



Department for  
Business, Energy  
& Industrial Strategy

# THE GOVERNMENT'S STRATEGIC STEER TO THE COMPETITION AND MARKETS AUTHORITY

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## Introduction

1. For each Parliament the Government issues a non-binding Strategic Steer to the Competition and Markets Authority. The intention of the Steer is to support the CMA in achieving its objectives and delivering real benefits for UK consumers and the UK economy. The Steer provides a transparent statement of how the Government sees competition fitting with its wider objectives for the economy alongside the CMA's accountability framework and its legal duties.
2. The Government is clear that the CMA should remain a strong, independent competition authority and the Steer does not affect how the CMA approaches its work, its selection of cases and the tools it uses to tackle them. Aligning with our Industrial Strategy, we believe the CMA should be bold and focus on activities that support the Industrial Strategy's aims, champion consumers and address the challenges of the digital economy.
3. We asked for views on a new Government Steer as part of the Modernising Consumer Markets Consumer Green Paper consultation, published on 11 April 2018 ([www.gov.uk/government/consultations/consumer-green-paper-modernising-consumer-markets](http://www.gov.uk/government/consultations/consumer-green-paper-modernising-consumer-markets)). Chapter five of the consultation, 'A regulatory and competition framework for the future', included a question on the draft Steer (question 21): **Do you agree with the approach set out in the draft Strategic Steer to the CMA? Are there any other areas you think should be included?** The consultation closed on 4 July 2018 and this is the Government's response to question 21.

## Summary of responses

4. We received 47 responses to question 21 on the Strategic Steer. Most responses were from membership / trade bodies (10), consumer organisations (10) and businesses (10). The majority, about 57%, were broadly supportive, with around 15% negative and the rest were neutral or supportive and some suggested additional content.
5. Several respondents welcomed the focus on protection for vulnerable consumers and recognised that the harm caused to individuals by poor practice and malfunctioning markets can be significant. Some respondents suggested inclusion in the Steer of the CMA's specific consumer protection and enforcement powers.
6. Risks were highlighted around the ability of a competition regime to solve consumer problems and the expectations placed on consumers when faced with too much choice in complex and confusing markets. It was suggested that there was a risk that sophisticated users can benefit at the cost of others.
7. Some respondents felt that the Steer went beyond the CMA's powers in focusing on vulnerable consumers when it should focus on making markets work well for all consumers. Others felt that it was not the role of the CMA to support the industrial strategy and focusing on sectors that have an impact on productivity could risk diverting activity from sectors that have the highest consumer harm.

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8. Digital markets were highlighted by several respondents as presenting challenges to consumers and the Steer's focus on building trust in these markets was largely welcomed.
9. Several respondents valued the Government's commitment to the CMA's independence and some noted that resources will have an impact on the CMA's activities.

## Government decision

10. We believe that the overall strongly positive or neutral response to the draft Strategic Steer suggests that the Government's approach is broadly correct. Some respondents raised points that, while important and helpful, are currently outside the aims and scope of the Steer but will be considered in the wider Modernising Consumer Markets green paper work.
11. The Government has decided to amend the draft Steer to encourage the CMA to use their consumer protection and enforcement powers to have a positive impact on markets, and to emphasise the CMA's role in making recommendations to Government and challenging Government in the interests of competition and of consumers.
12. The new Steer reflects our industrial strategy and the challenges and opportunities of modern markets that are explored further in the Consumer Green paper. It focuses on improving competition in sectors which have a significant impact on productivity and targeting markets that do not work well and where the potential for consumer harm is clear. It also recognises the opportunities and challenges of the digital economy and the need for innovative approaches to supporting competition and consumers. The Steer recognises the important role of the CMA now and after the UK leaves the European Union and urges the CMA to take bold action to tackle anti-competitive behaviour and unfair trading. This is in line with the CMA's statutory duties and its aim "to make markets work well for consumers, businesses and the economy".
13. Finally, the Government intends to promote productivity and remove unnecessary burdens on business and consumers wherever possible, and we expect that the CMA will make an important contribution toward this goal.

# The Government's Strategic Steer to the Competition and Markets Authority

Consumers benefit when competition in markets leads to more choice, lower prices, or better and more innovative products and services. The CMA has a key role in helping consumers and benefiting the wider economy. Building on the CMA's achievements to date, during this Parliament, the Government looks to the CMA to play a key role in the Industrial Strategy, by championing consumers, confronting the challenges of new digital services, and taking a bold approach in its enforcement and markets activity and public profile.

The Government acknowledges that, whilst the CMA has a relatively robust range of powers, these will require reform in response to new challenges, including the growing digital economy and the need to ensure public confidence in markets. The Government will consult on reforms, including those proposed by the CMA, shortly.

The CMA will be expected to have regard to the new Steer during its activities but retains full independence in how it approaches its work, its selection of cases and the tools it uses to tackle them.

## The CMA's key role in the Industrial Strategy's aims

The UK's Industrial Strategy aims to boost the earning power of people, places and businesses across the UK – particularly by improving productivity. Strong competition drives productivity and growth, so the CMA has an important role to play in supporting the Industrial Strategy's aims. The CMA should:

- take timely action to improve competition in sectors which have a significant impact on productivity, including in local or regional markets across the UK;
- promote the Industrial Strategy by making recommendations that help to improve productivity where appropriate;
- work to minimise barriers to new businesses successfully entering markets; and
- report publicly on competition issues affecting productivity, including steps the CMA is taking to improve competition in these areas, and highlighting issues that require Government intervention.

## Champion consumers

Consumer harm can be substantial when markets do not work well, with people in a vulnerable situation in particular at risk of losing out. The CMA should:

- focus its activities on businesses and markets where the potential for harm is clear;
- tackle market failures, and take a cross-disciplinary approach including thinking from behavioural economics and data science;

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- lead work with sector regulators to ensure the overall competition regime is co-ordinated and that consumers are protected from illegal and anti-competitive practices; and
- make markets work well for vulnerable consumers.

## Make the most of the challenges and opportunities of the digital economy

The Government wants to embrace the opportunities that the digital economy brings for UK consumers and business, as set out in the Digital Charter. For these markets to operate in the interests of consumers and provide opportunities for new businesses, new approaches may be needed. The Government will ensure that CMA's powers can provide it with the flexibility to adapt to these challenges, providing the scope for the CMA to pioneer innovative approaches to finding and solving competition and consumer problems. The CMA should:

- anticipate and make the most of the competition challenges of new and emerging markets, seeking high-impact outcomes;
- help consumers get the most from the digital economy, through building consumer trust in these markets and enforcing the law to protect consumers; and
- engage and lead the UK and international debate on competition and consumer policy in the digital economy.

## Enforcement

The Government urges the CMA to take action to tackle anti-competitive behaviour and unfair trading, now and after the UK leaves the European Union. The CMA should:

- be ambitious in the number and type of cases it carries out, and the pace at which it conducts them; and
- make positive changes across markets where consumers are losing out by using its consumer protection powers to protect consumers from unfair trading practices and contract terms as well as enforcing anti-trust rules robustly, fairly and effectively.

## Being a strong and independent voice

The CMA is established in statute as an independent decision-making body, separate from ministers. In addition, it has important functions to give information to the public and to make recommendations and give advice to ministers, including on legislation. In line with its powers, the CMA should:

- be a prominent voice for consumers and improve public understanding of competition and consumer law;
- make recommendations on regulatory, policy or legislative matters, and their implications for competition and consumers at either national or local level;

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- raise objections at the highest levels if ministers or civil servants are failing to use competition or protect consumers effectively; and
- report publicly on the CMA's impact on the health of competition across the UK economy and on creating and maintaining markets that work well for all, including the steps the CMA is taking and issues that require Government intervention.

The Government commits to responding publicly to the CMA's recommendations within 90 days, clearly indicating the steps that it will take in response to each recommendation or the reasons that it is unable to take forward recommendations. There will be a presumption that the Government will accept all the CMA's published recommendations unless there are strong policy reasons not to do so.



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