

Competition and Markets Authority Annual Plan 2019/20

Presented to Parliament pursuant to
paragraph 13(2) of Schedule 4 to the
Enterprise and Regulatory Reform Act 2013

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February 2019
CMA97



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Foreword

When we published our draft Annual Plan for consultation in December 2018, we did so at a time of uncertainty – for the CMA and for the UK as a whole. We anticipated that by the time we published our final Plan, the path ahead would be clearer. Whilst clarity is no doubt approaching, important details around the timing and nature of the UK's exit from the EU remain unresolved.

What is clear is that post-Exit, the CMA will be a very different body from now, taking on bigger and more complex global cases whilst remaining firmly committed to protecting UK consumers in purely national and local markets. The CMA expects to continue working alongside other competition authorities, including the European Commission and national agencies within and outside the EU, to ensure markets work in people's favour.

The CMA will be ready to take on its additional responsibilities, whether at the end of March or later.

The organisation has made great strides to ensure that it has the people, skills and infrastructure to take on major international cartel or antitrust cases, merger investigations and State aid enforcement when the UK leaves the EU. Much, but not all, of the necessary recruitment is done, and the planning is firmly in place. But as we noted in December, leaving now without a deal would not be without a short-term opportunity cost. Taking on new and mandatory cases now will heavily constrain our ability to launch other new, but more discretionary work using our markets and enforcement powers.

Aside from Exit, it is also clear that regulators, businesses and government need to work together to address more forcefully the challenges that consumers face, particularly those in a vulnerable situation. In the year ahead, the CMA will not hesitate to take tough action on harmful business practices and to protect those who suffer most. In line with our consultation proposals, we also plan to intervene to support economic growth, and to ensure digital markets evolve in consumers' interests.

In the five years since the CMA assumed its powers, it has achieved some important successes; but confronted not just with Brexit but with the combined challenges of the digital revolution and growing detriment amongst vulnerable consumers, it is becoming evident that the competition and consumer protection regimes need to evolve further to ensure they stay effective.

In March, the Department for Business, Energy and Industrial Strategy will publish the statutory five-year review of aspects of the competition regime. The Furman Review into competition in digital markets is also expected to publish its findings in

March. Alongside these reviews, and at the request of the Secretary of State for Business, Energy & Industrial Strategy, we have been considering what legislative and institutional reforms may be needed to safeguard the interests of consumers and to maintain and improve public confidence in markets.

In the coming year, it will be important to bring the outcomes of these reviews together, and to take whatever steps are necessary to reform our regulatory landscape so it is fit for the future.

Due to the continued uncertainty around the timing and nature of the UK's exit from the EU, we have decided to publish our priorities at a high level and without more specific objectives. We intend to continue to refine and explain our plans as clarity emerges.

For now, we hope that that this Plan gives you as clear a sense of our priorities as we can provide at this time, and of what we want to achieve for the economy, for business, and most importantly for consumers across the United Kingdom.



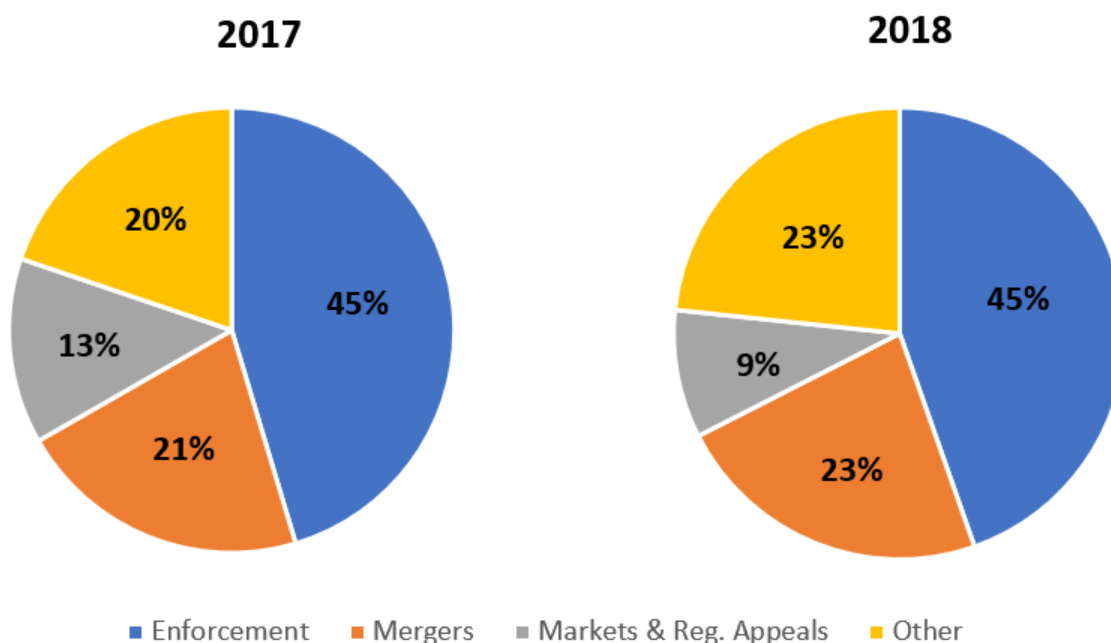
Andrew Tyrie
Chairman



Andrea Coscelli
Chief Executive

1. Introduction

- 1.1 This document sets out the CMA’s plans and priorities for 2019/20. It explains how we will continue to deliver our statutory duty – to promote competition, both within and outside the UK, for the benefit of consumers – and our mission – to make markets work well in the interests of consumers, businesses and the economy.
- 1.2 We will enter 2019/20 with a substantial volume of ongoing work and at the time of publication have 23 competition enforcement cases, six consumer enforcement cases, 12 merger investigations, and two market studies under way. All our cases can be found at gov.uk/cma-cases.
- 1.3 Over the coming year we will see many of these active cases through to conclusion and open new cases as resources become available.
- 1.4 The chart below illustrates how CMA staff time has been split across different types of work over the past two years.¹ Among other things, it shows that we maintained a high level of enforcement of competition and consumer law, and the fruits of that labour will be seen in the year ahead. It also shows that over 20% of our available staff capacity is taken up by work we are required by statute to carry out, such as investigating mergers – this proportion would grow significantly in a ‘no deal’ scenario.



¹ ‘Other’ includes litigation, remedies, pipeline development, policy, advocacy, EU Exit and State aid preparatory work, and corporate projects.

2. Our priorities for 2019/20

- 2.1 We want to send a signal that competition matters wherever you are across the UK, whether you are a consumer or are in a business big or small.
- 2.2 We continue to see robust enforcement of the law as central to our purpose and will maintain a significant volume of enforcement investigations.
- 2.3 But we also believe that we can stamp out unfair practices and stop people being ripped off through wider reviews in markets that are at the heart of people's everyday lives and at the centre of UK economic life.
- 2.4 In 2019/20 therefore, if negotiations result in an implementation period or significant extension to the UK's EU membership, we intend to give greater priority to potential market studies and investigations as we consider future work. A 'no deal' outcome will preclude this in the immediate term.
- 2.5 In the coming year, the themes that will carry particular strategic importance as we select and carry out our casework are:
 - Protecting vulnerable consumers
 - Improving trust in markets
 - Promoting better competition in online markets
 - Supporting economic growth and productivity
- 2.6 We set these out in further detail on page 7.
- 2.7 Our future portfolio will reflect these themes but is necessarily also influenced by factors beyond our control. These can include fluctuations in work we are bound by law to undertake when they come to us, such as merger control, regulatory appeals and in future, State aid. It can also include the need to devote resources to defend our decisions in court.
- 2.8 We will build on our track record of working in major markets which serve millions of people nationwide, choosing from our range of powers to empower and protect consumers, ensure businesses treat their customers fairly and make these areas of the economy work better.
- 2.9 We are also, however, interested in pursuing cases in smaller markets across the UK and those served by small and medium-sized enterprises (SMEs). The

5.7 million² SMEs across the UK play an essential role in economic growth and can equally be the victims of anti-competitive practices, but evidence³ suggests they have a lower level of awareness of competition and consumer law. It is therefore important that they understand and comply with the law, so that they treat their customers fairly and can report any illegality they witness to us.

- 2.10 We remain committed to making bold interventions and carrying out our work as efficiently and quickly as possible, without compromising fairness and rigour. We need to deal with as many instances of harmful conduct and address as many market-wide issues as possible, and to resolve them as quickly as possible to best protect consumers and make markets work in their favour.
- 2.11 As well as starting work in new areas where we have available resource, we will see through projects we have already embarked on. We are also highly committed to securing lasting positive change by following through on the recommendations and remedies arising from our market studies and market investigations.
- 2.12 Through our evaluations programme and remedies reviews, we will come back to markets in which we have intervened in the past to ensure that our work was effective, and if needs be we will revisit them.
- 2.13 We have a broad range of powers to make sure people get a good deal from businesses and that firms treat their customers fairly. In some cases, these powers can achieve a good outcome when used in isolation; in others, we are able to get an even better result if we use them together. We will take advantage of the opportunities to use different parts of our toolkit together. This could include launching competition and consumer protection law investigations based on what we learn from merger investigations or market studies, as we have done following our care homes⁴ and digital comparison tools⁵ market studies, and by following up on our recommendations to government arising from these projects.
- 2.14 In 2019/20, we will build ever closer relationships with partners, to listen to and influence public debate on consumer and competition policy and reform of statutory powers.

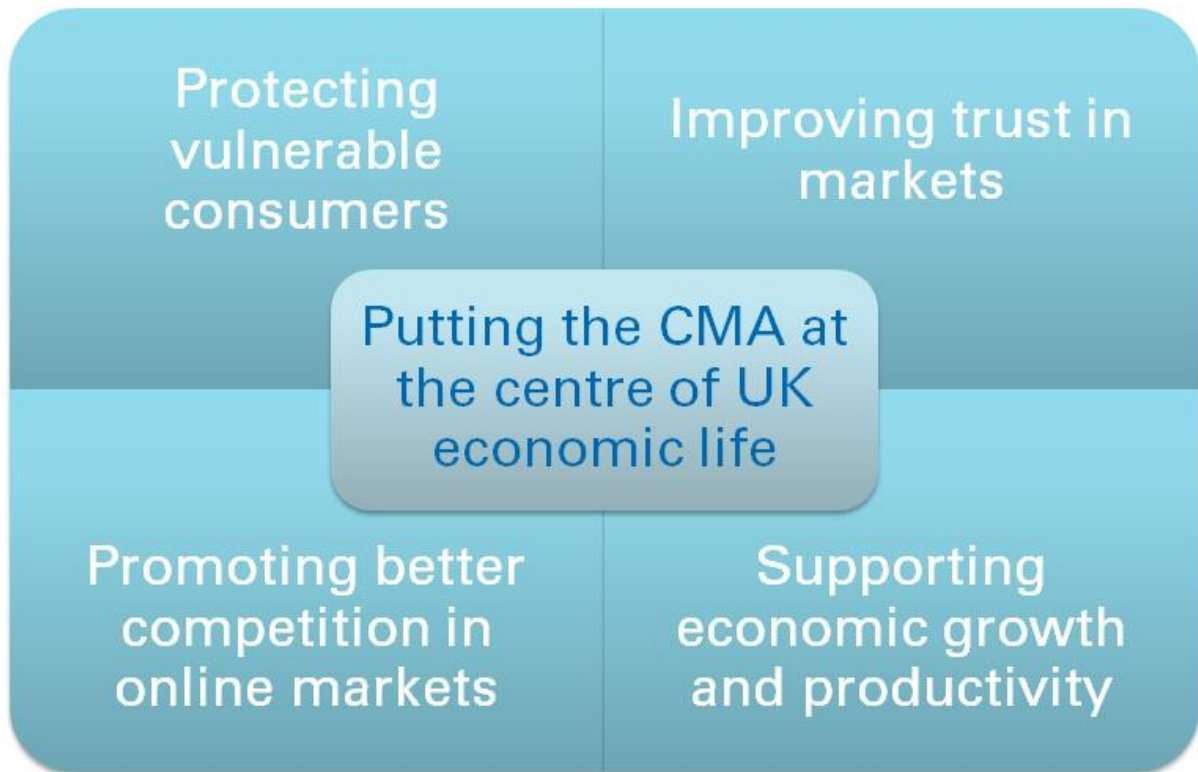
² House of Commons Briefing Paper, number 06152 (28 December 2017), [Business statistics](#)

³ www.gov.uk/government/publications/uk-businesses-understanding-of-competition-law

⁴ www.gov.uk/cma-cases/care-homes-market-study

⁵ www.gov.uk/cma-cases/digital-comparison-tools-market-study

- 2.15 Achieving our mission relies heavily on productive relationships in the UK and internationally, and making the best possible case for competition, including to those whose principal focus is on other policy objectives.
- 2.16 We will therefore continue to be a trusted and challenging adviser to UK and devolved governments. This includes showing how effective competition benefits consumers and supporting policymakers to develop policies and regulations that ensure appropriate consumer protections and encourage competitive markets.
- 2.17 We will also work alongside the economic regulators, supporting them to use their concurrent competition powers to protect consumers and make markets in their sectors work in their favour, and working together to implement the recommendations arising from our recent investigation into the 'loyalty penalty' supercomplaint.
- 2.18 We will continue to strengthen our engagement across all nations of the UK, including by further expanding our Edinburgh office and through a modest increase to our presence in Belfast and Cardiff. This will help us to better understand the concerns that people, politicians and businesses have, and to better explain how competition, and our work to promote it, benefits consumers, businesses and the UK economy.
- 2.19 The CMA is a globally active competition and consumer agency, with good relationships already in place with a range of international groups and agencies. With the UK's exit from the EU, it is important that we build on this foundation, to strengthen our international profile and foster productive post-Exit relations with the European Commission and with national competition and consumer protection authorities in the EU, and globally. Part of doing so will be to intensify our participation in global competition and consumer protection forums such as the International Competition Network and the International Consumer Protection and Enforcement Network.
- 2.20 The type of new work we can launch will be heavily influenced by the outcome of EU Exit negotiations, because a no deal scenario will require the CMA to divert staff to casework returning to the UK from Brussels.



Protecting vulnerable consumers

- 2.21 In how we choose, and then how we go about, our work, we will prioritise cases where consumers may be losing out from illegal, anti-competitive or unfair trading practices because they are in a vulnerable position. The harm suffered by these consumers is a matter of intense public and political debate, and we are determined to help to stamp it out.
- 2.22 Consumer vulnerability is not a binary concept: it is multidimensional and often highly context-specific. Such consumers often stand to lose proportionately more when markets are not working well, or they may be the losers in a market that is otherwise working well for most consumers. Whilst addressing inequality in society is a policy matter for government and politicians and outside our statutory remit, we can work hard to ensure as many consumers as possible, including the vulnerable, can access markets, get a good deal from traders and suppliers, and be protected from unfair trading.
- 2.23 We already have significant work under way that relates to vulnerability. We continue to pursue competition investigations into alleged anti-competitive practices in the supply of medicines to the NHS⁶ and are carrying out a

⁶ CMA CA98 and civil cartels cases

market study into funeral services.⁷ Following a previous market study,⁸ we pursued consumer enforcement investigations to protect the elderly⁹ in residential care homes, and their families, from being overcharged and from misleading practices. As a result of the investigations, one of the UK's leading care home providers voluntarily dropped its policy¹⁰ of charging fees after a resident has died and another voluntarily reimbursed¹¹ some families for fees they were charged upfront.

- 2.24 This year, we have been carrying out a programme of work¹² to learn more about how people's circumstances can affect their ability to engage in markets and get a fair deal, and what we and others can do to help. Alongside our own research, we have welcomed insights on these matters from a wide spectrum of contributors – from representatives of government departments and regulators, to business groups, consumer groups, academia and think tanks. This work will help us to address not only market-specific vulnerability but the challenges that some vulnerable consumers can face across different markets.
- 2.25 In the coming year, we intend to apply what we learnt and build on our previous work to help ensure that vulnerable people are not exploited and that markets work in their favour.

Improving trust in markets

- 2.26 Everyone hates being or feeling ripped off and we all want to be sure that 'what we're seeing is what we're getting' – whether we buy it online or in person.
- 2.27 To help ensure that markets can be trusted, we intend to prioritise cases in markets for everyday goods and services: things that matter to typical consumers, so they can be reassured that competition is working in their interests. In doing so, we will not lose sight of practices in upstream markets that matter to consumers and economic growth, where our actions can help improve consumer welfare beyond the specific market in question.
- 2.28 We already have a track record in tackling issues that go to the heart of trust in markets. In our consumer protection work, for example, we have been examining behaviour which may jeopardise trust, including supermarket

⁷ www.gov.uk/cma-cases/funerals-market-study

⁸ www.gov.uk/cma-cases/care-homes-market-study

⁹ www.gov.uk/cma-cases/care-homes-consumer-protection-case

¹⁰ www.gov.uk/government/news/major-care-home-group-drops-after-death-fees-following-cma-action

¹¹ www.gov.uk/government/news/2-million-in-compensation-for-care-home-residents

¹² www.gov.uk/government/publications/vulnerable-consumers

promotions practices,¹³ online reviews,¹⁴ and social media endorsements,¹⁵ so that customers are treated fairly. Our work tackling possible breaches of competition law in the supply of pharmaceuticals to the NHS¹⁶ is also directed at ensuring trust in businesses that supply essential public services.

- 2.29 We have carried out market-wide reviews that get to the heart of trust in markets. Most recently, we investigated concerns raised by Citizens Advice¹⁷ that companies penalise millions of longstanding customers by charging them higher prices than new customers in five key markets. We recommended a robust package of reforms to government and regulators, advocating better protections for the people being hardest hit, including targeted price caps where necessary. During 2019/20 we will drive this programme of work forward, publishing an update report in the summer.
- 2.30 Part of making sure markets can be trusted is helping people across the UK understand the importance of competitive markets to overall societal and economic benefit. In the coming year, we will therefore aim to further strengthen the connections between the CMA, and our role in fostering competitive markets, with wider society. We will ensure that we continue to listen to and work with stakeholders across all nations and regions of the UK, to hear their views and explain our work and the benefits which competitive markets bring.
- 2.31 An important part of this is explaining our choices and our actions using clear and accessible language, so that all people understand them – and not just those working in the competition and consumer law and economics communities.

Promoting better competition in online markets

- 2.32 Technology is transforming how companies operate and how we search for goods and services to purchase, and we welcome the benefits that digitisation can bring, including increased choice, convenience, lower prices and the increased spurs to efficiency of companies trading online. We have also taken advantage of technological developments to make markets work better for households and businesses, including Open Banking.¹⁸

¹³ www.gov.uk/government/news/asda-has-complied-with-its-commitment-to-clear-pricing

¹⁴ www.gov.uk/cma-cases/online-reviews-and-endorsements

¹⁵ www.gov.uk/cma-cases/social-media-endorsements

¹⁶ CMA CA98 and civil cartels cases

¹⁷ www.gov.uk/government/news/cma-tackles-loyalty-penalty-charges

¹⁸ www.gov.uk/government/news/open-banking-revolution-moves-closer

- 2.33 Yet the same technology that provides opportunities for improvement often provides risks of harm. The actions of companies operating online has formed a significant part of our work in recent years. This includes our market study into Digital Comparison Tools¹⁹ and our enforcement investigations into an Amazon Marketplace cartel,²⁰ online auction platforms,²¹ online gambling,²² online hotel booking,²³ secondary ticketing²⁴ and the sale of home insurance products through price comparison websites.²⁵
- 2.34 We have also investigated several tech-related mergers, including Just Eat's acquisition of Hungryhouse,²⁶ and we are currently investigating PayPal's acquisition of iZettle.²⁷ Mergers involving online commerce can present greater challenges in predicting whether there will be harm to future competition, and so we must continue to grow our understanding of such issues and to develop the framework we use.
- 2.35 We must ensure that those who hold market power do not abuse it to the detriment of consumers or other businesses, and that algorithms and forms of artificial intelligence do not become a vehicle for collusion. Our research²⁸ into pricing algorithms and whether they could be used to support illegal practices will help us to better understand, spot and deter the use of algorithms to damage competition and harm consumers.
- 2.36 In September 2018, the Chancellor launched an expert Panel²⁹ into competition in digital markets, led by the US economist Professor Jason Furman and comprising experts in competition and digitisation. We have engaged with this Panel throughout its work and will consider its findings carefully.
- 2.37 We are also considering further work into digital advertising, although our ability to launch new discretionary work is heavily dependent on the outcome of EU Exit negotiations. If we were to decide to carry out work in this area, we would not do so until this expert Panel has reported, as its recommendations are likely to be highly relevant to any work we may undertake.

¹⁹ www.gov.uk/cma-cases/digital-comparison-tools-market-study

²⁰ www.gov.uk/cma-cases/online-sales-of-discretionary-consumer-products

²¹ www.gov.uk/government/news/cma-accepts-commitments-offered-to-address-online-auction-concerns

²² www.gov.uk/cma-cases/online-gambling

²³ www.gov.uk/cma-cases/hotel-online-booking

²⁴ www.gov.uk/cma-cases/secondary-ticketing-websites

²⁵ www.gov.uk/cma-cases/price-comparison-website-use-of-most-favoured-nation-clauses

²⁶ www.gov.uk/cma-cases/just-eat-hungryhouse-merger-inquiry

²⁷ www.gov.uk/cma-cases/paypal-holdings-inc-izettle-ab-merger-inquiry

²⁸ www.gov.uk/government/news/algorithm-research-builds-on-work-in-digital-markets

²⁹ www.gov.uk/government/news/work-kicks-off-to-examine-digital-competition-in-uk

- 2.38 The nature of competition in the digital economy remains the subject of international debate, including how to enforce antitrust laws in the digital age and how merger control can best quantify and preserve dynamic competition – the pressure on companies to innovate.
- 2.39 We will continue to make sure our practices, interventions and capabilities keep pace with this debate and with the evolution of business models and practices. As part of this, we will strengthen our new Data, Technology and Analytics (DaTA) unit, to improve our capture and use of data, increase our understanding of how firms use data and algorithms, and determine what implications this might have for consumers and competition.

Supporting economic growth and productivity

- 2.40 A strong economy is underpinned by markets that work effectively, where competition is driving innovation, efficiency and growth.
- 2.41 There are well-established links³⁰ between competitive markets, innovation, productivity and economic growth, as the government's Industrial Strategy³¹ recognises. Through our actions, therefore, we can help address the UK's longstanding problem with low productivity.
- 2.42 We intend to prioritise cases in markets which underpin and enable economic growth, building on our work in markets of central significance to a well-functioning economy, such as audit services.³²
- 2.43 Government can also promote or hinder competition in sectors that underpin the UK's economic performance. We intend to continue to work with policymakers to ensure that they design competition-friendly policies that will help consumers, fair-dealing businesses and the UK taxpayer.
- 2.44 Disruptive innovation is often a force for good in markets: good for competition and in turn good for consumers and economic growth. We will take an interest in markets where new entrants and innovative ideas that benefit consumers are being held back, either through anti-competitive practices by bigger or incumbent businesses or by inappropriate policies or regulations.
- 2.45 At the same time, we support high standards for consumers and will ensure that consumers are protected from exploitation or harm from new business models. We also recognise that wider policy considerations beyond competition can be important in areas such as the 'gig' and sharing

³⁰ www.gov.uk/government/publications/productivity-and-competition-a-summary-of-the-evidence

³¹ www.gov.uk/government/publications/industrial-strategy-building-a-britain-fit-for-the-future

³² www.gov.uk/government/news/cma-launches-immediate-review-of-audit-sector

economies. Disruptors should not benefit from a playing field that is tilted unfairly in their direction through the exploitation of loopholes, nor should they be competing on factors other than those that ultimately benefit customers.

- 2.46 Through actions in all these different areas, as well as fostering competition and protecting consumers, we can drive innovation, productivity and economic growth.

3. Preparing for the UK's exit from EU

- 3.1 The UK's exit from the EU presents opportunities for the CMA to secure better outcomes for UK consumers as we expect to take on a bigger role on the world stage post-Exit. Ensuring that we are ready for the new arrangements and to take advantage of these opportunities continues to be an important priority for us.
- 3.2 Competition enforcement cases which the European Commission previously reserved for itself – often the larger and more complex cases – will be subject to the CMA's jurisdiction post-Exit. This means that we will be able to tackle all anti-competitive practices that affect UK markets, UK consumers and UK businesses.
- 3.3 In merger control, we will be able to examine the competition aspects of all mergers and acquisitions affecting UK markets where they meet our national jurisdictional thresholds. Previously the UK authorities were prohibited from examining the competition effects of mergers and acquisitions subject to the EU Merger Regulation – typically the biggest transactions, and sometimes the most important.
- 3.4 In short, responsibility for many cases affecting UK markets, previously considered exclusively by supranational institutions in Brussels and Luxembourg, will be acquired by British authorities and courts.
- 3.5 The government has set out its intention that the CMA will become the UK's independent State aid authority post-Exit. This is a major new function for us and one that we are determined to make a success of, building on our expertise in applying legal and economic principles in the service of effective competition.
- 3.6 At the time of publication, there remains great uncertainty as to whether the Withdrawal Agreement will be ratified. We, alongside the Department for Business, Energy and Industrial Strategy and the Department for Exiting the EU, are therefore working to ensure that the CMA and the new regime are ready.
- 3.7 Entering 2019/20, we have made great strides to ensure we have the people, skills and infrastructure to launch or take over major international cartel or antitrust cases, merger investigations and State aid enforcement when the UK leaves the EU – whether that it is on 29 March 2019 or at the end of an agreed implementation period.
- 3.8 However, an earlier transfer of responsibilities will not come without cost. Whilst we expect to have recruited around three quarters of the new staff we

need to carry out the extra work, and we have robust plans in place to take on our additional statutory duties, we will need to take tough decisions on our domestic casework priorities, at pace, to be flexible to our new circumstances. We are obliged by statute to investigate all State aid and qualifying mergers that raise competition concerns. In this scenario, our discretion to carry out other work, such as market studies and further enforcement, will therefore narrow considerably.

- 3.9 Our preparedness plans (including readiness for a ‘no deal’ Exit) have been endorsed by rigorous third-party reviews: by the Infrastructure and Projects Authority, the National Audit Office and, most recently, the Government Internal Audit Agency.
- 3.10 We have published information³³ for businesses and their advisers on our role after Exit, including in the event of a ‘no deal’ Exit. We are consulting on more detailed guidance³⁴ on mergers, antitrust and consumer protection enforcement in the event of a ‘no deal’ scenario. We will publish further guidance on our State aid function before the UK leaves the EU.
- 3.11 We have been engaging with the legal community and remain open and ready to speak, answer any queries and help as best we can. Businesses planning mergers now will want to factor in UK merger control in their planning, including pre-notification as we move towards Exit.
- 3.12 Given the cross-border nature of the mergers which will come under our scrutiny and the enforcement investigations we intend to pursue, international cooperation will be crucial. With our primary duty to promote competition, both within and outside the UK for the benefit of consumers, we will coordinate our actions with those of agencies in other countries and, where appropriate, help other jurisdictions to develop robust systems. We intend to make full use of our existing close relationships with international agencies to work together, to seek and share information to the extent permissible, and to develop new ways of working to protect UK consumers from harm.
- 3.13 We will also seek to maintain and continue to build on the strong, mutually beneficial and cooperative relationships that the CMA and its predecessors have worked hard to build with our overseas counterparts, including the OECD, through the International Competition Network and the International Consumer Protection and Enforcement Network. While it is possible the CMA will not in future be a member of the European Competition Network, the CMA would expect to maintain strong and effective relationships with European

³³ www.gov.uk/government/collections/emas-role-after-brexit

³⁴ www.gov.uk/government/consultations/effects-of-a-no-deal-eu-exit-on-the-functions-of-the-cma

competition authorities through new bilateral or multilateral arrangements with the European Commission and EU Member States. It is neither in our nor others' interests for the CMA to recede as a contributor to the development of competition and consumer law internationally.

- 3.14 We are starting from a strong base, with good relationships already in place with many international groups and agencies. We will work in the coming year and beyond to ensure that this remains the case.

4. Resources

- 4.1 The 2015 Spending Review settlement allocated the CMA's budget for 2019/20 as a Resource Departmental Expenditure Limit (Resource DEL) budget before depreciation of £65.94 million and a Capital budget of £2.10 million. This is a flat Resource DEL settlement, over the remaining Spending Review period, representing an estimated reduction over the four years of 7% in real terms.
- 4.2 The Resource DEL settlement places a limit of £17.75 million on administration expenditure (before depreciation). Personnel costs represent approximately three-quarters of the CMA's budget.
- 4.3 In the Autumn Budget 2017, the Chancellor allocated an additional £2.8 million funding each year, from 2018/19, for the CMA to take on more cases against companies that are acting unfairly. With this extra funding, the CMA's total Resource DEL budget (before depreciation) for 2019/20 will be £68.74 million.
- 4.4 Resourcing the CMA for activities following the UK's exit from the EU is a key part of our planning process. To enable us to continue preparations, HM Treasury allocated us £20m in the 2019/20 financial year. This ensures that the CMA is well-placed for any Brexit scenario.
- 4.5 We also secured additional funding for 2018/19 and 2019/20 for the CMA's office move to Canary Wharf in 2019 to ensure that it does not impact the day-to-day operational requirements of the organisation.
- 4.6 In the Autumn Budget 2018, HM Treasury published the total public spending envelope for years beyond 2020. During the 2019/20 financial year, HM Treasury will conduct a full departmental Spending Review which will confirm our funding allocations for the next Spending Review period up to 2023/24. The date for this has not yet been announced.
- 4.7 As Principal Accounting Officer, the CMA's Chief Executive is personally responsible for safeguarding the public funds for which he has charge, for ensuring propriety and regularity in the handling of public funds, and the day-to-day operations and management of the CMA. In 2018/19 the CMA created an additional Accounting Officer role, to which the Executive Director for Corporate Services was appointed, to support the Chief Executive in discharging these duties.

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