantial assurance.

The risk management pages on our intranet were updated following a risk appetite workshop undertaken by the Board. This update included a note from the Board on its risk appetite to detail how it approaches the trade-off between risk and reward and how this differs from the day to day management of projects.

This statement was accompanied by a note headed *Treating Risk Sensibly*, which sets out general principles on how the Board expects CMA staff to approach risk in their projects.

The CMA's corporate risks fall into three

broad categories: frontline risks covering pace, efficiency and effectiveness of delivery and the impact of adverse outcomes; Corporate Services risks covering infrastructure such as IT and other administrative operations; and the people and financial resources needed to deliver the objectives of the CMA.

The CMA's Corporate Risks are set out below:

- Major case failure
- Loss of data/security and issues with integrity of data
- Impact and confidence failings
- Failure to increase pace and efficiency
- Governance: misuse of public funds in accordance with *Managing Public Money*
- IT failure/loss of IT
- Staff: attracting talent
- Staff: engagement and performance/retention issues
- Business continuity and disaster recovery

### Significant risks and issues addressed in 2016/17

#### *CMA Legal Service*

The Legal Service supports the CMA in performing all its functions. In doing so it is assisted by external counsel as necessary, including its standing counsel.

The Legal Service conducts litigation on behalf of the CMA, including the appeals mentioned below concerning its decisions in merger and market investigation cases under the Enterprise Act 2002 and the Competition Act 1998. In 2016/17 it also continued to defend proceedings arising out of decisions of its predecessor body, the Office of Fair Trading (OFT), relating to fines paid following an investigation it conducted concerning tobacco products. In these proceedings in July 2016 the Court of Appeal ordered the CMA to repay the fines paid by two parties in that case, Gallaher and Somerfield, plus interest and costs, to those parties. The CMA has subsequently been granted permission to appeal against this judgement to the Supreme Court and the appeal will be heard by that court in 2018.

The Policy and International unit of the CMA supports it by keeping its policies, procedures and guidance under review, and dealing with proposals to change the law or international arrangements affecting its activities. In 2016/17 this has included considering potential changes to the law as a result of the UK leaving the European Union, as well as liaising with other competition and consumer authorities in the EU and internationally. This international work is often critical to enabling the CMA and other authorities to take effective action in cross border cases affecting UK consumers.

### **Enforcement**

*Competition Act cases:* In the past few years, there have been concerns that, both under the CMA and its predecessor organisation the Office of Fair Trading, the amount and speed of competition enforcement were insufficient, reflected in a report by the National Audit Office in February 2016 which commented that ‘the low case flow we identified in 2010 has continued’. The CMA has made, and continues to make, vigorous efforts to increase the number and pace of its competition enforcement casework, without prejudicing analytical rigour and procedural fairness. In 2016/17, the CMA comfortably exceeded its annual plan target of opening at least four new Competition Act cases, in fact opening 10. In the same period, the CMA issued a total of nine infringement decisions under the Act, imposing fines on infringing parties totalling over £100 million. For Competition Act cases, the CMA’s rules (which have statutory force) provide for decisions on whether there has been an infringement to be made by a group of at least two persons different from those who were involved in the investigation, and CMA guidance provides for there to be three such persons, at least one of whom is legally qualified, constituting a ‘Case Decision Group’; this ‘separation of powers’ is designed to reduce the risk of confirmation bias in Competition Act decision-making. There is guidance, published by the CMA, on the CMA’s investigation and governance procedures for Competition Act cases.

*Competition Act appeals:* The UK is widely considered to have one of the most stringent systems of judicial oversight over competition decisions anywhere in the world, through the procedure for parties to appeal to the Competition Appeal Tribunal against the CMA’s Competition Act decisions. Under this procedure decisions may be challenged on all aspects of merit of the decision, rather than just on limited ‘judicial review’ grounds. As at 31 March 2017, three of the CMA’s infringement decisions are subject to appeal with a total of eight undertakings appealing against the CMA’s decisions that they infringed the Act and against the fines imposed on them. The CMA is vigorously defending its decisions in all these cases and considers that its decisions and the level of fines were justified in all of them. Nevertheless, a degree of uncertainty and risk is inherent in any litigation and defending the appeals consumes considerable resources, both of CMA staff time and of the costs of engaging external advisers and experts.

*Criminal cartel offence:* At the end of 2016/17, the CMA had one continuing criminal investigation under the cartel offence in the Enterprise Act 2002. In June 2017 the CMA, which had secured the conviction of one suspect who had already pleaded guilty, decided not to charge any other suspects and closed the criminal investigation; the parallel civil investigation remains ongoing. The CMA will open further criminal cartel investigations, under either the ‘old’ or the ‘new’ legal regime, as appropriate.

*Consumer law enforcement:* In addition to its competition law enforcement activity, the CMA has been engaged in significant consumer law enforcement activity, and its achievements in this respect were acknowledged by the NAO. A challenge has been that the CMA’s deterrent power is relatively weak for consumer law enforcement compared with competition law enforcement because of the lack of a power to secure civil fines for infringements. The CMA therefore welcomes the government’s announced intention to legislate to introduce such powers.

*Leaving the EU:* The UK's forthcoming withdrawal from the European Union is likely to present significant opportunities and challenges for the CMA's enforcement functions. Although the details are uncertain, it is very possible that the CMA will need to exercise and acquire jurisdiction over cartels and other anti-competitive agreements and practices that have previously been the preserve of the European Commission (and which typically are larger cases); the CMA will need the resources and skills to fulfil these functions. In addition, cross-border cooperation (including exchange of information) which currently occurs between the CMA and other competition and consumer authorities in the EU will be at risk; the CMA will seek to mitigate that risk by pressing for the closest practicable cooperation with those authorities post-exit. Questions also need to be addressed about the handling of cases that are in progress at the point of the UK's exit.

### ***Markets and mergers***

There is significant external scrutiny of our performance on mergers. Businesses and their advisors review and discuss our performance in terms of timeliness of review and robustness of outcomes. Internally, we collect information to allow senior management to review KPIs relating to the proportion of cases when the statutory timetable was stopped, the number of cases in Phase 2 when an extension was requested, and the proportion of cases where remedies were required that were concluded within the statutory timetable for remedy implementation.

The very few instances where any delays occur can be immediately flagged for discussion among senior management and remedial action taken as necessary. KPIs on case outcomes (including referrals, remedies at Phase 1 and outcomes of Phase 2 cases) are published monthly. This is useful to detect any changes to long term trends that might need to be tackled. Litigation risk is also managed carefully; this was particularly relevant in handling the Phase 2 ICE/Trayport merger which was subsequently appealed to the CAT.

Our markets portfolio also receives significant external scrutiny from industry and consumer groups, the media and from parliamentary committees. Following publication of the final reports on our Energy and Banking Market Investigations, close attention was paid to delivering remedies within the six-month statutory timetable. Litigation risk was managed on potential changes to our Market Investigation regime to streamline investigations whilst continuing to pay careful attention to managing risks appropriately.

### ***Corporate Services – HR, Finance and Commercial, and IT***

*HR:* Over the past year, we have continued to embed our processes in relation to workforce planning. Our monthly Workforce Planning meeting reviews vacancies and ensures we are prioritising recruitment in business-critical areas and that the CMA remains within its budget. As part of this work we have reduced our reliance on contractors and agency workers and less than 10% of established roles in Corporate Services are currently filled by agency workers or contractors. This is improving our corporate knowledge and corporate resilience. We continue to review our recruitment practices to improve compliance with the Civil Service Commission recruitment principles and further diversify our organisation to reflect the society we serve. We look for innovative ways to attract staff to the CMA, including candidates from under-represented backgrounds, for example making use of volume campaigns, targeted advertising, and open evenings in support of specific campaigns. We have also appointed our first apprentice and are working to roll out a programme of apprenticeships for CMA staff and new recruits to build our CMA capability.

Staff turnover for the CMA (all permanent employees) has increased year on year from 11.8% in 2015/16 to 17.24% in 2016/17. This is above our annualised target of 12%. We recognise the importance of reducing this level of turnover and we are targeting activity to our highest risk areas (see also page 101). We are



investing in talent and career development to motivate and retain high performers.

We identified staff engagement as a risk in 2015/16 and this came to light in our 2016 staff survey with a decrease in our engagement index by two points to 59% - returning to the 2014 level. This is in line with the Civil Service benchmark, but we have identified concerns in particular about leadership and management capability, and promoting a culture of respect and inclusion in the workplace. We therefore significantly boosted our approach for 2017: we have developed a new Corporate Action Plan which is being led by Senior Directors with business ownership. We held our inaugural Learning at Work Week and Wellbeing and Mental Health Week in 2016. Following the success of these events we have gone on to sign the Time to Change pledge in February 2017 and will be continuing our focus on building capability, wellbeing and mental health over 2017/18. You can read more about these initiatives on page 67.

*Finance and Commercial:* During the year the Finance and Commercial team took a number of steps to improve corporate governance and financial accountability including an upgrade of our accounting system, improving our reporting functionality, the automation of the GPC card process and further improvements to automate recurring journals.

We continue to work on improving the quality of our management reports and are aiming to produce a financial dashboard in 2017/18. We are also continuing to update our finance, commercial and anti-fraud guidance and associated policies and processes on a regular basis and launched a new Budget Manager's guide in 2016.

In 2016 we also launched the CMA's Fraud Strategy and revised a number of associated policies and procedures including the creation of a high-level fraud risk assessment. To support this work the CMA's Security Working Group has

expanded its remit to cover the CMA's anti-fraud and anti-corruption work.

We continue to review and update our financial controls and checks on a regular basis to minimise the risk of misuse of public funds and in response to issues raised as a result of internal audits. The CMA has now achieved a moderate rating for its last financial controls audit. In June 2016 the CMA was subject to one instance of external fraud which resulted in a financially immaterial loss. An investigation was undertaken and disciplinary action was taken against one member of the finance team.

The team continues to work towards its target of paying 80% of undisputed invoices in five days in line with government best practice and a number of changes will be made in early 2017/18 to support this.

The Finance and Commercial team is now primarily an 'in house' team negating the risk of being dependent on contractors and contingent labour although a number of posts became vacant towards the end of the year. These were successfully filled at the start of 2017/18. The team has also received additional training on the CMA's upgraded ERP system in 2016.

In 2017 the Commercial team launched its fast track delegated procurement process with the aim of improved commercial accountability within the CMA whilst allowing the CMA to meet its statutory deadlines for projects. Alongside this, a number of key commercial steps have been automated using ERP and the CMA's Electronic Document management process. Additionally a new Head of Commercial and Procurement is heading up the team.

*Data security:* The CMA's Executive Director for Corporate Services is the Senior Information Risk Owner, supported by a Departmental Security Officer. In February 2016, a new Head of Security and Information Assurance was appointed and has been in post throughout the year.

The number of reported security breaches and near misses in 2016/17 was 55. These primarily related to the loss of the CMA's information assets. In most cases the CMA incident response plans and the use of technical controls prevented access to information through the unauthorised use of CMA devices. The CMA has detected a number of malware infections which were confined to user laptop devices and which were resolved with minimal impact. Instances of CMA staff not following procedural controls has resulted in a small number of incidents which resulted in the unauthorised disclosure of information. Overall, during the reporting period no incidents were identified that would require the CMA to inform or escalate to the Information Commissioner's Office or Cabinet Office.

All security breaches and near misses are reported to ARAC and XCo with individual breaches considered and escalated as appropriate dependent on their seriousness.

We have implemented a Protective Monitoring solution for the CMA and have appointed E2E as our third-party supplier for this cloud service. This will provide an additional layer of defence against cyber security threats. We also carry out our own independent penetration tests to identify vulnerabilities to our systems.

Following the Russell Square stabbing incident in 2016, a review was carried out of physical security arrangements at Victoria House. We consulted with a physical security expert from the Centre for the Protection of the National Infrastructure. They confirmed that the arrangements we currently have in place were sufficient. In January, all staff and members were requested to carry out the Cabinet Office's mandatory training. We have also put in place procedures to ensure that all new starters at the CMA have completed the mandatory training. This establishes a baseline understanding of security for all staff. A Security Communications plan has been developed and is now in place. This ensures that there are constant communications on security that occur every month to ensure staff awareness.

Fraud has been included as an aspect of security during the year. It is recognised that fraud and security are closely related. A fraud strategy has been developed to prevent, deter, detect and investigate all forms of fraud and corruption within the CMA and partner organisations.

The CMA has made arrangements with the BEIS business continuity team to utilise the business continuity space within a BEIS property as an alternative place of operations for our Emergency Management Team and our Corporate Management Team. Battle boxes have been set up at this location with the equipment that is required to assist the CMA to return to normal operation in the event of an incident. The CMA's security team have tested the operation of this facility and also successfully conducted scenario tests which include relocating to this alternative facility.

In line with our approach towards business continuity, we have developed a schedule of scenario testing to ensure that our plans are understood and are effective. The landlord's team have simulated situations which have necessitated the lock down of the property. These operations were completed successfully. In addition, several penetration tests have been conducted over the last year, whereby the effectiveness of the landlord's physical security has been tested. In all three tests, the security to the property was upheld.

All the CMA's business continuity plans will be further reviewed throughout the next year to ensure their effectiveness and to also take into consideration the lessons learnt during scenario testing.

*IT:* During the year, the ICT team has made substantial progress in systems availability, reporting, assurance and risk mitigation including the introduction of improved KPIs across the service catalogue with a focus on First-Time-Fix, continued improvements in change control, adoption of Cloud, Digital and User 1st strategies and implementation of improved Cyber Security capabilities through Digital Marketplace specialist

suppliers. They continued reporting through OpCo and ARAC on performance and risk.

Several audits have been carried out including Access Controls to CMA business applications. Several penetration tests have also been carried out throughout the year against accreditation checks for connection to PSN as well as when new services are introduced into service.

Shifting core activities to improving business capabilities using technology and digital tools, the team have delivered key transformation projects including cloud-enabling the CMA's forensic and analysis tools and eliminating bottlenecks by making it available across the business from anywhere. They have also delivered an upgraded Enterprise Resource Planning (ERP) solution ensuring this business-critical application is kept updated and supported as well as providing additional capabilities for Cloud, Digital and User 1st strategies. ICT have also started the delivery of the new end user computing service, moving to a more modern, flexible, mobile and secure solution which will roll out across the business by end of June 2017.

Staff turnover has continued to be a risk and as a result an organisational design review was completed and implemented. This should enable the CMA to attract appropriate talent and enable an improved retention of skilled specialists required to run the business-critical services, and improve further the in-house Cyber Security capability.

### **Internal audit**

From 1 April 2016, the provision of internal audit services was transferred to the Government Internal Audit Agency under a new Head of Internal Audit. There was a handover period between February and April that year to facilitate knowledge transfer and to support the transition of service. This is the first full year of the service as provided by the Government Internal Audit Agency.

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## Internal Audit's opinion

This report sets out the Head of Internal Audit's (HIA) annual opinion on the overall adequacy and effectiveness of the CMA's framework of risk management, control and governance, based on the programme of Internal Audit work carried out in 2016/17 in accordance with the Public Sector Internal Audit Standards (PSIAS). While this provides an important element of the assurance required for the Governance Statement, it should not be taken as the only means of assurance. Included in this report is our overall opinion, our audit activity that supports it, and the performance of the Internal Audit function for the year.

The annual opinion is based on delivery of the Internal Audit plan, designed to address the CMA's specific assurance requirements and focused on areas of risk identified; it also draws on the HIA's understanding of the business and other sources of assurance. The assessment of the position is informed by the work across the audit year, rather than the end of March position. The Internal Audit plan, including revisions during the course of the year, has been reviewed and endorsed by the Audit and Risk Assurance Committee (ARAC). Results of the Internal Audit work, including action taken by management to address issues included in audit reports, have been regularly reported to the ARAC.

I can only provide Limited assurance on the framework of governance, risk management and control within CMA for 2016/17. We identified significant weaknesses that the framework could be or could become inadequate or ineffective. There was a broad split between the assurance levels across individual assignments; however, the overall opinion has been determined on the materiality of the overall findings. The Limited reports issued highlight that there are significant weaknesses identified within these areas. Two of the three Limited reviews (Cyber Security and Fraud Control) reflect significant risks that could materialise and impact across the breadth of the organisation.

It is important to reflect that the Limited assurance reviews were all positively received by management as a means of improving the controls in place; the majority of the remedial actions have since been implemented. However, our follow up of the actions raised within our review of the CMA Direct implementation (rated as Moderate assurance) identified that progress had not been made in implementing the majority of the actions raised. These were not subsequently implemented through the life of the project, which does not reflect positively on the control environment or its approach to risk management. Our follow-up activity is factored into the overall opinion.

While the opinion for 2016/17 mirrors the Limited provided in 2015/16, there have been marked improvements in the overall control environment. In particular, significant progress has been made to address shortcomings within Finance, which has since moved from an Unsatisfactory level of assurance to a Moderate level. We still have concerns about resourcing in this area, however we recognise there is a strong awareness of this issue and there is a strategy in place to address this. We have also conducted a more extensive audit programme in 2016/17 by comparison; this includes more comprehensive reviews within IT and several frontline areas (e.g. Market Investigations, Mergers and Electronic Evidencing). It has allowed us to develop a broader view of risk management across the organisation.

Although we maintain concerns about fundamental issues identified in our programme of work, there is a broader trend for improvement across the year. This has been reflected through our regular engagement with management and the evidence of planned activities for 2017/18, which should strengthen the control environment. Based on this, we would expect CMA to move to a Moderate position in 2017/18.

In June 2016, the CMA was the victim of a financial scam. A request was received from an external email address asking the CMA to make payment for £24,905. This payment was made with inadequate financial procedures or controls applied to the authorisation of the payment. The CMA was able to recover £8,586 of the fraudulent payment.

Following the incident an internal investigation was conducted and disciplinary action was taken against one member of staff. The Head of Internal Audit conducted an audit of our payment systems and processes to ensure more robust financial controls and improve the professional culture of the Finance team. The progress of implementing the recommendations was reported to the Audit and Risk Assurance Committee.

### Whistleblowing

The CMA's whistleblowing policy, known as 'Speaking Out', is available to all staff on our intranet and is highlighted to new staff during their induction programme.

There were no whistleblowing complaints during 2016/17.

### Equality and diversity

You can read more about our work on equality and diversity on page 70.

### Personal data incidents

We experienced no information risk incidents in 2016/17 which were considered sufficiently significant for the Information Commissioner to be informed.

### Accounting Officer's assessment of governance effectiveness and conclusion

In 2016/17, the CMA strengthened its governance in a number of ways including:

- continued enhancement to monthly reporting and quarterly forecasting processes – with greater challenge from XCo and the Board
- continued review and reform of the pipeline process, with the Board receiving updates on planning outcomes
- regular workforce planning meetings have continued to be held which have improved the targeting of recruitment and there is a stronger HR team in place to support this
- following a series of optimised project team workshops which aimed to identify best practice and potential efficiencies to our frontline delivery work, we have taken forward improvements to streamline processes
- work on business planning for the CMA has begun – this will help identify resource requirements and key outputs planned for the coming financial year and will enhance the information available to the Senior Executive team

Our accounts this year have received a qualified opinion from the NAO (see page 121). This is on the basis of an excess vote on our Annually Managed Expenditure (AME) budget as a result of the legal challenge of tobacco pricing penalties. The timing of the appeal decision by the Supreme Court meant that the CMA needed to agree funding arrangements with HMT in the event that a payment was required, and following consultation with the NAO and HMT, we requested additional Resource budget (RDEL) to provide cover in the event that our leave to appeal had not been granted. We are not permitted to request budget cover under AME and RDEL for the same event, and as the

Supreme Court granted the CMA leave to appeal in February 2017, the repayment of penalties remains uncertain. We are therefore required to create a provision (AME) in the accounts, without the necessary budget cover being allocated.

This was an event beyond the control of the CMA. The CMA Board, XCo and ARAC were kept informed throughout, and were satisfied that the CMA acted appropriately in our approach to this situation – a view confirmed by the NAO report.

This year the CMA has faced difficulties recruiting and retaining Corporate Services staff where we have seen high turnover of staff. This is in part due to the salary the CMA is able to offer compared with the private sector and other regulators.

The Senior Executive team has been key in supporting all governance initiatives and we have made good progress in governance over the year. The Accounting Officer will continue to work with the Senior Executive team and other colleagues to further strengthen the internal controls where necessary in 2017/18.

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# Remuneration and staff report

## Remuneration policy

The remuneration of Senior Civil Servants is set by the Prime Minister following independent advice from the Review Body on Senior Salaries.

The Review Body advises the Prime Minister from time to time on the pay and pensions of Members of Parliament and their allowances; on Peer allowances; and on the pay, pensions and allowances of ministers and others whose pay is determined by the Ministerial and Other Salaries Act 1975 (as amended).

In reaching its recommendations, the Review Body has regard to the following considerations:

- the need to recruit, retain and motivate suitably-able and qualified people to exercise their different responsibilities
- regional/local variations in labour markets and their effects on the recruitment and retention of staff;
- government policies for improving public services, including the requirement on departments to meet the output targets for the delivery of services
- the funds available to departments as set out in the government's departmental expenditure limits
- the government's inflation target

The Review Body takes account of the evidence it receives about wider economic considerations and the affordability of its recommendations.

Further information about the work of the Review Body can be found at [www.ome.uk.com](http://www.ome.uk.com)

The salary and pension entitlements in this report have been subject to audit by the external auditor, the Comptroller and Auditor General, appointed under the Government Resources and Accounts Act 2000.

## Future remuneration policy

The remuneration policy for 2017/18 is currently being finalised by the Senior Salaries Review Board (SSRB) and will not be available until approved by the new government when it will be considered by the CMA's Remuneration Committee and the relevant recommendations, as they apply to the CMA, implemented for Senior Civil Servants.

Subject to government sign off of the SSRB, we expect to finalise the CMA's implementation of the policy by the end of Q2 2017/18. In the meantime, the CMA will continue to apply the current 2016/17 SCS pay policy.

## Service contracts

The Constitutional Reform and Governance Act 2010 requires Civil Service appointments to be made on merit on the basis of fair and open competition. The Recruitment Principles published by the Civil Service Commission specify the circumstances when appointments may be made otherwise.

Unless otherwise stated below, the officials covered by this report hold appointments which are open-ended. Early termination, other than for misconduct, would result in the individual receiving compensation as set out in the Civil Service Compensation Scheme.

Further information about the work of the Civil Service Commission can be found at [www.civilservicecommission.org.uk](http://www.civilservicecommission.org.uk)

## Remuneration (including salary) and pension entitlements

The following sections provide details of the remuneration and pension interests of the most senior management of the CMA. This section is subject to audit.

## Senior management remuneration (salary, bonus payments and pensions)

Senior management	Salary		Bonus payments*		Pension benefits**		Total	
	2016/17	2015/16	2016/17	2015/16	2016/17	2016/17	2016/17	2015/16
	£000	£000	£000	£000	£000	£000	£000	£000
Alex Chisholm***	45-50	190-195	-	15-20	15-20	70-75	65-70	275-280
Andrea Coscelli***	170-175	160-165	20-25	-	35-40	60-65	210-215	220-225
Michael Grenfell*****	160-165	105-110	20-25	-	60-65	60-65	220-225	145-150
Erik Wilson	110-115	110-115	-	15-20	30-35	40-45	140-145	165-170
Sarah Cardell****	170-175	170-175	15-20	10-15	30-35	30-35	205-210	210-215
Mike Walker	175-180	170-175	-	-	65-70	65-70	240-245	235-240
Rachel Merelie*****	135-140	-	-	-	75-80	-	210-215	-

\*Bonuses shown in 2016/17 relate to those earned and accrued for in year, these have not yet received governmental approval (Andrea Coscelli £15-20k, Michael Grenfell £15-20k and Sarah Cardell £15-20k). Also included in the above table are in-year recognition awards paid in November 2016 (Andrea Coscelli £0-5k and Michael Grenfell £0-5k).

\*\*The value of pension benefits accrued during the year is calculated as (the real increase in pension multiplied by 20) plus (the real increase in any lump sum) less (the contributions made by the individual). The real increases exclude increases due to inflation or any increase or decrease due to a transfer of pension rights.

\*\*\*Following the departure of Alex Chisholm on 3rd July 2016, Andrea Coscelli was named as Acting Chief Executive / Accounting Officer.

\*\*\*\* During 2016/17 Sarah was employed on a 0.9 FTE contract over 4 days per week. On an FTE basis this equates to salary of £190-195k (2015/16 £190-195k).

\*\*\*\*\*Rachel Merelie will cover the role of Executive Director of Markets and Mergers on an interim basis until Alex's permanent replacement is appointed. As part of this interim arrangement, Rachel Merelie attends the CMA board in an advisory capacity, but is not a formal member.

\*\*\*\*\* Michael Grenfell's 2015/16 FYE salary was £150-155k. Due to a retrospective change to alpha care there has been a recalculation of 15/16 Pension benefits for Michael.

Salary covers both pensionable and non-pensionable amounts and includes, but may not necessarily be confined to: gross salaries, overtime, recruitment and retention allowances, private office allowances and other allowances to the extent that they are subject to UK taxation and any ex-gratia payments. It does not include amounts which are a reimbursement of expenses directly incurred in the performance of an individual's duties. The total remuneration shown in the figures above is based on accrued payments made by the CMA to senior management members.

Bonuses are based on performance levels attained and are made as part of the appraisal process.

The monetary value of benefits in kind covers any benefits provided by the CMA and treated by HM Revenue and Customs (HMRC) as a taxable emolument. The CMA senior management members did not receive any benefits in kind in 2016/17 (2015/16: nil).

Reporting bodies are required to disclose the relationship between the remuneration of the highest-paid director in their organisation and



the median remuneration of the organisation's workforce, excluding the highest paid director, as at the reporting period end date. The calculation is based on the full-time equivalent staff of the reporting entity at the reporting period end date on an annualised basis.

The banded remuneration of the highest-paid board member in the CMA in the financial year 2016/17 was £305-310k (2015/16: £305-310k). This was 5.66 times (2015/16: 5.75 times) the median remuneration of the workforce, which was £54,459 (2015/16: £53,634).

In 2016/17, no employees received remuneration in excess of the highest-paid director (2015/16: nil). Remuneration, excluding the highest paid board member, ranged from £13k to £192k (2015/16: £20k - £211k).

Total remuneration includes salary and fees, non-consolidated performance-related pay and benefits in kind. It does not include severance payments, employer pension contributions and the cash equivalent transfer value of pensions.

### Non-executive Board members remuneration (salary and benefits in kind)

	2016/17		2015/16	
	Salary	Benefits in kind <sup>5</sup>	Salary	Benefits in kind <sup>5</sup>
	£000	Nearest £100	£000	Nearest £100
David Currie <sup>1</sup>	180-185 <sup>1</sup>	-	180-185 <sup>1</sup>	-
Alan Giles	25-30	700	25-30	500
Amelia Fletcher <sup>2</sup>	10-15	100	-	-
Anne Lambert <sup>2,8</sup>	10-15 <sup>8</sup>	-	-	-
Annetje Ottow	25-30	1,600	25-30	800
Jill May <sup>3,6</sup>	10-15	-	25-30 <sup>6</sup>	-
Jonathan Scott <sup>2</sup>	10-15	400	-	-
Roger Witcomb <sup>3,4</sup>	10-15	-	25-30 <sup>4</sup>	-
Sarah Chambers <sup>2,7</sup>	10-15 <sup>7</sup>	-	-	-
William Kovacic	25-30	-	25-30	-

<sup>1</sup> Throughout 2016/17 David Currie was employed on a 3 days per week contract which on a FTE basis equates to salary of £305-310k. His contract has been renewed from September 2017 where he will be contracted to 2 days per week.

<sup>2</sup> In October 2016 the CMA appointed five new non-executive directors. One member (Martin Coleman) will join the CMA in October 2017. All NEDs earn a FYE of £20-25k per annum.

<sup>3</sup> Roger Witcomb and Jill May both left the CMA Board in 2016/17 at the end of their appointment term but continue as Panel Members.

<sup>4</sup> The salary above for Roger Witcomb relates to his role as a CMA NED only. In 2016/17 Roger was also employed as a CMA Panel/ Inquiry Chair on a salary of £110-115k, Roger left this role on 30th September and became the Deputy Panel Chair from 1st October to 31st December. On 1st January 2017 Roger became a Panel member. In 2016/17 Roger earned a total remuneration of £85-90k for his work on the CMA Board and Panel.

<sup>5</sup> The benefit in kind (BIK) figures relate to the cost of travelling to and from the CMA's office at Victoria House for board and committee meetings only. These figures have been grossed up as the CMA pays the tax on behalf of the NED's. Please note £0-1k of BIK claims for 16/17 relate to previous financial years (2015-16 £1-2k).

<sup>6</sup> The above salary for Jill May relates to her role as a CMA NED. Jill is also a CMA Panel member, this includes case work and related training which is paid at an hourly rate. In 2016/17 Jill earned a total remuneration of £20-25k for her work on the CMA Board and Panel (2015/16 £25-30k).

<sup>7</sup> Sarah Chambers remained in her Panel member role when she became a NED. In 2016/17 Sarah earned a total remuneration £35-40k for her work on the CMA Board and Panel.

<sup>8</sup> The salary above for Anne Lambert relates to her role as a CMA NED only. In 2016/17 Anne was also employed as a CMA Panel/ Inquiry Chair on a salary of £115-120k. In 2016/17 Anne earned a total remuneration of £105-110k for her work on the CMA Board and Panel.

All the non-executive Board members were engaged on a 30 days per year basis with the exception of David Currie who at 31 March 2017 was engaged on a three days per week contract.

The Chairman and the other non-executive Board members are not members of the Principal Civil Service Pension Scheme (PCSPS) and they have no other pension entitlements with the CMA (2015/16: nil).

### Pension entitlements

	Accrued pension at pension age as at 31 March 2017 and related lump sum	Real increase in pension and related lump sum at pension age	CETV* at 31 March 2017	CETV* at 31 March 2016	Real increase/decrease in CETV	Employer contribution to partnership pension account
	£000	£000	£000	£000	£000	£000
Alex Chisholm	10-15	0-2.5	155	144	8	-
Andrea Coscelli**	-	-	-	94	-	31
Michael Grenfell****	10-15	2.5-5.0	134	87	33	-
Erik Wilson	60-65	0-2.5	1025	955	26	-
Sarah Cardell***	-	-	-	-	-	28
Mike Walker	10-15	2.5-5.0	157	109	31	-
Rachel Merelie****	30-35	2.5-5.0	533	443	63	-

\*CETV is the abbreviation for cash equivalent transfer value, which is defined below.

\*\*Following the departure of Alex Chisholm on 3rd July 2016, Andrea Coscelli was named as Acting Chief Executive/Accounting Officer. Andrea chose not to be covered by the Civil Service pension arrangement during the reporting year.

\*\*\*The contribution made to Sarah Cardell's pension during the year is listed in the senior management remuneration table.

\*\*\*\*Rachel Merelie will cover the role of Executive Director of Markets and Mergers on an interim basis until Alex's permanent replacement is found.

\*\*\*\*\* Due to a retrospective change to alpha care there has been a recalculation of 15/16 Pension benefits for Michael Grenfell

### Civil service pensions

Pension benefits are provided through the Civil Service pension arrangements. From 1 April 2015 a new pension scheme for civil servants was introduced – the Civil Servants and Others Pension Scheme or alpha, which provides benefits on a career average basis with a normal pension age equal to the member's State Pension Age (or 65 if higher). From that date all newly-appointed civil servants and the majority of those already in service joined alpha. Prior to that date, civil servants participated in the Principal Civil Service Pension Scheme (PCSPS). The PCSPS has four sections: three providing benefits on a final salary basis (classic, premium or classic plus) with a normal pension age of 60; and one providing benefits on a whole career basis (nuvos) with a normal pension age of 65.

These statutory arrangements are unfunded with the cost of benefits met by monies voted by Parliament each year. Pensions payable under classic, premium, classic plus, nuvos and alpha are increased annually in line with Pensions Increase legislation. Existing members of the PCSPS who were within 10 years of their normal pension age on 1 April 2012 remained in the PCSPS after 1 April 2015. Those who were between 10 years and 13 years and 5 months from their normal pension age on 1 April 2012 will switch into alpha sometime between 1 June 2015 and 1 February 2022. All members who switch to alpha have their PCSPS benefits 'banked', with those with earlier benefits in one of the final salary sections of the PCSPS having those benefits based on their final salary when they leave alpha. (The pension figures quoted for officials show pension earned in PCSPS or alpha – as appropriate. Where

the official has benefits in both the PCSPS and alpha the figure quoted is the combined value of their benefits in the two schemes.) Members joining from October 2002 may opt for either the appropriate defined benefit arrangement or a 'money purchase' stakeholder pension with an employer contribution (partnership pension account).

Employee contributions are salary-related and range between 4.6% and 8.05% of pensionable earnings for members of classic, premium, classic plus nuvos and alpha. Benefits in classic accrue at the rate of 1/80th of final pensionable earnings for each year of service. In addition, a lump sum equivalent to three years initial pension is payable on retirement. For premium, benefits accrue at the rate of 1/60th of final pensionable earnings for each year of service. Unlike classic, there is no automatic lump sum. Classic plus is essentially a hybrid with benefits for service before 1 October 2002 calculated broadly as per classic and benefits for service from October 2002 worked out as in premium. In nuvos a member builds up a pension based on his pensionable earnings during their period of scheme membership. At the end of the scheme year (31 March) the member's earned pension account is credited with 2.3% of their pensionable earnings in that scheme year and the accrued pension is uprated in line with pensions increase legislation. Benefits in alpha build up in a similar way to Nuvos, except that the accrual rate is 2.32%. In all cases members may opt to give up (commute) pension for a lump sum up to the limits set by the Finance Act 2004.

The partnership pension account is a stakeholder pension arrangement. The employer makes a basic contribution of between 3% and 12.5% up to 30 September 2015 and 8% and 14.75% from 1 October 2015 (depending on the age of the member) into a stakeholder pension product chosen by the employee from a panel of providers. The employee does not have to contribute, but where they do make contributions, the employer will match these up to a limit of 3% of pensionable salary (in addition to the employer's basic contribution). Employers

also contribute a further 0.8% of pensionable salary up to 30 September 2015 and 0.5% of pensionable salary from 1 October 2015 to cover the cost of centrally-provided risk benefit cover (death in service and ill health retirement).

The accrued pension quoted is the pension the member is entitled to receive when they reach pension age, or immediately on ceasing to be an active member of the scheme if they are already at or over pension age. Pension age is 60 for members of classic, premium and classic plus, 65 for members of nuvos, and the higher of 65 or State Pension Age for members of alpha. (The pension figures quoted for officials show pension earned in PCSPS or alpha – as appropriate. Where the official has benefits in both the PCSPS and alpha the figure quoted is the combined value of their benefits in the two schemes, but note that part of that pension may be payable from different ages.)

Further details about the Civil Service pension arrangements can be found at the website [www.civilservicepensionscheme.org.uk](http://www.civilservicepensionscheme.org.uk)

### Cash Equivalent Transfer Values

This is the actuarially assessed capitalised value of the pension scheme benefits accrued by a member at a particular point in time. The benefits valued are the member's accrued benefits and any contingent spouse's pension payable from the scheme. A CETV is a payment made by a pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement when the member leaves a scheme and chooses to transfer the benefits accrued in their former scheme. The pension figures shown relate to the benefits that the individual has accrued as a consequence of their total membership of the pension scheme, not just their service in a senior capacity to which disclosure applies. The figures include the value of any pension benefit in another scheme or arrangement which the member has transferred to the Civil Service pension arrangements. They also include any additional pension benefit accrued

to the member as a result of their buying additional pension benefits at their own cost. CETVs are worked out in accordance with The Occupational Pension Schemes (Transfer Values) (Amendment) Regulations 2008 and do not take account of any actual or potential reduction to benefits resulting from Lifetime Allowance Tax which may be due when pension benefits are taken.

### **Real increase in CETV**

This reflects the increase in CETV that is funded by the employer. It does not include the increase in accrued pension due to inflation, contributions

paid by the employee (including the value of any benefits transferred from another pension scheme or arrangement) and uses common market valuation factors for the start and end of the period.

### **Compensation for loss of office**

No senior managers received compensatory payments in 2016/17 (2015/16 nil).

# Staff report

## Introduction

The CMA has a fully committed and competent workforce capable of delivering our objectives. Throughout the year, work has continued on developing and embedding our people systems, policies and processes, with particular emphasis on making the CMA a great place to work.

## Number of people employed

The following section is subject to audit.

The number of whole-time equivalent people employed at 31 March 2017 and the average number of whole-time equivalent people employed during the year was as follows:

	At year end		Average for year	
	2016/17	2015/16	2016/17	2015/16
	Number	Number	Number	Number
Permanent staff	521	568	537	553
Others*	59	73	52	108
<b>Total</b>	<b>580</b>	<b>641</b>	<b>589</b>	<b>661</b>

\*Includes loans in, secondments, fixed term contracts, agency workers and contractors. The CMA has no ministers or special advisers.

## Staff composition

The following section is subject to audit.

The number of whole-time equivalent persons employed at 31 March 2017 by grade.

	2016/17		2015/16	
	Male	Female	Male	Female
SCS3 (Director)	2	0	2	0
SCS2 (Director)	8	7	8	8
SCS1 (Director)	39	21	38	22
Grade 6	63	54	62	61
Grade 7	80	66	95	71
SEO	19	13	23	14
HEO	43	50	43	52
EO	25	27	22	38
AO	2	2	6	3
<b>Total</b>	<b>281</b>	<b>240</b>	<b>299</b>	<b>269</b>

\*Includes persons employed on a permanent contract only and excludes individuals on a fixed term contract.

## Disability policies

The CMA is committed to providing opportunities for people with disabilities.

A Wellbeing and Mental Health action group was set up in August 2016 and the CMA signed up to the 'Time to Change' pledge in February 2017 to demonstrate the CMA's commitment to eradicating stigma associated with mental health and raise its profile so that it is viewed as on the same level of importance as physical health. Since its creation, the group has: organised the CMA's first Wellbeing at Work Week; organised talks on resilience; provided training in managing staff with mental health issues; established a Wellbeing Peer Support Network; and launched a network of mental health first aiders.

If we are aware of someone's disability then we will discuss any reasonable adjustments that they require to be able to fulfil the requirements of their role. In some cases, it may mean referring the individual to Occupational Health to fully understand their disability and the adjustments required. These adjustments are then documented and ongoing support is provided through regular review meetings. As well as adjustments relating to, for example, working pattern or specialist software, we also provide support in relation to equipment such as providing a specific chair, a raised desk, special keyboard and mouse etc.

We use the Workplace Adjustments Passport, a cross-Civil Service document which can be completed by any employee who feels their

circumstances could have an impact on their ability to work, either currently or at some point in the future. This document records all adjustments they require and can be taken to a new role or Civil Service department without the individual having to share the same information each time.

We assess individual training needs for our disabled staff. For example, staff may require training to help them to use specific software for their disability. For staff who declare they are dyslexic we arrange a full assessment and then arrange any specific training they need to be able to manage the condition in their day to day role.

The CMA is part of the Positive Action Pathway Programme which gives individuals from under-represented groups (including disabled staff) the skills and confidence to enable them realise their full potential and to assist with career progression. The programme gives individuals the support and training to help them to progress at least one grade higher. Existing staff are also covered by our GIS scheme, meaning a staff member with a disability who applies for a role on promotion is guaranteed an interview if they meet the minimum criteria.

## Sickness absence

Over the year 1 April 2016 to 31 March 2017, the average working days lost due to absence per full time equivalent employee was 6.25 days (2015/16: 6.63 days). This compares to the most recently published Civil Service average figure of 7.2 days.

## Staff costs

The following section is subject to audit. Staff costs comprise:

	2016/17		2015/16	
	Permanently employed staff	Others*	Total	Total
	£000	£000	£000	£000
Wages and salaries	33,368	2,086	35,454	40,820
Social security costs	3,922	-	3,922	3,504
Pension costs	6,712	-	6,712	7,098
<b>Sub total</b>	<b>44,002</b>	<b>2,086</b>	<b>46,088</b>	<b>51,422</b>
Other staff costs	176	-	176	122
Less: recoveries in respect of outward secondments	(97)	-	(97)	(273)
<b>Total</b>	<b>44,081</b>	<b>2,086</b>	<b>46,167</b>	<b>51,271</b>

\*Wages and salaries of others comprises of contractors, agency and temporary staff.

The staffing levels of both the predecessor organisations and the CMA have been affected by a competitive labour market. In 2016/17 we have made further efforts to reduce the number of temporary staff, however temporary staff remained to cover permanent staff roles during recruitment, and to support specific project activities. Since 31 March 2016, the level of temporary staff has reduced significantly following the conclusion of specific projects.

The Principal Civil Service Pension Scheme (PCSPS) is an unfunded multi-employer defined benefit scheme in which the CMA is unable to identify its share of the underlying assets and liabilities. A full actuarial valuation was carried out as at 31 March 2012. Details can be found in the financial statements of the Cabinet Office: Civil superannuation at [www.civilservicepensionscheme.org.uk/about-us/resource-accounts](http://www.civilservicepensionscheme.org.uk/about-us/resource-accounts)

For 2016/17, employer's contributions of £6,434,076 were payable to the PCSPS (2015/16: £6,890,260) at one of four rates in the range 20.0% to 24.5% (2015/16: 20.0% to 24.5%) of pensionable pay, based on salary bands. The

scheme's Actuary reviews employer contributions every four years following a full scheme valuation. The salary bands and contribution rates were revised for 2016/17. The contribution rates reflect benefits as they are accrued, not when the costs are actually incurred, and reflect past experience of the scheme.

CMA employees can opt to open a partnership pension account, a stakeholder pension with an employer contribution. Employers' contributions of £316,781 (2015/16: £206,284) were paid to one or more of a panel of three appointed stakeholder pension providers. Employer contributions are age-related and range from 3% to 12.5% of pensionable pay. CMA also match employee contributions up to 3% of pensionable pay. In addition, employer contributions of £8,452, 0.5% (2015/16: £6,876, 0.5%) of pensionable pay, were payable to the PCSPS to cover the cost of the future provision of lump sum benefits on death in service or ill health retirement of these employees. Contributions due to the partnership pension providers at the reporting date were nil (2015/16: nil). Contributions prepaid at that date were nil (2015/16: nil).

## Expenditure on consultancy

In 2016/17 the CMA spent £63k on consultancy (2015/16 £32k). The increase in consultancy spend relates to IT work on improving systems.

## Reporting of Civil Service and other compensation scheme exit packages

The following section is subject to audit.

Exit package cost band	2016/17		
	Number of compulsory redundancies	Number of other departures agreed	Total number of exit packages by cost band
<£10,000	0	2	2
£10,000-£25,000	0	1	1
£25,000-£50,000	0	8	8
£50,000-£100,000	0	10	10
£100,000-£150,000	0	0	0
£150,000-£200,000	0	0	0
<b>Total number of exit packages</b>	<b>0</b>	<b>21</b>	<b>21</b>
<b>Total cost of exit packages (£000)</b>	<b>0</b>	<b>1,033</b>	<b>1,033</b>

Redundancy and other departure costs have been paid in accordance with the provisions of the Civil Service Compensation Scheme, a statutory scheme made under the Superannuation Act 1972. Exit costs are accounted for in full in the year of departure (2015/16: nil). Where the department has agreed early retirements, the additional costs are met by the department and not by the Civil Service pension scheme. Ill-health retirement costs are met by the pension scheme and are not included in the table.

## Off-payroll engagements

The table below shows all off-payroll engagements as at 31 March 2017, for more than £220 per day and that last for longer than six months.

	Number
<b>No. of existing engagements as at 31 March 2017</b>	<b>2</b>
<b>Of which:</b>	
No. that have existed for less than one year at time of reporting	-
No. that have existed for between one and two years at time of reporting	1
No. that have existed for between two and three years at time of reporting	1
No. that have existed for between three and four years at time of reporting	-
No. that have existed for more than four years at time of reporting	-

The off-payroll engagements outlined above have been subject to a risk based assessment and have provided written assurance that they are paying the right amount of tax.



The table below shows all new off-payroll engagements, or those that reached six months in duration, between 1 April 2016 and 31 March 2017, for more than £220 per day and that last for longer than six months.

	Number
<b>No. of new engagements, or those that reached six months in duration, between 1 April 2016 and 31 March 2017</b>	<b>2</b>
No. of the above which include contractual clauses giving the department the right to request assurance in relation to income tax and national insurance obligations	2
No. for whom assurance has been requested*	2
<b>Of which:</b>	
No. for whom assurance has been received	2
No. for whom assurance has not been received	-
No. that have been terminated as a result of assurance not being received	-

\* Assurance was requested when contracts extend beyond six months in duration.

The table below shows board members and/or senior officials with significant\* financial responsibility.

	Number
On payroll	5
Off payroll	-

\* Significant financial responsibility relates to CMA executive directors and the department's Director of Finance and Commercial.

## Parliamentary accountability and audit report

### Statement of Parliamentary Supply

In addition to the primary statements prepared under IFRS, the Government Financial Reporting Manual (FRM) requires CMA to prepare a Statement of Parliamentary Supply (SoPS) and supporting notes to show resource outturn against the Supply Estimate presented to Parliament, in respect of each budgetary control limit. The SoPS and related notes are subject to audit.

### Summary of resource and capital outturn 2016/17

	2016/17								2015/16
	Estimate				Outturn				Outturn
	SoPS Note	Voted	Non-voted	Total	Voted	Non-voted	Total	Voted outturn compared with Estimate: saving/ (excess)	Total
	£000	£000	£000	£000	£000	£000	£000	£000	£000
<b>Departmental expenditure limit</b>									
Resource	1.1	139,426	-	139,426	64,469	-	64,469	74,957	65,148
Capital	1.2	2,200	-	2,200	1,790	-	1,790	410	994
<b>Annually managed expenditure</b>									
Resource	1.1	5,500	-	5,500	71,006	-	71,006	(65,506)	943
Capital	1.2	-	-	-	-	-	-	-	-
<b>Total budget</b>		<b>147,126</b>	<b>-</b>	<b>147,126</b>	<b>137,265</b>	<b>-</b>	<b>137,265</b>	<b>9,861</b>	<b>67,085</b>
<b>Non-budget</b>									
Resource		-	-	-	-	-	-	-	-
<b>Total</b>		<b>147,126</b>	<b>-</b>	<b>147,126</b>	<b>137,265</b>	<b>-</b>	<b>137,265</b>	<b>9,861</b>	<b>67,085</b>
<b>Total resource</b>		144,926	-	144,926	135,475	-	135,475	9,451	66,091
<b>Total capital</b>		2,200	-	2,200	1,790	-	1,790	410	994
<b>Total</b>		<b>147,126</b>	<b>-</b>	<b>147,126</b>	<b>137,265</b>	<b>-</b>	<b>137,265</b>	<b>9,861</b>	<b>67,085</b>

**Net cash requirement 2016/17**

2016/17		2016/17			2015/16
SoPS Note	Estimate		Outturn	Outturn compared with Estimate: saving/(excess)	Outturn
	£000		£000	£000	£000
3	<b>139,140</b>		<b>64,149</b>	<b>74,989</b>	<b>66,389</b>

**Administration costs 2016/17**

2016/17		2016/17			2015/16
SoPS Note	Estimate		Outturn		Outturn
	£000		£000		£000
1	<b>18,885</b>		<b>13,812</b>		<b>13,056</b>

The figures above outlined in the bold areas are voted totals subject to Parliamentary or other control. Explanations of variances between Estimate and Outturn are given in the Analysis of Net Resource Outturn by Section and in the Performance Summary.

**SOPS 1**                      **Net outturn**  
**SOPS 1.1**                  **Analysis of net resource outturn by section**

	2016/17									2015/16
	Outturn						Estimate			Outturn
	Administration			Programme						
	Gross	Income	Net	Gross	Income	Net	Total	Net total	Net total compared to Estimate, adjusted for virements*	Total
£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000
<b>Spending in Departmental Expenditure Limit (DEL)</b>										
Voted: A Competition Promotion	14,326	(1,650)	12,676	52,515	(722)	51,793	64,469	139,426	74,957	65,148
<b>Annually Managed Expenditure (AME)</b>										
Voted: B Competition Promotion	1,136	-	1,136	69,870	-	69,870	71,006	5,500	(65,506)	943
<b>Total</b>	<b>15,462</b>	<b>(1,650)</b>	<b>13,812</b>	<b>122,385</b>	<b>(722)</b>	<b>121,663</b>	<b>135,475</b>	<b>144,926</b>	<b>9,451</b>	<b>66,091</b>

\*There were no virements in 2016/17.

The CMA requested additional funding of £70m via Supplementary Estimate process under the Supply and Appropriation (Anticipation & Adjustments) Act 2016, and must comply with the HMT Estimates policy ([https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/220744/estimates\\_manual\\_july2011.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/220744/estimates_manual_july2011.pdf)) that Departments submit Estimates for approval based on taut and realistic plans. In determining the treatment of litigation cases, the CMA requested DEL and AME cover, and was subsequently directed by HMT that DEL and AME cannot be provided for the same event under the double budgeting principle. An internal risk assessment concluded that a request for DEL cover was required in this instance.

The CMA received additional Resource DEL cover for 2016/17 in the Supplementary Estimate, to ensure sufficient funding would be available in the event of liabilities arising from on-going litigation becoming payable before March 31st 2017. It was agreed with HMT that, if this funding was not utilised in 2016/17, it would be returned to HMT as an underspend in CMA Resource DEL. Following a recent decision in the context of the ongoing litigation, these funds were not required and were returned to HMT as an underspend. AME cover was however required for the ongoing litigation and has therefore given rise to an excess vote.

## SOPS 1.2 Analysis of net capital outturn by section

	2016/17					2015/16
	Outturn			Estimate		Outturn
	Gross	Income	Net	Net	Net total compared to Estimate, adjusted for virements*	Net
	£000	£000	£000	£000	£000	£000
<b>Spending in Departmental Expenditure Limit (DEL)</b>						
Voted:	1,790	-	1,790	2,200	410	994
<b>Annually Managed Expenditure (AME)</b>						
Voted: B	-	-	-	-	-	-
<b>Total</b>	<b>1,790</b>	<b>-</b>	<b>1,790</b>	<b>2,200</b>	<b>410</b>	<b>994</b>

\* There were no virements in 2016/17.

## SOPS 2 Reconciliation of outturn to net operating expenditure

### SOPS 2.1 Reconciliation of net resource outturn to net operating expenditure

	2016/17	2015/16
	Outturn £000	Outturn £000
Total resource outturn in Statement of Parliamentary Supply	135,475	66,091
Add: research capitalised under ESA10*	380	-
<b>Net operating expenditure in statement of comprehensive net expenditure</b>	<b>135,855</b>	<b>66,091</b>

\*Chapter 6 of the Consolidated Budgeting Guidance 2016 to 2017 requires that we record as capital any costs that although they do not meet the criteria to be capitalised in resource accounts do however meet the ESA10 definition of research and development. These are to be recognised as capital spending in budgets but to be recognised as an expense in the departmental accounts, so no depreciation will arise.

### SOPS 3 Reconciliation of net resource outturn to net cash requirement

	Note	Estimate	Outturn	Net total outturn compared with Estimate: saving/ (excess)
		£000	£000	£000
<b>Resource outturn</b>	SOPS 1.1	144,926	135,475	9,451
<b>Capital outturn</b>	SOPS 1.2	2,200	1,790	410
<b>Accruals to cash adjustments</b>				
<i>Adjustments to remove non-cash items:</i>				
Depreciation and write off of assets	4	(3,486)	(1,566)	(1,920)
New provisions and adjustments to previous provisions	4	(5,500)	(72,285)	66,785
Other non-cash items	4	-	(84)	84
<i>Adjustments to reflect movements in working balances:</i>				
Increase/(decrease) in receivables	9	-	(368)	368
(Increase)/decrease in payables	10	1,000	208	792
Increase/(decrease) to be surrendered to the Consolidated Fund		-	(299)	299
Use of provisions	11	-	1,278	(1,278)
<b>Net cash requirement</b>		<b>139,140</b>	<b>64,149</b>	<b>74,991</b>

### SOPS 4 Income payable to the Consolidated Fund

Consolidated Fund income does not include any amounts collected by the department where it was acting as agent of the Consolidated Fund rather than as principal. Full details of income collected as agent for the Consolidated Fund are in the department's Trust Statements published separately from but alongside these financial statements.

#### SOPS 4.1 Analysis of income payable to the Consolidated Fund

During the 2016/17 year there was no income payable to the Consolidated Fund (2015/16: nil).

#### SOPS 4.2 Consolidated Fund income

The full details of income collected as agent for the Consolidated Fund are in the CMA's Trust Statement, published separately from but alongside these financial statements.

## Parliamentary accountability disclosure

### 1 Losses and special payments

The following sections are subject to audit.

*Managing Public Money* requires a statement showing losses and special payments by value and by type to be disclosed where they exceed £300k in total and those that individually exceed £300k.

The CMA had total losses in the 2016/17 year of nil (2015/16: £47k).

The Trust had total losses in the 2016/17 of £793k (2015/16: £676k) relating to CA98 debts, these debts were considered to be no longer collectable.

#### 1.1 Losses over £300k

CMA had no losses in 2016/17 in excess of £300k (2015/16: nil).

The Trust had one write-off greater than £300k in 2016/17 (2015/16: 1). This was an amount of £702k in relation to Sol Construction Limited. This company was dissolved on 28 June 2016.

#### 1.2 Special payments

There were no special payments in 2016/17 (2015/16: nil).

### 2. Remote contingent liabilities

This section is subject to audit.

In addition to contingent liabilities reported within the meaning of IAS37, the CMA also reports that there is a possibility of a transfer of economic benefits to third parties where appeals are made against the CMA decisions. Therefore, contingent liability information required under IAS 37 is not disclosed on the grounds that it may prejudice the outcome of those proceedings.

### 3. Long-term expenditure trends

	Net outturn/budget figures					
	Net outturn			Net budget**		
	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
	£000	£000	£000	£000	£000	£000
Resource Departmental Expenditure Limit (RDEL)	61,751	65,148	64,469	69,430	69,430	69,430
Capital Departmental Expenditure Limit (CDEL)	1,304	994	1,790	1,300	7,400	2,100
<b>Total</b>	<b>63,055</b>	<b>66,142</b>	<b>66,259</b>	<b>70,730</b>	<b>76,830</b>	<b>71,530</b>

	Administration Budget					
	Outturn			Budget		
	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
	£000	£000	£000	£000	£000	£000
Administration budget*	15,073	13,056	13,812	18,890	18,890	18,890
<b>Total</b>	<b>15,073</b>	<b>13,056</b>	<b>13,812</b>	<b>18,890</b>	<b>18,890</b>	<b>18,890</b>

\*Please note the administration budget is part of the RDEL total outlined in the above table.

\*\*An additional requirement of £70m may be required in future subject to the outcome of the tobacco case.

Signed for and on behalf of the CMA



**Andrea Coscelli**

Acting Chief Executive and Accounting Officer

22 June 2017



# The Certificate and Report of the Comptroller and Auditor General to the House of Commons

I certify that I have audited the financial statements of the Competition and Markets Authority for the year ended 31 March 2017 under the Government Resources and Accounts Act 2000. The financial statements comprise: the Statements of Comprehensive Net Expenditure, Financial Position, Cash Flows, Changes in Taxpayers' Equity; and the related notes. These financial statements have been prepared under the accounting policies set out within them. I have also audited the Statement of Parliamentary Supply and the related notes, and the information in the Remuneration and Staff Report and the Parliamentary Accountability Disclosures that is described in those reports and disclosures as having been audited.

## Respective responsibilities of the Accounting Officer and auditor

As explained more fully in the Statement of Accounting Officer's Responsibilities, the Accounting Officer is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view. My responsibility is to audit, certify and report on the financial statements in accordance with the Government Resources and Accounts Act 2000. I conducted my audit in accordance with International Standards on Auditing (UK and Ireland). Those standards require me and my staff to comply with the Auditing Practices Board's Ethical Standards for Auditors.

## Scope of the audit of the financial statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or

error. This includes an assessment of: whether the accounting policies are appropriate to the Competition and Markets Authority's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Accounting Officer; and the overall presentation of the financial statements. In addition I read all the financial and non-financial information in the annual report and accounts to identify material inconsistencies with the audited financial statements and to identify any information that is apparently materially incorrect based on, or materially inconsistent with, the knowledge acquired by me in the course of performing the audit. If I become aware of any apparent material misstatements or inconsistencies I consider the implications for my certificate and report.

I am required to obtain evidence sufficient to give reasonable assurance that the Statement of Parliamentary Supply properly presents the outturn against voted Parliamentary control totals and that those totals have not been exceeded. The voted Parliamentary control totals are Departmental Expenditure Limits (Resource and Capital), Annually Managed Expenditure (Resource and Capital), Non-Budget (Resource) and Net Cash Requirement. I am also required to obtain evidence sufficient to give reasonable assurance that the expenditure and income recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions recorded in the financial statements conform to the authorities which govern them.

### Basis for Qualified Opinion on regularity

Parliament authorised a Resource Annually Managed Expenditure limit for CMA of £5.500m. Against this limit, CMA incurred actual expenditure of £71.006m breaching the authorised limit by £65.506m as shown in the Statement of Parliamentary Supply.

### Qualified Opinion on regularity

In my opinion, except for the excess described in the basis for qualified opinion paragraph, in all material respects:

- the Statement of Parliamentary Supply properly presents the outturn against voted Parliamentary control totals for the year ended 31 March 2017 and shows that those totals have not been exceeded; and
- the expenditure and income recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions recorded in the financial statements confirm to the authorities which govern them.

More details of the reasons for my qualified audit opinion are set out in my report on pages 121 to 22.

### Opinion on financial statements

In my opinion:

- the financial statements give a true and fair view of the state of the Competition and Market Authority's affairs as at 31 March 2017 and of its net operating cost for the year then ended; and
- the financial statements have been properly prepared in accordance with the Government Resources and Accounts Act 2000 and HM Treasury directions issued thereunder.

### Opinion on other matters

In my opinion:

- the parts of the Remuneration and Staff Report and the Parliamentary Accountability disclosures to be audited have been properly

prepared in accordance with HM Treasury directions made under the Government Resources and Accounts Act 2000; and

- the information given in the Performance Report and Accountability Report for the financial year for which the financial statements are prepared is consistent with the financial statements.

### Matters on which I report by exception

I have nothing to report in respect of the following matters which I report to you if, in my opinion:

- adequate accounting records have not been kept or returns adequate for my audit have not been received from branches not visited by my staff; or
- the financial statements and the parts of the Remuneration and Staff Report and the Parliamentary Accountability disclosures to be audited are not in agreement with the accounting records and returns; or
- I have not received all of the information and explanations I require for my audit; or
- the Governance Statement does not reflect compliance with HM Treasury's guidance.

### Sir Amyas C E Morse

Comptroller and Auditor General

4 July 2017

National Audit Office  
157-197 Buckingham Palace Road  
Victoria  
London  
SW1W 9SP

# The Report of the Comptroller and Auditor General to the House of Commons

## Introduction

The Competition and Markets Authority (CMA) is a non-Ministerial government department which is the lead competition and consumer authority for the UK.

The net expenditure of government departments is authorised by Acts of Parliament. These Acts set a series of annual limits on the net expenditure which departments may not exceed and on the total cash they can use. Any expenditure outside of these limits will result in an 'Excess Vote'. Such expenditure potentially undermines parliamentary control over public spending. Where these limits are breached, I qualify my regularity opinion on the financial statements.

Parliament authorised a resource annually managed expenditure limit of £5.500m for CMA in 2016/17. Outturn against that limit was £71.006m. This means that the authorised limit was breached by £65.506m and so I have qualified my opinion on CMA's financial statements in this respect.

## Legal challenge of tobacco pricing penalties

CMA's responsibilities include investigating where there may have been breaches of UK or EU prohibitions against anti-competitive agreements and abuses of dominant positions under the Competition Act 1998, and enforcing penalties where appropriate. Where penalties are enforced, the revenue arising is shown in the Trust Statement and revenue collected is paid over to the Consolidated Fund.

In April 2010, the Office of Fair Trading, which subsequently merged with the Competition

Commission to form the Competition and Markets Authority, levied and collected a penalty from Gallaher and Somerfield following its investigation into tobacco pricing. Gallaher and Somerfield have subsequently sought repayment of the penalty, plus interest and related costs through legal proceedings. In June 2016 the Court of Appeal found in their favour, but following the decision CMA sought leave to appeal to the Supreme Court.

CMA's only access to resources to repay penalties is through funds voted to it by Parliament. Given the size of the penalty in this case - approximately a full year's budget for CMA - management sought additional resources from Parliament through the Supplementary Estimates process.

At the time of submitting their supplementary estimate CMA was awaiting the decision from the Supreme Court on their leave to appeal. Depending on the outcome of the appeal they would either need Resource Departmental Expenditure Limit (RDEL) or Resource Annually Managed Expenditure (RAME) cover. However, it is not permissible to request cover under both spending limits for the same transaction.

Had CMA's request for leave to appeal not been granted, it would have been required to make the penalty repayments to Gallaher and Somerfield. Following consultation with HM Treasury, the CMA requested an additional £70.000m of RDEL cover. This ensured that Parliament had received notice of the potential need for cash resources and that this need was formally approved. I consider that CMA acted appropriately in notifying Parliament of the need for additional resources and requesting RDEL cover through the supplementary estimate.

Following the supplementary estimate, on 23 February 2017 the Supreme Court granted the CMA leave to appeal and at 31 March 2017 the repayment of the penalties remained uncertain. Whilst CMA remain confident of the strength of their case, they are required under International Financial Reporting Standards to make provision in the financial statements for the potential penalty repayment where this is considered to be probable but not known. Under the HM Treasury's consolidated budgeting guidance new provisions score in AME. As a result CMA has breached its RAME control total by £65.506m, with a corresponding surplus against its RDEL control total.

### Other matters

In my 2016 report on the Competition Regime I concluded that the CMA should make more use of its enforcement powers. I recognise that the size of enforcement penalties are often large relative to the CMA's budget and that using enforcement powers to maximum effect will always carry the risk of appeal.

There is an on-going risk that the timing of future enforcements being overturned results in the CMA breaching its budgets even where it exercises

appropriate financial management, consults with HM Treasury and takes steps to secure the necessary resources from Parliament, as it has in this case. In those circumstances, I consider that the risk of qualification should not act as a disincentive to the CMA for continuing to pursue a challenging portfolio of enforcement work.

**Sir Amyas C E Morse**  
Comptroller and Auditor General

4 July 2017

National Audit Office  
157-197 Buckingham Palace Road  
Victoria  
London  
SW1W 9SP

# Financial statements

## Statement of Comprehensive Net Expenditure

for the year ended 31 March 2017

	Note	2016/17	2015/16
		£000	£000
Operating income	5	(2,372)	(4,139)
<b>Total operating income</b>		<b>(2,372)</b>	<b>(4,139)</b>
Staff costs	3	46,167	51,271
Other costs	4	22,885	18,959
Legal cost provided in year	4	69,175	-
<b>Total operating expenditure</b>		<b>138,227</b>	<b>70,230</b>
<b>Net operating expenditure for the year</b>		<b>135,855</b>	<b>66,091</b>
<b>Other comprehensive net expenditure</b>			
Actuarial net (gain)/loss on by-analogy pension scheme	11,3	(361)	(84)
<b>Comprehensive net expenditure</b>		<b>135,494</b>	<b>66,007</b>

The notes on pages 128 to 147 form part of these Financial Statements.

## Statement of Financial Position

as at 31 March 2017

	Note	2016/17	2015/16
		£000	£000
<b>Non-current assets</b>			
Property, plant and equipment	6	3,316	5,098
Intangible assets	7	1,814	190
Trade and other receivables	9	628	1,202
<b>Total non-current assets</b>		<b>5,758</b>	<b>6,490</b>
<b>Current assets</b>			
Cash and cash equivalents	8	1,330	1,629
Trade and other receivables	9	4,330	4,125
<b>Total current assets</b>		<b>5,660</b>	<b>5,754</b>
<b>Total assets</b>		<b>11,418</b>	<b>12,244</b>
<b>Current liabilities</b>			
Trade and other payables	10	(12,194)	(8,823)
Provisions	11	(62)	(1,269)
<b>Total current liabilities</b>		<b>(12,256)</b>	<b>(10,092)</b>
<b>Total assets less current liabilities</b>		<b>(838)</b>	<b>2,152</b>
<b>Non-current liabilities</b>			
Trade and other payables	10	(3,902)	(7,482)
Provisions	11	(76,102)	(4,251)
<b>Total non-current liabilities</b>		<b>(80,004)</b>	<b>(11,733)</b>
<b>Total assets less liabilities</b>		<b>(80,842)</b>	<b>(9,581)</b>
<b>Taxpayers' equity and other reserves</b>			
General fund		(80,842)	(9,581)
<b>Total equity</b>		<b>(80,842)</b>	<b>(9,581)</b>

The notes on pages 128 to 147 form part of these Financial Statements.



**Andrea Coscelli**  
Acting Chief Executive and Accounting Officer  
22 June 2017

## Statement of Cash Flows

### for the year ended 31 March 2017

	Note	2016/17	2015/16
		£000	£000
<b>Cash flows from operating activities</b>			
Net operating cost	SoCNE	(135,855)	(66,091)
Adjustments for non-cash transactions	4	73,934	2,226
(Increase)/decrease in trade and other receivables	9	368	124
Increase/(decrease) in trade and other payables	10	(208)	(2,735)
Movements in payables relating to items not passing through the Statement of Comprehensive Net Expenditure		299	1,301
Use of provisions	11	(1,278)	(220)
<b>Net cash outflow from operating activities</b>		<b>(62,740)</b>	<b>(65,395)</b>
<b>Cash flows from investing activities</b>			
Purchase of property, plant and equipment	6	(1,317)	(801)
Purchase of intangible assets	7	(92)	(193)
<b>Net cash outflow from investing activities</b>		<b>(1,409)</b>	<b>(994)</b>
<b>Cash flows from financing activities</b>			
Financing from the Consolidated Fund (Supply)		63,850	65,088
Advance from the Contingencies Fund		-	-
Repayments to the Contingencies Fund		-	-
<b>Net financing</b>		<b>63,850</b>	<b>65,088</b>
<b>Net increase/(decrease) in cash and cash equivalents in the year, before adjustment for payments to the Consolidated Fund</b>		<b>(299)</b>	<b>(1,301)</b>
Payments of amounts due to the Consolidated Fund		-	-
<b>Net (decrease)/increase in cash and cash equivalents in the year after adjustment for payments to the Consolidated Fund</b>		<b>(299)</b>	<b>(1,301)</b>
<b>Cash and cash equivalents at the beginning of the year</b>	8	1,629	2,930
<b>Cash and cash equivalents at the end of the year</b>	8	<b>1,330</b>	<b>1,629</b>

The notes on pages 128 to 147 form part of these Financial Statements.



## Statement of Changes in Taxpayers' Equity

for the year ended 31 March 2017

	Note	General fund
		£000
<b>Balance at 31 March 2015</b>		<b>(10,043)</b>
Net Parliamentary Funding - drawn down		65,088
Net Parliamentary Funding - deemed		2,930
Unspent Supply repayable to the Consolidated Fund		(1,629)
Non-cash charges - auditors' remuneration	4	80
Net operating expenditure for the year		(66,091)
Actuarial (loss)/gain on pension liability	11	(84)
<b>Balance at 31 March 2016</b>		<b>(9,581)</b>
Net Parliamentary Funding - drawn down		63,850
Net Parliamentary Funding - deemed		1,629
Unspent Supply repayable to the Consolidated Fund	10	(1,330)
Non-cash charges - auditors' remuneration	4	84
Net operating expenditure for the year		(135,855)
Actuarial (loss)/gain on pension liability	11	361
<b>Balance at 31 March 2017</b>		<b>(80,842)</b>

The notes on pages 128 to 147 form part of these Financial Statements.

## Notes to the Financial Statements

### 1. Statement of accounting policies

These financial statements have been prepared in accordance with the Government Resource and Accounts Act 2000 and the 2016/17 Government Financial Reporting Manual (FReM) issued by HM Treasury. The accounting policies contained in the FReM apply International Financial Reporting Standards (IFRS) as adapted or interpreted for the public sector context. Where the FReM permits a choice of accounting policy, the CMA selects the accounting policy which is judged to be most appropriate to the particular circumstances for the purpose of giving a true and fair view. The particular policies adopted by the department are described below. They have been applied consistently in dealing with items that are considered material to the accounts.

#### 1.1 Basis of preparation

These financial statements have been prepared under the modified historical cost convention, to account for the revaluation of certain financial assets and liabilities, including property assets, where material.

#### 1.2 Critical accounting estimates and judgements

The CMA makes estimates and judgements in the preparation of the financial statements. The estimates and judgements that have a significant risk of causing a material adjustment to the carrying amount of assets and liabilities within the next financial year are detailed below.

##### Provisions for liabilities and charges

Provisions rely on the application of professional judgement, historical experience and other factors expected to influence future events. Where the likelihood of a liability crystallising is deemed probable and can be measured with reasonable certainty, a provision is recognised. Provisions are based on valuations, supplemented by management judgement. Further information is disclosed in Note 11.

#### 1.3 Impending application of newly issued accounting standards not yet effective

The CMA discloses wherever it has not yet applied a new accounting standard and provides any information relevant to assessing the possible impact that the initial application of the new standard would have on the Financial Statements. In 2017/18 there will be two new standards, IFRS 9 Financial Instruments and IFRS 15 Revenue from Contracts with Customers.

#### 1.4 Financing

The CMA is primarily resourced by funds approved by parliament through the annual Appropriation Act. Resources are drawn down each month to meet expenditure requirements and are credited to the general fund.

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## 1.5 Income

Income consists principally of recoveries of accommodation expenditure, service income, regulatory appeals and cost recoveries on legal cases. Income from recovery of accommodation costs is classified as administration to match against the related tenant accommodation expenditure which is included in administration costs. All income is recognised when the service is provided or when a legal decision has been determined.

## 1.6 Staff costs

Under IAS19 Employee Benefits legislation, all staff costs must be recorded as an expense as soon as the organisation has an obligation to pay them.

## 1.7 Early departure costs

The CMA is required to meet the additional cost of benefits beyond the normal Principal Civil Service Pension Scheme (PCSPS) benefits in respect of employees who retire early, unless the retirement is on approved medical grounds. The CMA provides for the costs when the early retirement of an individual is agreed and approved.

## 1.8 Pensions

Past and present employees are largely covered by the provisions of PCSPS which is described at Note 3. The CMA recognises the expected pension cost on a systematic and rational basis over the period during which it benefits from employees' services by payment to the PCSPS of amounts calculated on an accruing basis. Liability for payment of future benefits is a charge on the PCSPS. In respect of the defined contribution schemes, the CMA recognises the contributions payable for the year.

The CMA has a separate scheme for the previous Chairs and Director Generals of the Office of Fair Trading, which is 'by analogy', or similar to, the PCSPS. Provision has been made for the future cost of benefits under this scheme. The current Chairman and the other non-executive Board members of the CMA are not members of the PCSPS and do not receive pension benefits from the CMA.

## 1.9 Leases

Expenditure in relation to operating lease rentals are charged to the Statement of Comprehensive Net Expenditure on a straight line basis over the lease term.

## 1.10 Property, plant and equipment

Expenditure on property, plant and equipment (excluding assets under construction) is capitalised at cost where it satisfies the CMA's capitalisation criteria, which is to capitalise expenditure of £10k or more for individual purchases. These assets are subject to revaluation using relevant indices, where material and the fair value for all other assets is the depreciated historical cost. There was no revaluation in 2016/17 on the grounds of materiality.

### 1.11 Assets under construction

Assets under construction includes development expenditure in connection with a product or service if the spend meets the capitalisation criteria specified in IAS 38 Intangible Assets.

Assets under construction comprise the development of information technology systems for use across the CMA. When assets under construction are brought into use the relevant value is transferred to information technology assets, at which point depreciation commences.

### 1.12 Intangible assets

Intangible assets comprise software and software licences capitalised at cost where they satisfy the CMA's capitalisation criteria, where expenditure on individual purchases was £10k or more.

### 1.13 Depreciation and amortisation

Assets are depreciated or amortised at rates calculated to write-off their value, less any estimated residual value, evenly on a straight-line basis over their estimated useful lives. For leased assets, the estimated useful life constitutes the life of the lease or the period implicit in the repayment schedule. Where a change in asset life is determined, the asset is depreciated or amortised over its remaining assessed life on a straight-line basis.

The values of assets are reviewed annually for impairment to ensure that they are carried at fair value. Where it is determined that a depreciable asset is not being carried at fair value, the appropriate impairment is accounted for accordingly.

Estimated useful asset lives are within the following ranges:

#### Property, plant and equipment (depreciation)

Leasehold improvement costs (including dilapidations asset) over the remainder of the 16 years to lease break date

Information technology	2 to 6 years
Furniture and fittings	5 to 10 years

#### Intangible assets (amortisation)

Software licences	2 to 5 years (licence term)
Software	2 to 5 years

### 1.14 Financial instruments

The CMA does not hold any complex financial instruments. The only financial instruments included in the financial statements are the following assets and liabilities: cash at bank and in hand; receivables; and payables, as disclosed in Notes 8, 9 and 10. These are non-derivative financial assets and liabilities with fixed or determinable payments that are not traded in an active market and there is no material difference between fair value, amortised cost and historical cost. Trade receivables are recognised initially at fair value and a provision is created for impairment when there is evidence that the CMA

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will be unable to collect the amount due in accordance with the agreed terms.

All financial assets and liabilities are recognised when the CMA becomes party to the contractual provisions to receive or make cash payments. The categorisation of financial assets and liabilities depends on the purpose for which the asset or liability was held or acquired. Management determine categorisation of the asset or liability at initial recognition and then annually re-evaluate.

### **1.15 Value Added Tax**

In general output tax does not apply on most of the CMA's activities and input tax on purchases is not recoverable. Irrecoverable VAT is charged to the relevant expenditure category or included in the capitalised purchase costs of non-current assets. Where output tax is charged or input tax is recoverable, the amounts included in income and expenditure are stated net of VAT.

### **1.16 Going concern**

The future financing of the CMA's liabilities is to be met by future grants of supply and the application of future income, both approved annually by Parliament. Approval for the amounts required for the 2017/18 year has already been given. HM Treasury have agreed that, should additional funding be required in future relating to the outcome of the tobacco case, this funding will be available through Supply. It has accordingly been considered appropriate to adopt a going concern basis for the preparation of these financial statements.

All unspent cash at 31 March 2017 is surrenderable to the Consolidated Fund.

## 2. Statement of operating costs by operating segment

### 2.1 Analysis by operating segment

The CMA recognised seven reportable segments within its management accounts with the following breakdown of total gross expenditure:

	Total gross expenditure 2016/17	Total gross expenditure 2015/16
	£000	£000
Cartel & Criminal Group	6,914	8,088
Mergers Phase 1 & sector regulation	4,299	5,042
Legal Services	9,030	6,324
Office of Chief Economic Advisor	2,495	3,373
Policy and International	1,506	1,625
Competition, Consumer and Markets Group*	19,819	21,446
Corporate Services**	20,377	22,179
	<b>64,440</b>	<b>68,077</b>

\*Competition, Consumer and Markets Group total gross expenditure of £19,819 comprises the following operational segments:

	Total gross expenditure 2016/17	Total gross expenditure 2015/16
	£000	£000
Mandatory work	7,338	8,364
Markets	3,297	3,646
Enforcement	9,184	9,436
	<b>19,819</b>	<b>21,446</b>

\*\*Corporate Services total gross expenditure of £20,377 is analysed as follows:

	Total gross expenditure 2016/17	Total gross expenditure 2015/16
	£000	£000
Premises (CMA-wide costs)	9,085	9,721
Information technology (CMA-wide costs)	2,967	1,266
Staff and other non-staff costs	8,325	11,192
	<b>20,377</b>	<b>22,179</b>

## 2.2 Reconciliation between operating segments and Statement of Comprehensive Net Expenditure

	2016/17	2015/16
	£000	£000
Total gross expenditure reported for operating segments	64,440	68,077
<b>Reconciling items:</b>		
Income	(2,372)	(4,139)
Depreciation and non-cash items	73,787	2,153
<b>Total net expenditure per the Statement of Comprehensive Net Expenditure</b>	<b>135,855</b>	<b>66,091</b>

### 3. Staff costs

Staff costs comprise:

	2016/17	2015/16
	Total	Total
	£000	£000
Wages, salaries and other associated costs	46,088	51,422
<b>Sub total</b>	<b>46,088</b>	<b>51,422</b>
Other staff costs	176	122
Less: recoveries in respect of outward secondments	(97)	(273)
<b>Total net costs</b>	<b>46,167</b>	<b>51,271</b>
<b>Total</b>	<b>46,167</b>	<b>51,271</b>

More detailed information on staff costs is available in the Staff Report on page 107.

### 4. Other costs

	2016/17	2015/16
	£000	£000
Rent (operating leases)	4,211	5,859
Rates	1,812	1,799
Utilities	349	419
Maintenance	187	277
Other premises costs	641	384
Service charge	1,197	1,050
<b>Net premises costs</b>	<b>8,397</b>	<b>9,788</b>
<b>Research expenditure</b>	<b>407</b>	<b>59</b>



**Other expenditure**

Litigation Costs	878	248
Professional services	1,623	2,553
Training	673	649
Compliance and campaigns	154	110
Travel and subsistence	346	441
Recruitment	247	448
Telecommunications	502	298
IT (including maintenance)	2,654	1,134
Printing, copying and mailing	635	473
Hire of plant and machines	4	1
Publications	187	154
Other expenditure	1,483	451
<b>Total other expenditure</b>	<b>9,386</b>	<b>6,960</b>

**Non-cash items**

Depreciation of property, plant and equipment	1,210	920
Depreciation of intangible assets	356	63
Impairment of trade receivables	(63)	(74)
Provisions – amount provided for in year	72,351	1,163
Auditors' remuneration and expenses	84	80
Provisions- amount not required, written back	(68)	-
<b>Total non-cash items</b>	<b>73,870</b>	<b>2,152</b>

<b>Total other costs</b>	<b>92,060</b>	<b>18,959</b>
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## 5. Income

	2016/17	2015/16
	£000	£000
Recovery of accommodation costs	1,650	1,902
Proceeds of Crime Act 2002 income	-	118
Appeal costs reimbursed	-	421
Regulatory Appeals	685	1,564
Other income	37	134
<b>Total income</b>	<b>2,372</b>	<b>4,139</b>
<b>Of total income:</b>		
Administration income	1,650	1,902
Programme income	722	2,237
	<b>2,372</b>	<b>4,139</b>

## 6. Property, plant and equipment

	Leasehold improvements	Information technology	Furniture and fittings	Assets under construction	2016/17 Total
	£000	£000	£000	£000	£000
<b>Cost or valuation</b>					
At 1 April 2016	9,033	2,483	371	199	12,086
Additions	30	282	-	1,005	1,317
Disposals	-	-	-	-	-
Reclassification	-	(1,278)	-	(872)	(2,150)
Revaluations (adjustment of provision movement)	-	-	-	-	-
Impairments	-	-	-	-	-
<b>At 31 March 2017</b>	<b>9,063</b>	<b>1,487</b>	<b>371</b>	<b>332</b>	<b>11,253</b>
<b>Depreciation</b>					
At 1 April 2016	5,622	1,171	196	-	6,989
Charged in year	975	198	37	-	1,210
Disposals	-	-	-	-	-
Reclassification	-	(262)	-	-	(262)
Revaluations	-	-	-	-	-
Impairments	-	-	-	-	-
<b>At 31 March 2017</b>	<b>6,597</b>	<b>1,107</b>	<b>233</b>	<b>-</b>	<b>7,937</b>
<b>Carrying amount at 31 March 2017</b>	<b>2,466</b>	<b>380</b>	<b>138</b>	<b>332</b>	<b>3,316</b>
Carrying amount at 31 March 2016	3,411	1,313	175	199	5,098

In 2016/17 £1,301k was reclassified from Information technology to intangibles (2015/16: nil).

There was no impairment in 2016/17 (2015/16: nil).

	Leasehold improvements	Information technology	Furniture and fittings	Assets under construction	2015/16 Total
	£000	£000	£000	£000	£000
<b>Cost or valuation</b>					
At 1 April 2015	9,033	1,595	371	286	11,285
Additions	-	343	-	458	801
Disposals	-	-	-	-	-
Reclassification	-	545	-	(545)	-
Revaluations	-	-	-	-	-
Impairments	-	-	-	-	-
At 31 March 2016	9,033	2,483	371	199	12,086
<b>Depreciation</b>					
At 1 April 2015	5,163	757	148	-	6,068
Charged in year	459	413	48	-	920
Disposals	-	-	-	-	-
Revaluations	-	-	-	-	-
Impairments	-	-	-	-	-
At 31 March 2016	5,622	1,170	196	-	6,988
<b>Carrying amount at 31 March 2016</b>	<b>3,411</b>	<b>1,313</b>	<b>175</b>	<b>199</b>	<b>5,098</b>
Carrying amount at 31 March 2015	3,870	838	223	286	5,217

The Leasehold improvements asset includes the dilapidations asset previously disclosed separately.

The dilapidations asset was inherited from the Competition Commission on creation of the CMA and relates to the initial cost of restoring our part of Victoria House to its original state upon termination of the lease.

### Asset financing

All property, plant and equipment assets and intangibles were owned by the CMA. The leasehold costs relate to Victoria House, which is occupied via an operating lease.

## 7. Intangible assets

Software licences		
	2016/17	2015/16
	£000	£000
<b>Cost or valuation</b>		
At 1 April	253	72
Additions	92	193
Disposals	-	(12)
Reclassification	2,150	-
<b>At 31 March</b>	<b>2,495</b>	<b>253</b>
<b>Depreciation</b>		
At 1 April	63	12
Charged in year	356	63
Disposals	-	(12)
Reclassification	262	-
<b>At 31 March</b>	<b>681</b>	<b>63</b>
<b>Carrying amount at 31 March</b>		
	<b>1,814</b>	<b>190</b>
Carrying amount at 31 March	190	60

In 2016/17 £1,301k was reclassified from Information technology to intangibles (2015/16: nil).

## 8. Cash and cash equivalents

	2016/17	2015/16
	£000	£000
Balance at 1 April	1,629	2,930
Net change in cash and cash equivalent balances	(299)	(1,301)
<b>Balance at 31 March</b>	<b>1,330</b>	<b>1,629</b>

### The balance at 31 March was held at

Government Banking Service	1,330	1,629
<b>Balance at 31 March</b>	<b>1,330</b>	<b>1,629</b>

## 9. Trade and other receivables

### 9.1 Amounts falling due within one year

	2016/17	2015/16
	£000	£000
Trade receivables (gross)	563	1,118
Impairment provision	(72)	(135)
Trade receivables (net)	491	983
Deposits and advances	165	181
Other receivables	305	174
VAT	624	406
Prepayments and accrued income	2,745	2,381
<b>Total</b>	<b>4,330</b>	<b>4,125</b>

## 9.2 Amounts falling due after more than one year

	2016/17	2015/16
	£000	£000
Tenants' rent free period	62	126
Tenants' rent – operating lease asset	566	1,076
<b>Total</b>	<b>628</b>	<b>1,202</b>

As the CMA intends to break its property lease in September 2019, any receivables relating to the lease have been reduced in 2016/17.

## Trade and other payables

### 10.1 Amounts falling due within one year

	2016/17	2015/16
	£000	£000
Trade payables	508	629
Accruals and deferred income	6,967	4,067
Taxation and social security	1,046	1,063
Other payables	2,343	1,435
Amounts issued from the Consolidated Fund for supply but not spent at 31 March	1,330	1,629
Consolidated Fund extra receipts due to be paid to the Consolidated Fund - received	-	-
<b>Total</b>	<b>12,194</b>	<b>8,823</b>

## 10.2 Amounts falling due after more than one year

	2016/17	2015/16
	£000	£000
Victoria House rent – rent free period *	444	897
Victoria House rent – operating lease liability **	3,458	6,585
<b>Total</b>	<b>3,902</b>	<b>7,482</b>

\* Under the rules of *UITF Abstract 28: Operating Leases*, the value of the rent free period is amortised on a straight line basis over 16 years to the lease break date.

\*\* Victoria House rent operating lease liability is the remaining liability arising from charging rental costs on a straight-line basis over the term of the lease to the lease break date.

As the CMA intends to break its property lease in September 2019, any payables relating to the lease have been reduced in 2016/17.

## 11. Provisions for liabilities and charges

	Early Departure provision	Pension provision	Dilapidation provision	Exit cost provision	Legal cost provision	2016/17 Total
	£000	£000	£000	£000	£000	£000
Balance at 1 April 2016	110	1,662	2,647	1,101	-	5,520
Provided for in year	103	58	3,015	-	69,175	72,351
Provisions not required written back	-	-	-	(68)	-	(68)
Provisions utilised in the year	(170)	(75)	-	(1,033)	-	(1,278)
Actuarial loss/(gain)	-	(361)	-	-	-	(361)
<b>Balance at 31 March 2017</b>	<b>43</b>	<b>1,284</b>	<b>5,662</b>	<b>-</b>	<b>69,175</b>	<b>76,164</b>



	Early Departure provision	Pension provision	Dilapidation provision	Exit cost provision	Legal cost provision	2015/16 Total
	£000	£000	£000	£000	£000	£000
Balance at 1 April 2015	229	1,785	2,647	-	-	4,661
Provided for in year	-	62	-	1,101	-	1,163
Provisions not required written back	-	-	-	-	-	-
Provisions utilised in the year	(119)	(101)	-	-	-	(220)
Actuarial loss/(gain)	-	(84)	-	-	-	(84)
<b>Balance at 31 March 2016</b>	<b>110</b>	<b>1,662</b>	<b>2,647</b>	<b>1,101</b>	<b>-</b>	<b>5,520</b>

### 11.1 Analysis of expected timing of cash flows

	Early Departure provision	Pension provision	Dilapidation provision	Exit cost provision	Legal cost provision	2016/17 Total
	£000	£000	£000	£000	£000	£000
Not later than one year	23	39	-	-	-	62
Later than one year and not later than five years	20	559	5,662	-	69,175	75,416
Later than five years	-	686	-	-	-	686
<b>Balance at 31 March 2017</b>	<b>43</b>	<b>1,284</b>	<b>5,662</b>	<b>-</b>	<b>69,175</b>	<b>76,164</b>

	Early Departure provision	Pension provision	Dilapidation provision	Exit cost provision	Legal cost provision	2015/16 Total
	£000	£000	£000	£000	£000	£000
Not later than one year	65	103	-	1,101	-	1,269
Later than one year and not later than five years	46	412	-	-	-	458
Later than five years	-	686	-	-	-	686
<b>Balance at 31 March 2016</b>	<b>111</b>	<b>1,661</b>	<b>2,647</b>	<b>1,101</b>	<b>-</b>	<b>5,520</b>

## 11.2 Early departure provision

The CMA meets the additional costs beyond the normal PCSPS benefits in respect of employees who retire early, by paying the required amounts annually to the PCSPS over the period between early departure and normal retirement date. The CMA provides for this in full when the early retirement programme becomes binding through establishing a provision for the estimated payments. There were no new early retirees during the year (2015/16: nil).

## 11.3 Pension provision

The pension provision relates to the previous Chairman and Director Generals of the former Office of Fair Trading. The pension arrangement is unfunded and all payments are guaranteed by the CMA. Benefits are paid as they fall due and there is no surplus or deficit on the provision. An actuarial valuation was carried out by the Government Actuary's Department at 31 March 2017.

The financial assumptions used in the calculation of the liability as at 31 March 2017 were as follows:

- the gross rate used to discount scheme liabilities was 2.8% per annum (2015/16: 3.6% per annum)
- the gross rate of increase for pensions in payment and deferred pensions was 2.55% per annum (2015/16: 2.2% per annum)
- in nominal terms, these assumptions implied price inflation of 2.55% per annum (2015/16: 2.2% per annum)

Other amounts disclosed in order to understand the change in provision:

	2016/17 Total	2015/16 Total
	£000	£000
Interest cost	58	62
Actuarial loss	(361)	(84)
	(303)	(22)
Benefits paid	(74)	(101)
<b>(Decrease)/increase in provision</b>	<b>(377)</b>	<b>(123)</b>

#### 11.4 Dilapidations provision

The dilapidations provision is an estimate of the expenditure required to return the Victoria House building, used as the CMA's offices, to its original condition as at the commencement of the lease. An estimate of value, probability and timing of future payments, have been taken into account by management in determining this provision. The lease for the property expires in 2023 with a break option in 2019, the break must be exercised no later than September 2018. The provision assumes that we will break the lease on the break date.

The latest review was undertaken this year by Gerald Eve LLP whose services are regulated by the Royal Institution of Chartered Surveyors (RICS). A settlement figure was given which incorporated the floor space and current market factors and assumes that the break clause will be exercised in 2019.

#### 11.5 Exit cost provision

The exit cost provision relates to the voluntary redundancy scheme ran in 2015/16. As per IAS19 the CMA provided for the scheme in full as it was deemed committed as at 31st March 2016 with no realistic possibility of the scheme being withdrawn. The provision amount was calculated in accordance with the Civil Service Compensation Scheme, a statutory scheme made under the Superannuation Act 1972. In 2016/17 the CMA in accordance with the Civil Service compensation terms paid lump sum payments totalling £1,033k (2015/16: nil). For more information on the exits please see the staff report on page 101.

#### 11.6 Legal cost provision

The potential repayment of fines provision is in relation to ongoing litigation the CMA was in as at 31st March 2017. The case is currently before Supreme Court and could result in a fine previously collected by the OFT (one of the CMA's predecessor organisation) becoming repayable to the respondents. The provision amount is based on the repayment of the fines, interest and the respondents' legal costs

### 12. Capital and other commitments

#### 12.1 Capital commitments

CMA has no capital commitments at 31 March 2017.

## 12.2 Commitments under operating leases

	2016/17	2015/16
	£000	£000
Total future minimum lease payments under operating leases are given in the table below for each of the following periods:		
Not later than one year	6,352	6,352
Later than one year and not later than five years	10,362	27,493
Later than five years	-	17,966
<b>Total</b>	<b>16,714</b>	<b>51,811</b>

The CMA has a 20-year lease for office space in Victoria House, Southampton Row, London WC1 4AD. The lease start date was September 2003. The total space is 8,258 square metres, of which 1,916 square metres (23%) had been sublet as at 31 March 2017 and 6,342 square metres (77%) is used by the CMA. The CMA's net operating lease commitment is £13,912k (2015/16: £42,233k).

The terms of the Victoria House lease include a compounded annual rent increase of 2.5% that is applied every five years. The operating lease commitments shown above include the compounded annual rent increase. The first increase was in September 2008, the second increase was in September 2013 and the third increase is due in September 2018. The rental increase each review date is 13.14%.

The earliest break date is September 2019, at which point CMA intends to break the lease. This has been reflected in the commitments under operating lease

## 13. Financial instruments

The cash requirements of the CMA are met through the Estimate process, so financial instruments play a much more limited role in creating and managing risk than would apply to a non-public sector body of a similar size. The majority of financial instruments relate to the CMA's purchase contracts and usage requirements. The CMA is, therefore, exposed to little credit, liquidity or market risk.

## 14. Financial guarantees, indemnities and letters of comfort

The CMA does not enter into any financial guarantees and indemnities, or provide letters of comfort.

## 15. Related-party transactions

The CMA had a number of transactions with other government departments and central government bodies. None of the Board Members, key managerial staff or other related parties have undertaken any material transactions with the CMA during the year.

The CMA sublets part of its office premises at Victoria House to the Competition Appeals Tribunal and the Groceries Code Adjudicator which are sponsored by Department for Business, Energy & Industrial Strategy and the Oslo/Paris Convention (OSPAR) Commission which is part of DEFRA.

Information regarding Board Members' Register of Interests can be found in the Director's Report under the Register of Interests section.

## 16. Contingent liabilities

There is a possibility of a transfer of economic benefits to third parties where appeals are made against the CMA decisions. Therefore, contingent liability information required under IAS 37 is not disclosed on the grounds that it may prejudice the outcome of those proceedings.

## 17. Events after the reporting period

In accordance with the requirements of IAS 10 Events after the Reporting Period, post reporting period events are considered up to the date on which the financial statements are authorised for issue. This is interpreted as the date of the Certificate and Report of the Comptroller and Auditor General. The CMA financial statements do not reflect events after this date.

There are no subsequent events to report.

# CMA Trust statement

A separate Trust Statement is maintained for revenues collected in relation to fees collected under the Enterprise Act 2002 (amended 2013) and fines collected under the Competition Act 1998. These revenues are payable to the Consolidated Fund.

## Statement of Accounting Officer's responsibilities

Under Section 5 of the Government Resources and Accounts Act 2000, HM Treasury has directed the CMA to prepare for each financial year a Trust Statement in the form and on the basis set out in the Accounts Direction. The accounts are prepared on an accruals basis and must give a true and fair view of the state of affairs of the CMA Trust and its revenue and expenditure and cash flows for the financial year.

HM Treasury has appointed the Acting Chief Executive as Accounting Officer of the CMA with overall responsibility for preparing the Trust Statement and for transmitting it to the Comptroller and Auditor General.

In preparing the Trust Statement, the Accounting Officer is required to comply with the requirements of the Government Financial Reporting Manual prepared by HM Treasury and, in particular, to:

- observe the Accounts Direction issued by HM Treasury, including the relevant accounting and disclosure requirements, and apply suitable accounting policies on a consistent basis;
- make judgements and estimates on a reasonable basis;
- state whether applicable accounting standards as set out in the Government Financial Reporting Manual have been followed, and disclose and explain any material departures in the accounts; and
- prepare the Trust Statement on a going concern basis.

I have taken all necessary steps to make myself aware of information relevant to the audit of the accounts that accompany this Annual Report, and to ensure that my auditors are informed. So far as I am aware there is no relevant information of which my auditors are unaware.

I confirm that the Annual Report and Accounts as a whole is fair, balanced and understandable and I take personal responsibility for the Annual Report and Accounts and the judgements required for determining that it is fair, balanced and understandable

## Governance Statement

The CMA's Governance Statement, covering both the Accounts and the Trust Statement, is shown on pages 83 to 100.

# The Certificate and Report of the Comptroller and Auditor General to the House of Commons

I certify that I have audited the financial statements of the Competition and Markets Authority Trust Statement for the year ended 31 March 2017 under the Government Resources and Accounts Act 2000. The financial statements comprise the Statement of Revenue, Other Income and Expenditure, the Statement of Financial Position, the Statement of Cash Flows and the related notes. These financial statements have been prepared under the accounting policies set out within them.

## Respective responsibilities of the Accounting Officer and auditor

As explained more fully in the Statement of Accounting Officer's Responsibilities, the Accounting Officer is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view. My responsibility is to audit, certify and report on the financial statements in accordance with the Government Resources and Accounts Act 2000. I conducted my audit in accordance with International Standards on Auditing (UK and Ireland). Those standards require me and my staff to comply with the Auditing Practices Board's Ethical Standards for Auditors.

## Scope of the audit of the financial statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the circumstances of the

Competition and Markets Authority Trust Statement and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Competition and Markets Authority; and the overall presentation of the financial statements. In addition I read all the financial and non-financial information in the Annual Report to identify material inconsistencies with the audited financial statements and to identify any information that is apparently materially incorrect based on, or materially inconsistent with, the knowledge acquired by me in the course of performing the audit. If I become aware of any apparent material misstatements or inconsistencies I consider the implications for my certificate.

I am required to obtain evidence sufficient to give reasonable assurance that the expenditure and income recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions recorded in the financial statements conform to the authorities which govern them.

## Opinion on regularity

In my opinion, in all material respects the expenditure and income recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions recorded in the financial statements conform to the authorities which govern them.

## Opinion on financial statements

In my opinion:

- the Competition and Markets Authority Trust Statement gives a true and fair view of the state of affairs of the Competition and Markets Authority Trust Statement as at 31 March 2017 and of the net revenue for the year then ended; and
- the financial statements have been properly prepared in accordance with the Government Resources and Accounts Act 2000 and HM Treasury directions issued thereunder.

## Opinion on other matters

In my opinion:

- the information given in the Annual Report for the financial year for which the financial statements are prepared is consistent with the financial statements.

## Matters on which I report by exception

I have nothing to report in respect of the following matters which I report to you if, in my opinion:

- adequate accounting records have not been kept or returns adequate for my audit have not been received from branches not visited by my staff; or
- the financial statements are not in agreement with the accounting records and returns; or
- I have not received all of the information and explanations I require for my audit; or
- the Governance Statement does not reflect compliance with HM Treasury's guidance.

## Report

I have no observations to make on these financial statements.

**Sir Amyas C E Morse**

Comptroller and Auditor General

4 July 2017

National Audit Office  
157-197 Buckingham Palace Road  
Victoria  
London  
SW1W 9SP



## Statement of Revenue, Other Income and Expenditure for the year ended 31 March 2017

	Note	2016/17	2015/16
		£000	£000
<b>Revenue</b>			
<b>Fines and penalties income</b>			
Penalties imposed under the Competition Act 1998		99,727	46,110
Interest earned on penalties imposed under the Competition Act 1998		95	1
<b>Total fines and penalties income</b>		<b>99,822</b>	<b>46,111</b>
<b>Merger fees</b>			
Fees received under the Enterprise Act 2002		5,120	5,320
Interest earned on penalties imposed under the Enterprise Act 2002		1	1
<b>Total merger fees</b>		<b>5,121</b>	<b>5,321</b>
<b>Total revenue</b>		<b>104,943</b>	<b>51,432</b>
<b>Expenditure</b>			
CA98 Penalty offset to Legal cost*		(1,262)	(248)
Debts written off or otherwise impaired		(216)	3
<b>Total expenditure</b>		<b>(1,478)</b>	<b>(245)</b>
<b>Net revenue for the Consolidated Fund</b>	5	<b>103,465</b>	<b>51,187</b>

\*As part of the 2015 SR settlement the CMA are permitted to offset CA98 income against 50% of in-year litigation costs incurred within the CMA main accounts.

There were no recognised gains or losses accounted for outside the above Statement of Revenue, Other Income and Expenditure.

Impairment provisions are made when it is deemed unlikely that a debt will be recovered.

The notes on pages 154 to 157 form part of these Trust Statements.

## Statement of Financial Position

as at 31 March 2017

	Note	2016/17	2015/16
		£000	£000
<b>Non-current assets</b>			
Receivables	2	1,044	-
<b>Total non-current assets</b>		<b>1,044</b>	<b>-</b>
<b>Current assets</b>			
Receivables	2	140,218	46,384
Cash and cash equivalents	3	-	-
<b>Total current assets</b>		<b>140,218</b>	<b>46,384</b>
<b>Total assets</b>		<b>141,262</b>	<b>46,384</b>
<b>Current liabilities</b>			
Payables	4	379	-
<b>Total current liabilities</b>		<b>379</b>	<b>-</b>
<b>Total assets less liabilities</b>		<b>140,883</b>	<b>46,384</b>
<b>Total assets less current liabilities</b>			
		<b>140,883</b>	<b>46,384</b>
Represented by:			
<b>Balance on Consolidated Fund account</b>	<b>5</b>	<b>140,883</b>	<b>46,384</b>

The notes on pages 154 to 157 form part of these Trust Statements.



**Andrea Coscelli**  
Acting Chief Executive and Accounting Officer

22 June 2017

## Statement of Cash Flows

### for the year ended 31 March 2017

	Note	2016/17	2015/16
		£000	£000
Net cash flow from operating activities	A below	8,966	6,398
Amounts paid to the Consolidated Fund	5	(8,966)	(6,979)
<b>Increase/(decrease) in cash in the year</b>		<b>-</b>	<b>(581)</b>

### Note to the Cash Flow Statement

A: Reconciliation of net cash flow to movement in Net Funds	Note	2016/17	2015/16
		£000	£000
Net revenue for the Consolidated Fund	5	103,465	51,187
(Decrease)/increase in non-current assets	2	(94,878)	(44,680)
Increase in liabilities	4	379	(109)
<b>Net cash flow from operating activities</b>		<b>8,966</b>	<b>6,398</b>

B: Analysis of changes in net funds	Note	2016/17	2015/16
		£000	£000
(Decrease)/increase in cash in the year	3	-	(581)
Net funds at 1 April (net cash at bank)		-	581
<b>Net funds at 31 March (closing balance)</b>		<b>-</b>	<b>-</b>

The notes on the following pages 154 to 157 form part of these Trust Statements.

## Notes to the Trust Statement

### 1. Statement of accounting policies

#### 1.1 Basis of accounting

The Trust Statement is prepared in accordance with the accounts direction issued by HM Treasury under section 7 of the Government Resource and Accounts Act 2000 and the accounting policies detailed below. The policies are developed with reference to International Financial Reporting Standards (IFRS) as adapted or interpreted for the public sector, and other relevant guidance. They are applied consistently in dealing with items that are considered material to the accounts.

The income and associated expenditure contained in the Trust Statement is the flow of funds which the CMA handles on behalf of the Consolidated Fund where it acts as agent rather than principal.

The financial information contained in the accounts and in the notes is rounded to the nearest £000.

#### 1.2 Accounting convention

The Trust Statement has been prepared in accordance with the historical cost convention.

#### 1.3 Revenue recognition

Fees and penalties are measured in accordance with IAS 18 Revenue. They are measured at the fair value of amounts received or receivable, net of any repayments.

For merger fees, revenue is recognised once the CMA has investigated the intended merger and has issued its decision.

For Competition Act 1998 (CA98) penalties, revenue is recognised when a penalty is imposed and a decision letter sent out to the entity concerned. The entity is given two calendar months in which to appeal the decision if it chooses. However, the full value of the penalty income is recognised in the accounts at the time the decision letter is issued.

#### 1.4 Critical accounting estimates and judgements

In calculating accrued income for enforcement and other services, estimates and judgements are made on the status of underlying activities. A provision for anticipated irrecoverable amounts is included. The estimates and judgements that have a significant risk of causing material adjustment to the carrying amount of assets and liabilities within the next financial year are addressed in these statements, this includes receivables and accrued income.

#### 1.5 Receivables

Receivables are shown net of impairments in accordance with the requirements of IAS 39 Financial Instruments.

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## **1.6 Impairment of receivables**

Receivables are reviewed periodically for all outstanding CA98 Penalties to determine recoverability and establish a provision in the event that recovery of the receivable is in doubt. The provision serves to reduce the receivable in the Statement of Financial Position, but also reduces the balance on the Consolidated Fund account. The creation of this provision, and any subsequent movement, or any write-offs which have not been previously provided for, are included in the Statement of Revenue, Other Income and Expenditure.

If a party has been offered the option to pay their penalty by instalments, and subsequently defaults on their payments for any reason, for example if they enter into Administration, every step is taken to pursue the debt. However, usually an impairment provision is created for the outstanding balance until such time as the recovery process has been completed, at which time any unused provision is released. This also applies where a penalty is imposed on an entity that has entered into Administration, or does so before any payment of the penalty can be made.

## **1.7 Value Added Tax**

Merger fees and CA98 penalties are outside the scope of VAT.

## **1.8 Recovery of litigation expenditure**

As part of the 2015 Spending Review the CMA has been given permission to offset 50% of in year litigation costs incurred within the CMA main account against fine income in the Trust Statement.

## 2. Receivables

### 2.1 Current receivables

	2016/17	2015/16
	£000	£000
<b>Amounts falling due within one year</b>		
Competition Act 1998 penalties	145,678	6,818
Less provision for impairment	(6,140)	(6,776)
<b>Net Competition Act 1998 penalties</b>	<b>139,538</b>	<b>42</b>
Merger fees receivables	661	440
Less provision for impairment	(61)	-
<b>Net merger fees</b>	<b>600</b>	<b>440</b>
Other receivables	-	872
Accrued income	80	45,030
<b>Total</b>	<b>140,218</b>	<b>46,384</b>

The provision for impairment covers amounts due relating to merger fees and also from entities involved in CA98 cases that are in administration or liquidation. Whilst every effort is made to recover these debts, due to the uncertain nature of entity liquidations, provision is made for the full amount of the debt at the time the entity enters administration.

Of the current receivables, two relate to receivables that are over £10m, Pfizer (£84.2m) and Glaxo Smith Kline (£37.6m). These fines are currently under appeal.

### 2.2 Non-current receivables

	2016/17	2015/16
	£000	£000
<b>Amounts falling due after more than one year</b>		
Competition Act 1998 penalties	1,044	-
<b>Total</b>	<b>1,044</b>	<b>-</b>

### 3. Cash and cash equivalents

	2016/17	2015/16
	£000	£000
Balance held at Government Banking Service at 1 April	-	581
Net change in cash balances	-	(581)
<b>Balance held at Government Banking Service at 31 March</b>	<b>-</b>	<b>-</b>

### 4. Payables

	2016/17	2015/16
	£000	£000
CA98 Penalty offset to Legal cost payable	379	-
<b>Total</b>	<b>379</b>	<b>-</b>

### 5. Balance on the Consolidated Fund account

	2016/17	2015/16
	£000	£000
Balance on Consolidated Fund account at 1 April	46,384	2,176
Net revenue for the Consolidated Fund	103,465	51,187
Less amount paid to the Consolidated Fund	(8,966)	(6,979)
<b>Balance on Consolidated Fund account at 31 March</b>	<b>140,883</b>	<b>46,384</b>

### 6. Events after the reporting period

In accordance with the requirements of IAS 10 Events after the Reporting Period, post year end events are considered up to the date on which the accounts are authorised for issue. This is interpreted as the date of the Certificate and Report of the Comptroller and Auditor General. The accounts do not reflect events after this date.

There are no subsequent events to report.

## Accounts Direction given by HM Treasury in accordance with section 7(2) of the Government Resources and Accounts Act 2000

1. This direction applies to those government departments listed in appendix 2.
  2. The Department shall prepare a Trust Statement ("the Statement") for the financial year ended 31 March 2017 for the revenue and other income, as directed by the Treasury, collected by the department as an agent for others, in compliance with the accounting principles and disclosure requirements of the edition of the Government Financial Reporting Manual by HM Treasury ("FReM") which is in force for 2016-17.
  3. The Statement shall be prepared, as prescribed in appendix 1, so as to give a true and fair view of (a) the state of affairs relating to the collection and allocation of taxes, licence fees, fines and penalties and other income by the Department as agent and of the expenses incurred in the collection of those taxes, licence fees, fines and penalties insofar as they can properly be met from that revenue and other income; (b) the revenue and expenditure; and (c) the cash flows for the year then ended.
  4. The Statement shall also be prepared so as to provide disclosure of any material expenditure or income that has not been applied to the purposes intended by Parliament or material transactions that have not conformed to the authorities which govern them.
  5. When preparing the Statement, the Department shall comply with the guidance given in the FReM (Chapter 8). The Department shall also agree with HM Treasury the format of the Principal Accounting Officer's Foreword to the Statement, and the supporting notes, and the accounting policies to be adopted, particularly in relation to revenue recognition. Regard shall also be given to all relevant accounting and disclosure requirements in Managing Public Money and other guidance issued by HM Treasury, and to the principles underlying International Financial Reporting Standards.
  6. Compliance with the requirements of the FReM will, in all but exceptional circumstances, be necessary for the accounts to give a true and fair view. If, in these exceptional circumstances, compliance with the requirements of the FReM is inconsistent with the requirement to give a true and fair view, the requirements of the FReM should be departed from only to the extent necessary to give a true and fair view. In such cases, informed and unbiased judgement should be used to devise an appropriate alternative treatment which should be consistent with both the economic characteristics of the circumstances concerned and the spirit of the FReM. Any material departure from the FReM should be discussed in the first instance with HM Treasury.
  7. The Statement shall be transmitted to the Comptroller and Auditor General for the purpose of his examination and report by a date agreed with the Comptroller and Auditor General and HM Treasury to enable compliance with the administrative deadline
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for laying the audited accounts before Parliament before the Summer Recess.

8. The Trust Statement, together with this direction (but with the exception of the related appendices) and the Report produced by the Comptroller and Auditor General under section 7(2) of the Government Resources and Accounts Act 2000 shall be laid before Parliament at the same time as the Department's Resource Accounts for the year unless the Treasury have agreed that the Trust Statement may be laid at a later date.

**Vicky Rock**

Deputy Director,  
Government Financial Reporting  
Her Majesty's Treasury  
19 December 2016

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