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Dear Ms Roberts,

I'm writing in relation to the CMA's consultation on sunset clauses in market investigation remedies.

1. The rationale underpinning the updated guidance

We take the view that a principle of proportionality should apply to any remedies imposed on the parties to a market investigation. Moreover, It needs to be borne in mind that monitoring and reviewing the implementation of remedies may place significant administrative burdens on both the CMA and companies in respect of which the remedy is issued. Thus, ensuring that remedies do not remain in force where they are no longer necessary to achieve the goals for which they were imposed is absolutely key for reasons of proportionality and efficiency.

2. The commitments by which the market remedies will be monitored and reviewed

For the reasons above mentioned, there is merit in introducing a commitment to consider sunset clauses, ex ante, in the design of all new market remedies. We also agree with a commitment to proactive monitoring and review of market remedies. The latter will only apply when the CMA introduces a new remedy without a sunset clause, or if the sunset clause substantially exceeds ten years. Therefore, we consider that the two commitments do not overlap. On the contrary they seem to complement each other and enable the CMA to effectively accomplish its goal not to retain remedies in force which are no longer necessary.

3. The criteria for the introduction of sunset clauses

We believe that the introduction of sunset clauses may be appropriate in some cases. Therefore, any decisions on whether to include a sunset clause and the length of any such clause should be made on a case-by-case basis and should take into consideration the circumstances of the case. We consider that criteria such as customer detriment and the extent to which the remedy is expected to become obsolete constitute valid criteria in such consideration.

In conclusion, we support the CMA's approach set out in its updated guidance on sunset clauses.

Should you wish to discuss further, please do not hesitate to contact me.

Kind Regards

Ricardo Araujo