Case and Policy Committee (CPC)
Terms of reference

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

Status
2. The Case and Policy Committee is authorised to take decisions in relation to ongoing policies, cases and projects as appropriate under delegated authority from the Board.

Terms of reference
3. The Case and Policy Committee’s terms of reference are to ensure the CMA has appropriate policies, procedures and practices in place, that they are reflected in CMA guidance (internal and external) and that they are adhered to by case and project teams. The CPC will also provide advice on high level issues arising from cases and projects, and to ensure the consistent application of CMA policy. Specifically, the Case and Policy Committee will focus on:
   • Policy: ensuring the CMA has appropriate, robust policies, procedures and practices.
   • Guidance: maintaining and developing substantive and procedural guidance.
   • Cases and projects: advising teams on legal, economic or policy issues arising from individual cases and projects, offering steers on approach, difficult decisions and evaluation as appropriate (see further detail at paragraph 4 for the approach to cases and projects relating to the Competition Act 1998 and paragraph 5 for the approach to considering remedies under Parts 3 and 4 of the Enterprise Act 2002).
   • Consistency: promoting consistency of the CMA approach and application of policy across all cases, projects and tools; ensuring that the lessons learnt from cases and projects are captured and appropriately disseminated, and reflected in policies and guidance where appropriate.
   • Remedies, commitments and undertakings: developing policies taking account of lessons learnt; responding to requests for advice from case teams on issues not addressed by existing policy or guidance; overseeing a rolling programme of
research and evaluation into past remedies and ongoing experience in other jurisdictions; taking decisions on the variation and termination of final undertakings and orders; and establishing Remedy Groups where the CMA has taken a decision to undertake a review of final undertakings or a final order; where the CMA has to take a decision in relation to the implementation of a final remedies order or final undertakings.

4. In relation to cases and projects relating to the Competition Act 1998, the Case and Policy Committee will:
   a. appoint and authorise Case Decision Groups to take decisions on Competition Act 1998 investigations, including infringement, no grounds for action and penalty decisions (and/or such other decisions for which the Case Decision Group is responsible under the CMA’s procedural guidance in force at that time).
   b. consider proposed decisions of a Case Decision Group, and the relevant views of the Chief Economic Adviser, General Counsel and Procedural Officer on that proposed decision. As appropriate and in light of the Case Decision Group’s factual analysis and conclusions, the Case and Policy committee will provide advice and recommendations on any policy, legal or economic issues the Case Decision Group should consider further before finalising its decision.
   c. consider, and as appropriate grant, requests for approval for certain proposed decisions of senior officials on the use of commitments or settlements in Competition Act 1998 investigations, including prior approval to enter into discussions in a specific investigation that may lead to such decisions and, subsequently, to enter into commitments or settlement offered by the party(ies).
   d. be responsible for adopting the proposed decisions of senior officials on settlement made under an approval granted under paragraph (c) above.

5. In relation to Remedy Groups:
   a. The Chair of the Panel shall appoint the members of a Remedy Group. A Remedy Group shall comprise at least three members, all of whom should be Panel members. Members may be appointed to more than one Remedy Group at any one time.
   b. The Chair of a Remedy Group shall be the Chair of the Panel or a person nominated by the Chair of the Panel.
c. A quorum shall be two.
d. The minutes of a Remedy Group shall be circulated to the Case and Policy Committee.
e. Each Remedy Group shall remain accountable to the CMA Board for its work and its decision on the case.

6. Although decisions on litigation may be discussed by the Case and Policy Committee, they will ultimately be a matter for the General Counsel.

7. The Case and Policy Committee may establish sub-committees or steering groups reporting to it. The Case and Policy Committee shall remain accountable to the Board for the work of any sub-committee or steering group (except for decisions by a Remedy Group, which shall be accountable to the Board for its work).¹

Membership

8. The Case and Policy Committee shall comprise:
   - Chief Executive
   - Executive Director for Enforcement
   - Executive Director for Markets and Mergers
   - General Counsel
   - Chief Economic Adviser
   - Panel members x 2 (likely to be Inquiry Chairs)
   - Senior Director of Remedies, Business and Financial Analysis
   - Senior Director of Delivery
   - Senior Director, Policy and International

9. The Senior Director of Strategy, Communications, Nations and Regions and the Director of Executive Office and Performance will also attend meetings in an advisory capacity.

10. The Chair of the Case and Policy Committee shall be the Chief Executive or in his absence another member of the Executive Committee who also sits on the Case and Policy Committee.

¹ A Remedy Group is established by the Case and Policy Committee for the purpose of deciding whether to vary, supersede or release final undertakings, to vary or revoke final orders, or to deal with the implementation of a final remedies order or final undertakings for which it is accountable directly to the Board.
11. Two Panel members will be appointed to the Case and Policy Committee by the Chair of the Case and Policy Committee, in consultation with the Chair of the CMA and the Chair of the Panel.

12. A quorum shall be four and must include an Executive Member of the Board.

Meetings

13. The Case and Policy Committee shall meet as required, at least six times each year.

14. A forward programme of scheduled meetings will be established which will be supplemented, as necessary, with meetings convened with the agreement of the Chair of the Case and Policy Committee. The Case and Policy Committee may take decisions offline as appropriate, as agreed by the Chair of the Case and Policy Committee.

15. Members of the Case and Policy Committee are expected to attend meetings wherever possible. However, in consultation with the Chair of the Case and Policy Committee, members may authorise an appropriate colleague to represent them if they are unable to attend a meeting. As set out in paragraph 10 there are certain positions where this is required.

16. Participation will usually be in person, but, as agreed by the Chair of the Case and Policy Committee, a person may participate by telephone or videoconferencing facility and be deemed to be present and constitute part of the Committee for that meeting. Any member of the Case and Policy Committee who is not present or who leaves a meeting prior to the conclusion of a meeting shall be taken to be a non-participating member for the purpose of a decision taken after the time of departure.

17. Only the persons appointed to the Case and Policy Committee (or their representatives authorised to represent them) may vote. In the case of equality of votes, the Chair of the Case and Policy Committee has the casting vote.

18. The Case and Policy Committee may invite any employee of the CMA or any other person to attend all or part of a Case and Policy Committee meeting.

Reporting

19. Minutes from the Case and Policy Committee shall be circulated to the Board.

Version control

20. These terms of reference were last updated in November 2019 (version 3).