

# CMA impact assessment 2019/20

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# 1. Summary

- 1.1 The Competition and Markets Authority (CMA) is the UK's lead competition and consumer authority and its primary duty is to promote competition, both within and outside the UK, for the benefit of consumers. The CMA has a wide range of tools to use in addressing competition and consumer problems including carrying out investigations into mergers and markets, enforcing competition and consumer law and working with sector regulators. The CMA also has a function to consider regulatory references and appeals.
- 1.2 As part of its performance framework agreement with the Department for Business, Energy & Industrial Strategy (BEIS)<sup>1</sup> the CMA is required to report annually on:
- (a) the delivery of a target of direct financial benefits to consumers of at least ten times its relevant costs to the taxpayer (measured over a rolling three-year period); and
  - (b) the ratio of direct financial benefits to consumers and costs for its principal tools.
- 1.3 In this sixth CMA Impact Assessment we report on performance against this target for the financial year 2019/20. As the target is measured as a three-year rolling average, for 2019/20 the calculation is based on the performance of the previous three financial years of the CMA.
- 1.4 For the period 2017 to 2020 the estimated direct financial benefit to consumers was £4.0 billion in aggregate, representing annual average consumer savings of £1.3 billion. The ratio of direct benefits to cost was 14.6 to 1. The largest project contributing to this year's estimates was the Sainsbury's/ASDA merger investigation.,
- 1.5 With the benefit of ex-post information it has been possible to update the estimated impact of the market investigation into investment consultants, which concluded in the 2018/19 financial year.<sup>2</sup> This case makes a large contribution to the rolling three-year average figure.
- 1.6 Due to the timing and impact of the Covid-19 pandemic, the positive impact figures presented in Table 1 does not include any work undertaken by the Covid-19 taskforce.

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<sup>1</sup> BIS (January 2014), *Competition and Markets Authority: performance management framework*.

<sup>2</sup> CMA case: *Investment consultants market investigation*.

**Table 1: Estimated average annual CMA consumer savings and costs for 2017-20**

	<i>£m</i>
<i>Area of CMA work</i>	<i>Direct benefits</i>
Competition enforcement	45.2
Consumer protection enforcement	70.0
Merger control*	386.8
Market studies and market investigations	839.5
<hr/>	
Total benefits	1,341.5
Costs	92.7†
Benefit/costs	14.6:1

\*The CMA has a duty to investigate mergers that legally qualify for scrutiny. This means that CMA merger control work is demand-led and not discretionary, unlike most other areas of the CMA's work. Given that the number of qualifying mergers can vary considerably from year-to-year (because of fluctuations in the economic cycle for example), the number of investigated mergers and the direct consumer benefits of the CMA's merger control work can also vary significantly from year-to-year.

†This is total CMA costs (actual spend) minus the costs of the CMA work on regulatory appeals.

1.7 The assessment is undertaken by the CMA itself and is reviewed by an external expert. This year the expert was Dr Peter Ormosi of the University of East Anglia.<sup>3</sup> The methodology used by the CMA is based on that developed and used by the Office of Fair Trading (OFT) and Competition Commission (CC),<sup>4</sup> validated by successive independent academic reviewers and consistent with approaches now regarded by the OECD as international good practice.<sup>5</sup>

1.8 Impact estimations are conducted immediately after cases are completed and are therefore based only on information available during the case and on assumptions regarding the expected impact of our interventions. On this basis most of the estimates are considered to be 'ex ante' evaluations.<sup>6</sup> For example, for market studies and investigations the impact estimates capture the expected future benefits of remedies, rather than an ex post assessment of their effectiveness in practice. In general, the assumptions we apply are cautious and hence we consider our estimates to be conservative. In order to gain further understanding of the impact of our work, we also conduct ex-post evaluations for a small subset of cases that help us to critically assess the

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<sup>3</sup> Dr Peter Ormosi is an Associate Professor of Competition Economics at the University of East Anglia.

<sup>4</sup> OFT (July 2010), [Guide to the OFT's impact estimation methods](#).

<sup>5</sup> OECD (April 2014), [Guide for assessing the impact of competition authorities' activities](#).

<sup>6</sup> In rare circumstances we have used ex-post information to improve our impact assessments for some cases.

effects of past interventions, drawing lessons and implications to inform future decision making at the CMA.<sup>7</sup>

- 1.9 Our estimates exclude the impact of a number of cases where the CMA's intervention is likely to generate considerable consumer benefits, but these benefits were difficult to quantify in a sufficiently robust manner.
- 1.10 The estimate of benefits excludes the CMA's compliance work,<sup>8</sup> international activities<sup>9</sup> and regulatory appeals. In the latter case this is because the CMA's role is an appellate one rather than being the primary regulator.<sup>10</sup> The benefits from our advocacy to government are also excluded.
- 1.11 In addition, the focus on direct financial benefits means that we exclude many important wider impacts of the competition regime. For example, we do not take into account the deterrence effect of our work, such as the deterrence of anti-competitive mergers or anti-competitive conduct. Evidence from existing academic studies,<sup>11</sup> previous OFT research<sup>12</sup> and ex-post evaluations conducted in 2018,<sup>13</sup> indicate that such deterrence can be significant albeit very difficult to measure precisely. The impact of this deterrence is likely to be particularly strong in the areas of competition and consumer protection enforcement.
- 1.12 Studies also show that increases in competition in a market are often associated with increases in productivity, and that competition policy interventions can therefore improve productivity.<sup>14</sup> This impact on productivity is not captured in our impact assessment. In sum, evidence suggests that the direct impact of interventions is only a part of the overall positive impact of competition authorities' work.

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<sup>7</sup> See examples in paragraph 2.12.

<sup>8</sup> See for example the CMA's activity to assess compliance with the law across the higher education sector following publication of advice for providers on their consumer law obligations to undergraduate students.

<sup>9</sup> Our impact estimates for example do not account for benefits from our work on UK engagement with international networks and organisations.

<sup>10</sup> Our duty in this area is to act according to the relevant legal framework rather than necessarily acting in the immediate interest of consumers.

<sup>11</sup> As collated in the CMA's 2017 literature review, [The deterrence effect of competition authorities' work – literature review](#).

<sup>12</sup> See *The impact of competition interventions on compliance and deterrence*, OFT1391 and *The deterrent effect of competition enforcement*, OFT 962.

<sup>13</sup> DotEcon (2018), a review conducted on the [Evaluation of direct impact and deterrent effect of CA98 cases](#).

<sup>14</sup> CMA (2015), [Productivity and competition: a summary of the evidence](#).

## 2. Overview of our methodology

- 2.1 The impact estimations included within this report focus on the direct financial benefits to consumers of the CMA's work completed over the previous three financial years. We present the benefits as three-year rolling averages to avoid year to year fluctuations in the impact estimates due to uneven caseloads across years and to reflect the fact that some of our cases take more than one year to complete. The direct financial benefits to consumers may include, for example, the direct reduction in prices to consumers or the value to consumers of improvements in quality, service or information provision following an intervention.
- 2.2 We present estimates of the impact of our work for each of the following areas:
- (a) competition law enforcement
  - (b) consumer protection enforcement
  - (c) merger control
  - (d) market studies and market investigation references (collectively referred to as 'markets work' in this document)
- 2.3 For merger control and markets work, the CMA is both the phase 1 and phase 2 authority in a two-stage process (phase 1 cases being referred where there are sufficient competition concerns to require further, more in depth, phase 2 investigation). Although the decision makers at phase 2 comprise a group of independent members drawn from the CMA panel (to ensure a transparent and distinct process) the CMA has responsibility for both phases including their resourcing. Where cases have been referred to phase 2, benefit estimates are only made once the phase 2 process has been completed, although both phase 1 and phase 2 costs are part of the impact assessment.
- 2.4 For confidentiality reasons we do not publish impact estimations for individual cases and projects. However, our estimates have been independently reviewed by Dr Peter Ormosi to ensure that our benefit estimates are reasonable and robust.<sup>15</sup>

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<sup>15</sup> Consistent with the purposes of the review exercise, we asked Dr Ormosi to confirm the accuracy of the calculations of impacts. He also commented on the consistency of the estimates with our published guidance, and consistency of approach taken between different cases. He was not asked to comment on the underlying assumptions where these were based on analysis carried out as part of individual cases (for example, the estimates of consumer detriment resulting from identified competition problems). In his report he made a number

- 2.5 The methodology used when preparing the estimates for the CMA's impact assessment reports, including this one, is largely based on that developed and used by the OFT and CC<sup>16</sup>. The CMA impact assessment estimates include benefits from cases where the outcome is under appeal at the time of publication of the report. We include these benefits as we consider this ensures the impact assessment is the best estimate of the likely impact of the CMA cases at the time of the publication of the report. In addition, this approach also ensures that the benefit estimates are included in the impact assessment at roughly the same time as the costs the CMA incurred in carrying out the case.<sup>17</sup> This approach requires that subsequent impact assessments may need to be revised to take into account the outcome of any appeals.<sup>18</sup>
- 2.6 In order to calculate the impact of any case or project, the CMA usually estimates the following components based on information and evidence available from the original investigation:
- (a) the size of the affected turnover;
  - (b) the price, quality or other negative effect removed or avoided due to the CMA's intervention (i.e. usually increased price, but may be in the form of decreased quality, decreased choice, etc.); and
  - (c) the length of time the detriment (e.g. higher prices) would have prevailed absent the intervention.
- 2.7 First, we estimate the annual impact on consumers by multiplying the turnover of the affected goods and services by the assumed price increase that was removed or avoided due to our action. Second, we estimate future consumer savings by multiplying the annual impact by the number of years we believe the detriment to consumers would have prevailed. We discount future accruals of benefits (see paragraph 2.13).
- 2.8 Data on the size of the turnover affected by our intervention (referred to as 'affected turnover') is usually gathered by the case team as part of its evidence-gathering and can be recalled from the original investigation. To be conservative, the CMA typically applies a narrow definition of the affected

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of suggestions for the revision of the methodological guidelines to reflect on almost a decade of experience applying the old guidelines, and also to incorporate new areas of assessment.

<sup>16</sup> OFT (July 2010), [Guide to the OFT's impact estimation methods](#).

<sup>17</sup> It can be several years before appeals are concluded leading to a significant lag between the inclusion of the benefits and costs of certain cases.

<sup>18</sup> This year we made an adjustment by removing the benefit previously attributed to the Phenytoin case, following the Competition Appeal Tribunal's decision not to uphold the CMA's finding of an abuse of a dominant position by charging excessive and unfair prices.



turnover by estimating it as the turnover of the directly affected firms. That is, we typically assume that the price of the goods or services competing with those offered by the firm(s) subject to the investigation in the market are unaffected, even though it is likely that, in some circumstances, they would also decrease to some extent as a result of our intervention. At other times, where the CMA tackles a sector more widely (e.g. through markets or consumer protection work), to estimate the affected turnover we need to make assumptions on the size of the market that is affected by our action.

- 2.9 In relation to the effect avoided or removed due to the CMA's intervention, where possible, we base our estimations on information collected during the original investigation. This may be, under rare circumstances, information on the actual effect (for example, the price overcharge due to an unfair pricing practice), or more frequently, an estimation of the likely effect on consumers (for example, the magnitude of upward pricing pressure resulting from a merger) as assessed by the case teams during the original investigation. Where such information and data are unavailable, we apply rules of thumb that are conservative interpretations of estimated effects and consistent with recent academic research.
- 2.10 Similarly, when estimating the expected future duration of the detriment prevailing absent our intervention we draw on information collected at the time of the original investigation. As a starting point, we tend to take a default duration value that is based on, but not necessarily equal to, existing international practice and academic research and adjust this value where case-specific information suggests this would be appropriate.
- 2.11 Ex-ante estimates of impact are based on the best information available at the time of estimation – which is typically when the decision or recommendations have been made but the full impact is not yet observable. In contrast, ex-post evaluations are usually more robust and are based on information gathered after the recommendations or remedies have been implemented and the resulting impact realised, often several years after the case has been completed. The CMA commission's independent ex-post evaluations on a regular basis in order to consider the effects of enforcement and merger review in key markets.
- 2.12 In 2019 The CMA hired the economic consultancy, LEAR, to undertake an independent ex-post evaluation of past merger cases in digital markets. LEAR assessed potential competition theories of harm in mergers involving major

digital platforms, focusing on four previous OFT merger inquiries.<sup>19</sup> The project drew lessons from economic theory and literature on technology markets, and from reviews of past merger decisions in digital markets, to understand whether the CMA should re-think its approach in assessing mergers in digital markets. Other recent ex-post evaluations include an evaluation of the impact and deterrence effect resulting from five competition enforcement cases, published in June 2018.<sup>20</sup> This review estimated the change in behaviour and competition awareness of firms in industries where the CMA had previously taken enforcement action. The review found that awareness of competition law was higher in both the industry where the CMA took enforcement, and in adjacent industries, than the average across businesses in the UK. It also found that some businesses had modified (or intend to modify) an agreement or commercial initiative as a result of enforcement action in their industry.

- 2.13 In line with central government techniques for discounting future accruals of benefits or costs, we discount future consumer savings by the HM Treasury endorsed Social Time Preference Rate (3.5%).<sup>21</sup>
- 2.14 Under certain circumstances we also need to use the Consumer Price Index to bring the benefits to the price level of the current year. This is the case when, due to the CMA's investigation, consumers are able to seek redress for any past harm suffered.

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<sup>19</sup> Facebook/Instagram, Google/Waze, Priceline/Kayak, and Amazon/ The Book Depository. As part of the evaluation of the Priceline/Kayak merger, LEAR also discussed the outcome of Expedia/Trivago due to overlaps between the mergers. Expedia/Trivago was not evaluated individually as it did not qualify for a phase 1 investigation in the UK based on both turnover, and share of supply.

<sup>20</sup> DotEcon (2018), [Evaluation of direct impact and deterrent effect of CA98 cases](#). Based on the results of a survey of businesses, DotEcon assessed awareness of five CA98 cases and of competition law more generally, and sought to quantify the indirect, deterrent effect on firms not subject to the original enforcement action. DotEcon found a clear link between CMA/OFT intervention and greater levels of awareness and understanding of competition law, specifically in relation to the illegality of specific infringing behaviour in the selected CA98 cases. Furthermore, there is evidence to support the view that awareness of cases pursued by the CMA/OFT changes in the perception of being caught and prosecuted, ultimately deterring infringing behaviour by other firms. DotEcon estimated that the indirect deterrence effect is plausibly a multiple of the direct effect. Although the effect per firm is small, there is a significant benefit due to the large number of businesses being deterred from engaging in anti-competitive behaviour.

<sup>21</sup> See HM Treasury, [The Green Book: Appraisal and Evaluation in Central Government](#).

### 3. Consumer savings by area

#### Competition enforcement

- 3.1 The CMA engages in a range of activities aimed at ensuring compliance with the Competition Act 1998 (CA98), including formally investigating and taking enforcement action against anti-competitive practices and using ‘softer’ tools such as providing guidance and targeted compliance initiatives.<sup>22</sup> Under the Enterprise Act 2002 (EA02) we can also investigate and prosecute individuals for certain breaches.
- 3.2 We estimate that the CMA’s interventions saved consumers at least £135.6 million in aggregate between the financial years 2017 and 2020, representing annual average consumer savings of £45.2 million. These figures are based on anticipated price reductions that are likely to follow the break-up of a cartel or the termination of other unlawful conduct. The figures include the impact of cases completed by the CMA between 2017 and 2020.
- 3.3 Our total impact figure for the 2019\20 financial year are based on three competition enforcement investigations concluded by the CMA. They include: the online resale price maintenance investigation into digital piano and digital keyboard sector,<sup>23</sup> the online resale price maintenance investigation into guitars,<sup>24</sup> and an anti-competitive practices investigation in the pharmaceutical sector in the supply of nortriptyline tablets.<sup>25</sup>
- 3.4 Notably, we have not estimated the direct impact from two cartel enforcement cases this financial year. First, a cartel investigation into residential estate agency services in Berkshire was not included as the infringing behaviour stopped several years before our investigation opened. We cannot therefore claim any *direct* benefit for consumer savings resulting from the end of the cartel. Second, a cartel investigation into the supply of pre-cast drainage products was excluded as this case was related to the same conduct that was investigated and concluded by another case in September 2017. We cannot therefore claim any *direct* benefit for this as we would double count the *direct* benefit.
- 3.5 However, the deterrence effect from these two investigations is likely to be significant. This is reflected in the DotEcon report on the impact and

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<sup>22</sup> The benefits from these softer tools are not typically included in the quantified estimate of benefits.

<sup>23</sup> CMA case: [Digital piano and digital keyboard sector: anti-competitive practices](#)

<sup>24</sup> CMA case: [Guitars: anti-competitive practices](#)

<sup>25</sup> CMA case: [Nortriptyline investigation: anti-competitive agreement and conduct](#)

deterrence effect resulting from five competition enforcement cases.<sup>26</sup> As noted above, it found that awareness of competition law was higher in both the industry where the CMA took enforcement, and in adjacent industries, than the average across businesses in the UK.

## Consumer protection enforcement

- 3.6 The CMA's consumer protection enforcement work seeks to change trader behaviour that appears to contravene consumer protection legislation using a range of interventions such as publishing guidance, issuing informal warnings, accepting undertakings under the EA02, or obtaining court orders. All interventions are aimed at protecting consumers, particularly vulnerable consumers, from rogue trading, unfair commercial practices and other breaches of consumer protection legislation.
- 3.7 The CMA often works together with other organisations, for example Trading Standards,<sup>27</sup> who are also responsible for consumer protection enforcement and tackling unfair trading practices. We also cooperate with other national authorities within the Consumer Protection Cooperation Network to apply and enforce consumer rights legislation. In our impact assessment, we include consumer benefits resulting from these joint actions, where these have been led or significantly influenced by the CMA, by allocating a proportion of the benefits to the CMA.
- 3.8 For the period 2017 to 2020, the total consumer benefits in aggregate from relevant consumer enforcement work are estimated to be £210 million, giving an average of £70 million per year. These benefits may include a reduction in consumer detriment as a result of stopping unlawful practices, or the estimated price impact of the CMA's interventions, for example as a result of increased transparency and more informed consumer decisions.
- 3.9 The CMA's ongoing Online Hotel Booking investigation<sup>28</sup> accounts for the largest part of the 2019/20 impact figure for consumer. The CMA opened an investigation into hotels (including B&Bs and hostels) booking sites following concerns that some of their practices may breach consumer law. The CMA was concerned about the clarity, accuracy and presentation of information on sites, which could mislead people and stop them finding the best deal. The CMA wrote to companies across the whole sector requiring information to

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<sup>26</sup> DotEcon (2018), [Evaluation of direct impact and deterrent effect of CA98 cases](#).

<sup>27</sup> For an evaluation of the activities of Trading Standards, see OFT (June 2009), [An evaluation of the impact of the fair trading work of local authority Trading Standards Services in the UK, OFT1085](#).

<sup>28</sup> CMA case: [Online Hotel Booking](#)

understand more about their practices. Several more online booking platforms and hotel chains have signed up to the CMA's set of sector wide principles for complying with consumer protection law.

- 3.10 The 2019/20 figure does not include estimates for a number of consumer cases where we were unable to develop a robust methodology, for example our work on Social Media Endorsements, where we secured undertakings from 16 influencers to improve disclosures in their social media posts to make it clear when they have been paid or otherwise incentivised to endorse a product or service. The 2019/2020 figure also does not include an estimate for our work on Online Gambling, where we secured undertakings from a number of gambling firms to change how they offer bonus promotions to customers playing online. This work was then taken forward by the Gambling Commission and will be re-assessed in the CMA's 2020/21 Impact Assessment.
- 3.11 Our estimates, as already noted, do not include the deterrence effect of the CMA's consumer protection activities, even though we tend to prioritise cases where we expect that changing the behaviour of one business would set an important precedent or have other market-wide implications.

## **Merger control**

- 3.12 The CMA operates both stages of the UK two-stage merger regime. Businesses can (voluntarily) notify a merger to the CMA and, in addition, the CMA has a duty to keep merger activity under review and can investigate mergers that have not been notified to it. At phase 1, the CMA reviews merger situations falling within its jurisdiction<sup>29</sup> and refers for more detailed scrutiny (at phase 2) any cases where there is a realistic prospect of a substantial lessening of competition (SLC) in a UK market. The CMA has the power to accept undertakings in lieu (of reference to phase 2) (UiLs) from the merging parties at phase 1, if these are deemed to address potential concerns identified in the course of its investigations.
- 3.13 At phase 2, a CMA panel of independent members conducts an in-depth investigation to assess if a merger is expected to result in an SLC. If an SLC is expected, the CMA decides on the remedies required and can impose remedies by order if it is not able to agree them with the businesses.

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<sup>29</sup> Mergers of businesses with EU and global turnover above a certain size fall within the jurisdiction of the European Commission. Mergers affecting trade between member states may also be reviewed by the European Commission.

- 3.14 Our estimates of consumer savings in this area include merger proposals amended through UiLs, mergers that are abandoned, and mergers amended or prohibited by the CMA at phase 2.
- 3.15 The impact of Phase 1 mergers is scaled down by the SLC rate to reflect the fact that not all cases where the merger parties remedied the CMA's concern, either through UiLs or abandoning the merger, would have resulted in an SLC at phase 2. The SLC rate is calculated as the proportion of phase 2 mergers completed in the past four years which resulted in SLCs after the parties had offered UiLs that were rejected in Phase 1. This approach is in line with our updated methodology explained in detail in the 2016/17 report.<sup>30</sup> The SLC rate used to scale down the impact of all Phase 1 mergers in the 2019/20 assessment was 83%<sup>31</sup>.
- 3.16 Using the approach described above, our estimates show that during the past three financial years (2017 to 2020) the merger regime saved consumers £1,160.5 million in total, giving an average of £386.8 million per year.
- 3.17 A substantial proportion of the 2019/20 benefits estimate relates to the Sainsbury's/ASDA merger inquiry. The CMA found extensive competition concerns which may be expected to lead to price rises or a worsening of quality, range or service for customers at either a national level or at individual stores. The CMA concluded that the merger would negatively impact consumers purchasing groceries in supermarkets and convenience stores as well as online for delivery. Competition concerns were also found in relation to the supply of fuel from these retailers on a local basis.
- 3.18 The benefits from the UK merger regime are dependent on the cases that come to the CMA for assessment and are therefore driven, in part, by the economic climate and can vary significantly from year to year. They are also dependent on the nature of the mergers being assessed by the CMA in each year. If a given year happens to see a greater number of anti-competitive mergers being proposed, and therefore prohibited or remedied by the CMA, then the estimated direct benefits of the merger regime will be greater in that year. Our estimates exclude benefits from mergers affecting UK consumers which are reviewed by the European Commission.<sup>32</sup>

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<sup>30</sup> CMA (July 2017), [CMA impact assessment 2016/17](#)

<sup>31</sup> This has increased from 60% in 2018/19 due to a relative increase in the proportion of cases that were found to have an SLC after a phase 2 merger investigation.

<sup>32</sup> Mergers of businesses with EU and global turnover above a certain size fall within the jurisdiction of the European Commission. Mergers affecting trade between member states may also be reviewed by the European Commission.

- 3.19 Benefit figures for mergers do not include the wider benefits, such as deterrence, of the CMA's mergers work and the wider merger regime. We would expect deterrence effects to be significant and, therefore, that having an effective merger control regime in itself prevents anticompetitive mergers from being proposed.<sup>33</sup>

## **Market studies and market investigations**

- 3.20 Market studies are examinations into the causes of why particular markets appear not to be working well for consumers and may lead to proposals as to how they might be made to work better. They take an overview of regulatory and other economic drivers in a market and patterns of consumer and business behaviour.
- 3.21 Markets may be referred for a market investigation for further analysis where there are reasonable grounds for suspecting that any feature, or combination of features, of a market in the UK is preventing, restricting, or distorting competition. In estimating consumer savings, we consider the impact of both market studies that have not resulted in a market investigation and completed market investigations. Given the wide variety of projects that our markets work covers, the exact method used to estimate impact differs from case to case. We include ex-ante estimates of impact from those projects where the CMA's recommendations and/or orders are expected to be implemented by the relevant bodies (e.g. regulators and other government departments) and therefore have a positive impact on consumers.
- 3.22 When estimating our impact from any markets project we also consider how likely the recommendations or orders are to be implemented by the relevant bodies. To account for the uncertainty associated with the market and policy context, and therefore with the overall effectiveness of the remedies, we use cautious assumptions when estimating the benefits. Moreover, where we think that the proposed remedies may not be fully implemented by the regulators, estimates are further scaled down by the assumed likelihood of implementation.
- 3.23 We estimate that the direct consumer benefits from the CMA's interventions through the markets regime were £2,518.5 million in total between the financial years 2017 and 2020, giving an average of £839.5 million per year.

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<sup>33</sup> We note that there can also be an effect of chilling where pro-competitive or benign mergers are deterred due to the merger control regime, however we would expect this effect to be lower because the CMA operates in a voluntary notification framework.

This accounts for around 63% of the total impact estimate over this three-year period.

3.24 Two markets cases were concluded in the financial year 2019\20. They were:

(a) The Statutory Audit market study <sup>34</sup> and

(b) The Scottish Legal Services research.<sup>35</sup>

3.25 The primary results of both of these projects were recommendations for regulatory and legislative change. Such recommendations take time to have an effect, and we do not estimate that they have had an impact until action is taken on the basis of them. For this reason, these cases are not yet estimated as having had any impact within our figures.

3.26 For the statutory audit market study, the impact assessment has been delayed as the CMA's recommendations have not yet been implemented by the UK government. For the Scottish legal services research market study, the impact assessment has been delayed as the CMA's recommendations to the Scottish government are likely to be realised in future years. We shall return to these cases and estimate impact for them as and when it is appropriate to do so.

3.27 The investment consultants market investigation<sup>36</sup> was completed in the financial year 2018\19 and introduced a number of remedies aimed at improving the quality of services offered to pension trustees by investment consultants and fiduciary managers. Our initial assessment focussed purely on the monetary value of savings by pension trustees arising from the mandatory tendering for fiduciary management services, and the suggested tendering for investment consultant services. We have revised up the impact estimate for this case by reviewing the methodology to account for the benefits that may arise from the quality improvements from these services which were not included in the impact assessment for the financial year 2018\19.

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<sup>34</sup> CMA case: [Statutory audit market study](#).

<sup>35</sup> CMA case: [Scottish legal services research](#).

<sup>36</sup> CMA case: [Investment consultants market investigation](#).



## 4. Costs

- 4.1 Cost figures may fluctuate from year to year and as such will have an impact on the benefit to cost ratios reported in the CMA impact assessment. To smooth out any such fluctuations, we use a three-year moving average for total costs<sup>37</sup>. This is consistent with the way in which we report estimated benefits.
- 4.2 For the purposes of calculating the benefit to cost ratio, the total costs of the CMA exclude the costs incurred in fulfilling the CMA's function with regard to the determination of regulatory appeals as we do not include any benefits from these in the impact assessment.
- 4.3 On this basis, the average annual CMA cost over the financial years 2017 to 2020 is estimated at £92.7 million.

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<sup>37</sup> The moving average has increased this year because 2018/19 and 2019/20 had elevated expenditure on resource and capital expenditure compared to previous years. Resource spending increased, mainly due to the additional funding received from the Treasury, including for EU exit. Increased capital spending is mainly related to the CMA's move to a new office.