

Competition and Markets Authority Annual Plan consultation document 2014/15

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

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Any enquiries regarding this publication should be sent to us at: Policy, Precedent and Procedures Unit, Competition and Markets Authority, Victoria House, 37 Southampton Row, London, WC1B 4AD or by email to guidance@cma.gsi.gov.uk.

This publication is also available at: www.gov.uk/cma.

CONSULTATION INFORMATION PAGE

Scope of this consultation	<p>The consultation is intended to give partner and interested parties the opportunity to provide views and comments on the CMA's proposed Annual Plan for 2014/15, which sets out the organisation's main objectives and priorities for the year.</p> <p>We are consulting on our draft Annual Plan alongside a set of Prioritisation Principles which we propose to use to determine which cases to pursue. Alongside these consultations, we are publishing a final version of our Vision, Strategy and Values following the consultation we launched on 1 October 2013, and a formal response to that consultation.</p>
Duration	22 January 2014 to 5 March 2014
Enquiries	<p>By telephone: 020 7271 0021</p> <p>By email: strategy@cma.gsi.gov.uk</p> <p>By post: Paul Latham, Director of Strategy, Communications and Devolved Nations, CMA, Victoria House, Southampton Row, London, WC1B 4AD</p>
How to respond	<p>Respondents to this consultation are asked to supply a brief summary of the interest or organisations they represent, where appropriate. We ask that any suggested changes or comments on the documents be submitted in writing by email, letter or by 5 March 2014 at the latest.</p>
After the consultation	<p>We will collate responses to the consultation and publish a formal summary of these, along with a final version of the Annual Plan 2014/15 in April 2014.</p>
Compliance with the Cabinet Office Consultation Principles	<p>This consultation is compliant with the latest Cabinet Office Consultation Principle. The Cabinet Office Consultation Principles criteria can be found at www.gov.uk/government/publications/consultation-principles-guidance. A six-week period of consultation has been deemed appropriate in this case as there has already been extensive consultation both before and during the passage of the Enterprise and Regulatory Reform Act through Parliament, as well as consultation on the CMA's proposed Vision, Values and Strategy. The time frame also allows publication of the final Annual Plan on the date that the CMA acquires its powers, 1 April 2014.</p>

**Feedback about
this
consultation**

If you wish to comment on the conduct of this consultation or make a complaint about the way this consultation has been conducted, please write to:

Alex Chisholm
Chief Executive
CMA
Victoria House
Southampton Row
London, WC1B 4AD

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FOREWORD

The publication of our first Annual Plan for consultation is another significant step forward for the Competition and Markets Authority (CMA), setting out in detail our proposed approach to our work in the CMA's inaugural year. The CMA has a vital role to play in the UK economy through its many and varied roles and responsibilities, and whilst we are in no doubt as to the size of the task ahead of us, we are confident in our preparations and excited to take up the challenge of delivering real results for UK consumers and businesses.

The Plan sets out how we propose to begin delivering on the strategy and vision that we have put in place for the CMA. These reflect prevailing economic conditions, the Government's aims and expectations for us as set out in its strategic steer, and the feedback we have received from consumer bodies, business representatives and other stakeholders throughout the UK. We are also conscious that this will be the first year of business for the CMA. We have included a set of commitments as to what we will achieve in 2014/15. Achieving these commitments is not the limit of our ambition, but taken as a whole they provide a good yardstick by which our performance can be judged at the end of the year.

For those looking to measure the overall impact of the shift from the Office of Fair Trading and the Competition Commission to the CMA, it should be noted that much of the work that the CMA will do in its first year is in continuing work begun in previous years by its predecessor organisations, and that there has been an emphasis on evolution rather than revolution throughout the reforms to the competition regime. There will not be a 'big bang' on 1 April – rather, the CMA will be building on what has gone before, striking a careful balance between carrying on important work begun by the OFT and CC and opening up new cases, projects and areas of work. Nevertheless, we are committed to achieving a further step up in performance as a consequence of the legislative reforms, the new institutional structures, the resources made available to us and organic improvements to our ways of working.

From the beginning, we have sought to be open, transparent and to listen to the views of everyone with an interest in the CMA. In keeping with this approach, we invite you to share with us your views and opinions on this draft Annual Plan, so that the CMA can begin its work with a strong and clear set of objectives for its first year.

David Currie
CMA Chairman

Alex Chisholm
CMA Chief Executive

1 INTRODUCTION AND ECONOMIC CONTEXT

The CMA must seek to promote competition, both within and outside the United Kingdom, for the benefit of consumers

—CMA Primary Duty, Enterprise and Regulatory Reform Act 2013 s25(3)

- 1.1 The CMA is a new organisation, created by the Enterprise and Regulatory Reform Act 2013 (the ERRA). The ERRA brought together two of the world's leading competition authorities, the Competition Commission (CC) and the Office of Fair Trading (OFT), to create a competition and consumer authority that will be greater than the sum of its parts – the Competition and Markets Authority (CMA).
- 1.2 The CMA formally came into being on 1 October 2013, when it published a draft vision, values and high level strategy for consultation.¹ It is publishing its response to that consultation alongside this plan. The CMA has confirmed its vision and revised its strategy in the light of the responses to that consultation.
- 1.3 The CMA acquires its powers on 1 April 2014. In this our first Annual Plan, we set out what we plan to do in our inaugural year, and how we plan to deliver the objectives set out in our strategy. The Government has set out the importance it attaches to the work of the CMA in promoting growth and its expectations of us in its strategic steer.² This document includes an indication as to how we take account of this steer in developing our strategy and operational planning. The CMA Board is accountable for delivering the commitments set out in this plan, and has put in place a risk management framework to enable it to assess and manage risks to the delivery of those commitments.
- 1.4 As the successor to the OFT and CC, our first year in business will substantially involve progressing work initiated by or under way in both organisations. We intend to ensure that this work transfers to the CMA as seamlessly as possible and that timely delivery is not jeopardised. As a consequence, our first year portfolio will look familiar. We describe in the remainder of this document our intended balance between existing cases and new work in pursuit of each of our objectives.

¹ www.gov.uk/government/consultations/competition-and-markets-authority-vision-values-and-strategy.

² www.gov.uk/government/uploads/system/uploads/attachment_data/file/245607/bis-13-1210-competition-regime-response-to-consultation-on-statement-of-strategic-priorities-for-the-cma.pdf.

CMA Vision

Our mission is to **make markets work well in the interests of consumers, businesses and the economy**, and our overall ambition is **consistently to be among the leading competition and consumer agencies in the world**. Underpinning our mission are five strategic goals:

Deliver effective enforcement

- Deter wrongdoing and prevent consumers losing out from anticompetitive mergers or practices
- Ensure that businesses and individuals understand the law and know that effective sanctions follow if they break it
- Pursue the right cases and manage them well so we make good, timely decisions that stand up to appeal

Extend competition frontiers

- Use the markets regime to improve the way competition works where evidence shows it can most benefit consumers
- Ensure the application of competition law and policy in regulated sectors, working alongside sector regulators
- Act to encourage effective competition where markets and business models are evolving

Refocus consumer protection

- Empower consumers to exercise informed choice, using both competition and consumer powers to help markets work well
- Lead policy development and identify and pursue complex, precedent-setting cases where it is best placed to intervene and can have the greatest impact on markets
- Support and work effectively alongside other UK consumer agencies

Achieve professional excellence

- Conduct legal, economic and financial analysis to the highest international standards while avoiding unnecessary burdens on business
- Manage all our cases efficiently, transparently and fairly to meet demanding deadlines and external expectations of pace, rigour and fairness
- Lead the development of legal, economic and business thinking on competition

Develop integrated performance

- Combine staff from different professional and organisational backgrounds into effective multidisciplinary teams
- Use all the competition and consumer measures at our disposal where they can have most impact and apply lessons and experience from each to improve its performance
- Complement the work of other consumer, regulatory and enforcement authorities, and act as a trusted competition adviser across government

- 1.5 The CMA will set its priorities in the light of its assessment of the risks to UK consumers and markets. These change with economic circumstances. In 2012 the OFT published a strategic assessment of longer-term risks to UK consumers and markets,³ designed as a foundation for the CMA and the Financial Conduct Authority (FCA).⁴ While the UK's economic situation has evolved since the assessment, entering a period of recovery and slow growth, it still remains relevant in helping us to determine our strategic priorities and take decisions on what work to take forward.⁵ We propose to review it and produce a new assessment in the course of 2014.
- 1.6 Whilst indicators suggest that consumer confidence is returning, household incomes remain under pressure, with disposable income growing modestly and not keeping pace with the rise in inflation. The increasing cost of living (including household utility bills, food and other consumer essentials) and rise in household expenditure sit in a climate that is also characterised by higher (unsecured) borrowing. Business confidence is also growing – though unevenly across the economy. While recent growth has been spread across the main sectors of the economy, both manufacturing and production sectors remain well below pre-2008 levels of output. Recent growth has also been concentrated in household expenditure rather than in investment.⁶
- 1.7 The current economic climate therefore continues to give rise to risks which will inform the CMA's priorities. These include:
- The potential for cartel activity and other anti-competitive practices, particularly in markets with few firms or where demand is weak
 - The potential for merger activity to reduce competition to the detriment of consumers
 - The risk of unfair business practices arising or increasing where firms' profits are under downward pressure
 - The potential for consumers making distressed purchases, being tempted by high risk products; the most vulnerable consumers being at the greatest risk

³ www.offt.gov.uk/about-the-offt/annual-plan-and-report/annual/strategic-assessment.

⁴ The FCA takes on the OFT's responsibilities for regulation of consumer credit on 1 April 2014.

⁵ The strategic assessment is not an evaluation of all risks and as such other risks are likely to arise which are not covered by it and which need to be addressed. This assessment and the intelligence provided is an input to a broader assessment of work to be taken forward by the CMA in accordance with the prioritisation principles.

⁶ ONS Economic Review, October 2013.

- Businesses being susceptible to anti-competitive and unfair business practices.

1.8 Other structural changes in the economy also have implications for the CMA's priorities. Among the most significant are the following:

- Thematic changes in markets such as the increase in online business and innovations in online and mobile technology bring benefits for many, but also potential risks and downsides. As consumers increasingly use the internet to compare products and purchase goods and services, they also increasingly provide personal data online. Consumer worries about threats to privacy could therefore undermine willingness to shop online, and so it remains important to ensure customers can have confidence in online markets
- In emerging sectors and business models more generally, it will be important to ensure we understand the opportunities and risks they present for consumers and to ensure that emerging markets are characterised by healthy competition
- In regulated sectors – which represent a significant section of the economy – promoting competition will be a priority, in collaboration with sector regulators
- The increasing focus on market mechanisms in public service delivery – including in key areas such as health, education and social care – makes it essential that effective competition contributes to releasing the potential for productivity growth and service improvement.

1.9 The work of a competition and consumer authority can contribute to addressing many of these risks in a variety of different ways. We can prosecute criminal cartel activity and have a responsibility to enforce the prohibitions in the Competition Act 1998 (the Competition Act) against cartels, anticompetitive agreements and abuse of a dominant position, to apply Articles 101 and 102 of the Treaty on the Functioning of the European Union (TFEU) as appropriate and to investigate mergers that may result in a substantial lessening of competition. We can choose to investigate other markets where we believe competition may not be working well. Chapters 3–7 set out what the CMA proposes to do in 2014/15 under each of its objectives.

Our commitment

During 2014/15 we will:

- conduct a new Strategic Assessment to help us identify priority markets for investigation or action

2 RESOURCES, PRIORITISATION AND IMPACT

- 2.1 The CMA's budget was originally announced to be £51 million, expected to rise by £16m in 2015/16. In the Autumn Statement in December 2013 the Chancellor announced that the CMA's budget would be increased by £12 million in 2014/15, to enable it to make an earlier step change in competition enforcement.
- 2.2 We have allocated our resources in a way that supports our commitment to enforcement and delivery. [We will provide more detail on budget allocation in the final version of the Plan.]
- 2.3 In this, our first year, the cases and projects inherited from the OFT and CC will determine a significant proportion of our portfolio of work and therefore resources. This existing portfolio was selected by the OFT Board in line with its Prioritisation Principles⁷ which set out the factors that are considered and balanced when making decisions on priorities: impact, strategic significance, risks and resources. The exact number of cases or projects we might expect to start in the coming year cannot be accurately predicted, as each case is subject to an individual assessment of evidence and priorities.⁸ And the CMA will keep the balance of cases across sectors and across tools under review. The assumptions about case volumes in this plan are based on our current knowledge of markets and of the CMA's available resources. Alongside our budget, we have agreed a performance framework⁹ with the Government which sets out what we expect to achieve with the resources we have.
- 2.4 At its heart is an ambitious and world-leading target for benefits to consumers from our activities. For every £1 we spend, we aim to generate £10 benefits for the consumer. We will assess the direct benefits of our work regularly, but recognise that it also has significant, though hard to quantify, indirect benefits. Our approach to measurement of impact includes forward-looking impact estimation as we develop proposals for cases to pursue and evaluation after the event. Our approach to evaluation, which draws on the best academic thinking and practical experience of competition and consumer interventions, has three strands:
- Estimating the impact of each project as it completes

⁷ www.of.gov.uk/shared_of/about_of/oft953.pdf.

⁸ Further, the outcome of current litigation is unknown; this may have implications for the availability of resources for other priorities.

⁹ See Annex A.

- Evaluating projects to identify the costs and benefits, and lessons learned
- Exploring further how best to assess the CMA's wider impact on economic growth including through deterrence or improving the prospects for exit, entry and innovation in markets

2.5 We will publish the results of our rolling programme of evaluation in our Annual Report and elsewhere. In addition, the performance framework obliges us to track our progress against a variety of measures designed to capture Government's objectives for reform. We will report on these, too, in our Annual Report.

Our commitment

During 2014/15 we will:

- Deliver at least a 10:1 benefit to cost ratio (measured over a rolling three-year period)
- Report on our activities and on our achievements as required by the performance framework

3 DELIVER EFFECTIVE ENFORCEMENT

The central importance of enforcement

- 3.1 Enforcement is central to our purpose and our function – delivering a first-class enforcement regime sits at the heart of the rationale for our creation. Targeted and effective enforcement delivers results beyond individual cases – it builds a platform for greater compliance and understanding of the law, and importantly deters anticompetitive behaviour. The long-run effects ripple right through the economy and contribute to building a strong economy.
- 3.2 We use the term enforcement in this context to comprise competition enforcement (including prosecution of criminal cartel activity and enforcement under the Competition Act, consumer law enforcement and merger control. Our work on enforcement of consumer protection law is described further in Chapter 5.
- 3.3 We also regard support for those working to achieve compliance with the law – via published guidance and practical materials and tools for businesses and their advisers – as an important complement to enforcement activity.

Our competition enforcement portfolio

- 3.4 On 1 April 2014 as the CMA assumes its powers we will inherit [x]¹⁰ live competition enforcement cases from the OFT. These comprise investigations of possible criminal cartels and cases under the Competition Act that have passed the section 25 threshold. Our competition enforcement portfolio currently includes cases in industries including financial services, fuels, pharmaceuticals and construction products.
- 3.5 Our strategy sets out our longer-term ambitions. By definition these will not all be achieved in our first year. In that first year we will continue and complete a proportion of the work we have inherited and lay the foundations for our future improvement.
- 3.6 We will progress these ‘in flight’ cases quickly and effectively and ensure that they have the maximum impact on deterrence and compliance incentives, and ultimately the welfare of consumers. That means ensuring that our decisions are robust and well evidenced and withstand scrutiny, and that the messages from these cases are well and widely understood across the economy. We will gather and analyse intelligence and insight from a variety of sources to identify where enforcement may be targeted to have the

¹⁰ The figure will be provided in the final version of this Plan.

greatest impact. And we will ensure that our portfolio of enforcement work comprises those cases which best meet our prioritisation criteria, including their likely deterrent impact, and includes a balance of different kinds of cases in different sectors.

- 3.7 Alongside active enforcement, we will help businesses to abide by the law through advocacy, guidance and engagement with representative bodies, and by making available practical tools and materials. This support is particularly important for smaller businesses which do not have access to the same levels of internal legal advice on competition and consumer law.

Merger control

- 3.8 At the time when the CMA assumed its powers, [y]¹¹ mergers were undergoing second phase scrutiny at the CC and a further [y]¹² were under consideration at the OFT. It will also inherit the responsibility for implementing remedies in any cases where the CC has determined that they are necessary.
- 3.9 Under the Enterprise Act 2002 (as amended by the ERRA) the CMA is obliged to obtain and review information relating to merger situations, and is under a duty to refer for a Phase 2 investigation relevant mergers where it believes that it is or may be the case that they have resulted or may be expected to result in a substantial lessening of competition in a UK market.
- 3.10 From 1 April 2014 the CMA will be implementing changes to the merger procedures of its predecessors, as required to reflect the procedural changes introduced by the ERRA¹³, and incremental improvements to policies and procedures previously used by the OFT and CC. These changes are reflected in the guidance on jurisdiction and procedure which the CMA has recently published.¹³
- 3.11 Notification of a merger to the CMA is voluntary, which means that parties may decide not to notify a merger which the CMA has the jurisdiction to review, for example where they believe that a merger does not raise competition concerns. The CMA may seek information about non-notified mergers that it becomes aware of through other routes (such as its own monitoring of market activity or third party complaints). In order to deter anti-competitive merger activity while preserving the benefits of the voluntary

¹¹ The figure will be provided in the final version of this Plan.

¹² The figure will be provided in the final version of this Plan.

¹³ www.gov.uk/government/publications/mergers-guidance-on-the-cmas-jurisdiction-and-procedure.

regime, the CMA will adopt a balanced and targeted approach to investigating non-notified mergers.

Our commitments

During 2014/15 we will:

- Ensure that we commit necessary resources to prosecute effectively the criminal cartel offences, concluding, or commencing proceedings in respect of, at least one criminal cartel case
- Build our intelligence, investigation and enforcement capacity to enable us to increase the number and speed of cartel cases that we are able to pursue, both criminally and under CA98
- Launch at least four new CA98 investigations where we have the requisite evidence
- Implement operational and procedural reforms for CA98 cases thereby improving the robustness and speed of decision making
- Develop and embed procedures for the application of new powers, such as interim measures and compulsory interviewing
- Review the operation of our prioritisation principles to ensure that our choice of competition enforcement cases is balanced and focused on maximising impact, and implement changes if required
- Implement specific changes to the mergers procedures of our predecessors, including:
 - Delivering all merger cases to the new statutory timescales introduced by the ERRA
 - Delivering further improvements to the speed and clarity of the CMA's mergers procedures, such as the revised Phase 1 decision-making system, the procedure for accepting undertakings in lieu of reference and the transition from the first to second phase of merger control
 - Utilising our new powers to prevent or reverse pre-emptive action through Interim Measures, in appropriate circumstances
 - Utilising the CMA's formal information-gathering powers and associated ability to impose financial penalties for failure to comply with such powers, in appropriate circumstances
 - A more targeted approach to investigating non-notified mergers
- Conduct a review of compliance and awareness best practice, drawing in lessons from staff, businesses, representative bodies and from UK and international peer organisations, and adjust our practice accordingly.

4 EXTEND COMPETITON FRONTIERS

Competition across the whole economy

- 4.1 Maximising the potential of competition for the benefit of consumers and the economy requires more than just enforcement activity. In some markets the structure of markets or conduct of suppliers or customers can mean that competition is ineffective. The UK's markets regime allows us to look at specific markets or practices, rather than individual entities, and to consider how competition can work better in the interests of customers. The Government has made some changes to the markets regime to broaden its scope and speed up its application.
- 4.2 Recognising that many regulated markets are characterised by high levels of persistent market power, the Government has also made some changes to the concurrency regime to ensure that competition law is applied more consistently in these sectors. The CMA, working with all the UK's sector regulators, has established the UK Competition Network to encourage the spread of competition and the use and effectiveness of competition enforcement in regulated sectors.
- 4.3 The CMA will also be able to use its expertise, knowledge and insights on how competition can work to advise others, including government, on how competition can work for the benefit of public service users and taxpayers.

Our markets portfolio

- 4.4 On 1 April 2014, as the CMA assumes its powers it will inherit a full portfolio of existing cases from the CC and the OFT. This will include [x]¹⁴ market studies from the OFT and the energy market review with Ofgem and [x]¹⁵ live market investigations from the CC. It will also inherit the responsibility for implementing remedies from recent CC market investigations.
- 4.5 We will complete these 'in flight' studies, which are subject to the Enterprise Act regime and timescales, as quickly as is consistent with rigour. We will identify the sectors of the economy where our intervention has the greatest prospects of benefits for consumers, including new or rapidly changing markets where business models are evolving, markets where new ways of understanding consumer behaviour have identified both competition problems and potential solutions; and markets for public services. We will use our own intelligence and insights from businesses, consumers and their

¹⁴ The figure will be provided in the final version of this Plan.

¹⁵ The figure will be provided in the final version of this Plan.

representatives and others to identify areas of concern. We will develop a strong pipeline of work projects in these areas, using our prioritisation principles¹⁶ to ensure that our portfolio of markets work includes a balance of different kinds of studies in different sectors, and deliver those cases in the shorter timescales required by the legislation. We will work with our sector regulator partners in the UK Competition Network¹⁷ extending the potential impact of competition across the regulated sectors in a different way from the past.

Regulatory references and appeals

- 4.6 The CMA will inherit the CC's responsibilities for references and appeals against the decisions of certain regulators, including new responsibilities conferred by the Health and Social Care Act 2012, the Civil Aviation Act 2013 and the Financial Services (Banking Reform) Act 2013. Regulatory references and appeals have historically comprised up to a quarter of the CC's workload.
- 4.7 It is not possible to predict which (if any) decisions of which (if any) regulators will be appealed to the CMA. However, significant regulatory decisions in sectors including telecommunications, water, energy, rail and aviation are expected in the course of 2014; it is at least possible that one or more may be appealed or referred to the CMA. If so, the CMA will conduct any case in the same way as the CC, consistently with its guidance on the conduct of such cases. In appointing groups to and staffing such cases, the CMA will ensure that there is no conflict between its role as an appeal body and any role supporting the relevant sector regulator in its exercise of its concurrent competition powers.
- 4.8 The Government consulted on the future of the regulatory appeals regimes in the course of 2013. It has yet to announce any decisions arising out of that review. Should it do so in 2014/15, the CMA will work with the Government to implement any reform(s) the Government decides to make.

¹⁶ We are currently consulting on the prioritisation principles.

¹⁷ The UKCN has published a Statement of Intent setting out how it proposes to operate: www.gov.uk/government/uploads/system/uploads/attachment_data/file/262996/UKCN_Statement_of_Intent_FINAL.pdf.

Our commitments

During 2014/15 we will:

- Ensure that the full OFT and CC portfolio will be carried over to the CMA without disruption during the transition and the cases concluded within statutory time limits
- Implement remedial action (where appropriate) within the statutory time limits
- Launch at least four new Calls for Information, market studies or market investigations in the course of this year where we have the requisite evidence, and meet all the statutory deadlines on new studies launched in 2014.
- Based on our work, make recommendations to the Government on the impact of its activities on competition in at least two sectors
- Determine all regulatory references and appeals we receive fairly and meeting statutory deadlines

5 REFOCUS CONSUMER PROTECTION

CMA's consumer protection role

- 5.1 The creation of the CMA forms part of an important refocusing of UK consumer protection. We will be one of many bodies with a role in ensuring that consumers are protected and able to play their part in stimulating competition and making markets work well. Our role in enforcement will be to pursue complex and precedent-setting cases where we can expect to achieve an impact across entire markets with a particular focus on unfair contract terms work. The CMA's consumer role will complement and reinforce the effect of competition action taken to improve markets and to support economic growth by addressing problems where competition enforcement alone does not, or cannot, make a market work well for consumers. Alongside our enforcement work, we will lead or influence policy development – both domestically and internationally, in areas where we have specific responsibility such as unfair terms or where we have particular expertise.
- 5.2 Working effectively and building strong relationships with our consumer protection partners, such as local authority Trading Standards Services and the Citizens Advice Service, together with the sector regulators, will ensure that the consumer protection regime remains robust and effective.
- 5.3 Our consumer protection responsibilities go further than enforcement – as with competition enforcement, our effectiveness also relies on 'softer' tools which help to educate and promote compliance and understanding of the law. We have a particular responsibility to do this in relation to unfair contract terms legislation where we have lead responsibility for providing guidance to business. Where appropriate we will also provide advice to businesses where we have conducted a market study or other in-depth analysis of business practices in a particular sector. We will work alongside our colleagues across the sector to maximise the impact of our contribution.

Our consumer enforcement portfolio

- 5.4 Our priorities start with working with enforcement and education partners such as the National Trading Standard Board, the Trading Standards Institute, Citizens Advice, and other regulators to ensure that the reformed arrangements are understood and effective. In particular we will work through the Consumer Protection Partnership to ensure that areas of significant consumer detriment are identified and prioritised by the most appropriate organisation and that the roles of different partners are widely

understood.¹⁸ We will work with the Trading Standards Service through the National Tasking Group to ensure that cases are allocated appropriately between the Trading Standards Services and the CMA. Using our existing knowledge and our markets experience, we will work with all partners to develop capability, share intelligence and coordinate activity. We will work closely with the sector regulators and chair the Consumer Concurrence Group.

- 5.5 In an increasingly global environment, working with our partners outside the UK, across Europe and more widely will be important to ensuring that we maximise our impact. We will be working both at a practical level, for example such as through our membership of the European Commission Internet Expert Group, ICPEN and the OECD, as well as acting as the UK's Single Liaison Office under the EU Consumer Protection Co-operation Regulation. We will also work more strategically, to help establish consistent priorities, sharing expertise and identifying cases where working collaboratively can deliver better outcomes for consumers.
- 5.6 Our portfolio in 2014/15 will include cases initiated by the OFT before 1 April 2014. We will seek to conclude them in the most effective way, by agreement, commitment or litigation.
- 5.7 We will use our intelligence gathering capabilities to ensure that our portfolio of enforcement cases includes the complex and/or precedent-setting consumer protection cases which we are best equipped to take, which best complement our competition powers and which will maximise our impact. Our prioritisation criteria will help us to choose in which sectors to pursue cases and which powers to use.
- 5.8 In partnership with our CPP partners we will work with business to ensure that consumer protection law is understood and complied with. This includes engaging with business in sectors in which we have pursued cases or other work to make sure the implications of the case are understood, and that businesses have the information and guidance they need to comply with the law.

¹⁸ The CPP published its future priorities in November 2013:
www.gov.uk/government/uploads/system/uploads/attachment_data/file/252730/bis-13-1267-consumer-protection-partnership-future-priorities.pdf.

Our commitments

During 2014/15 we will:

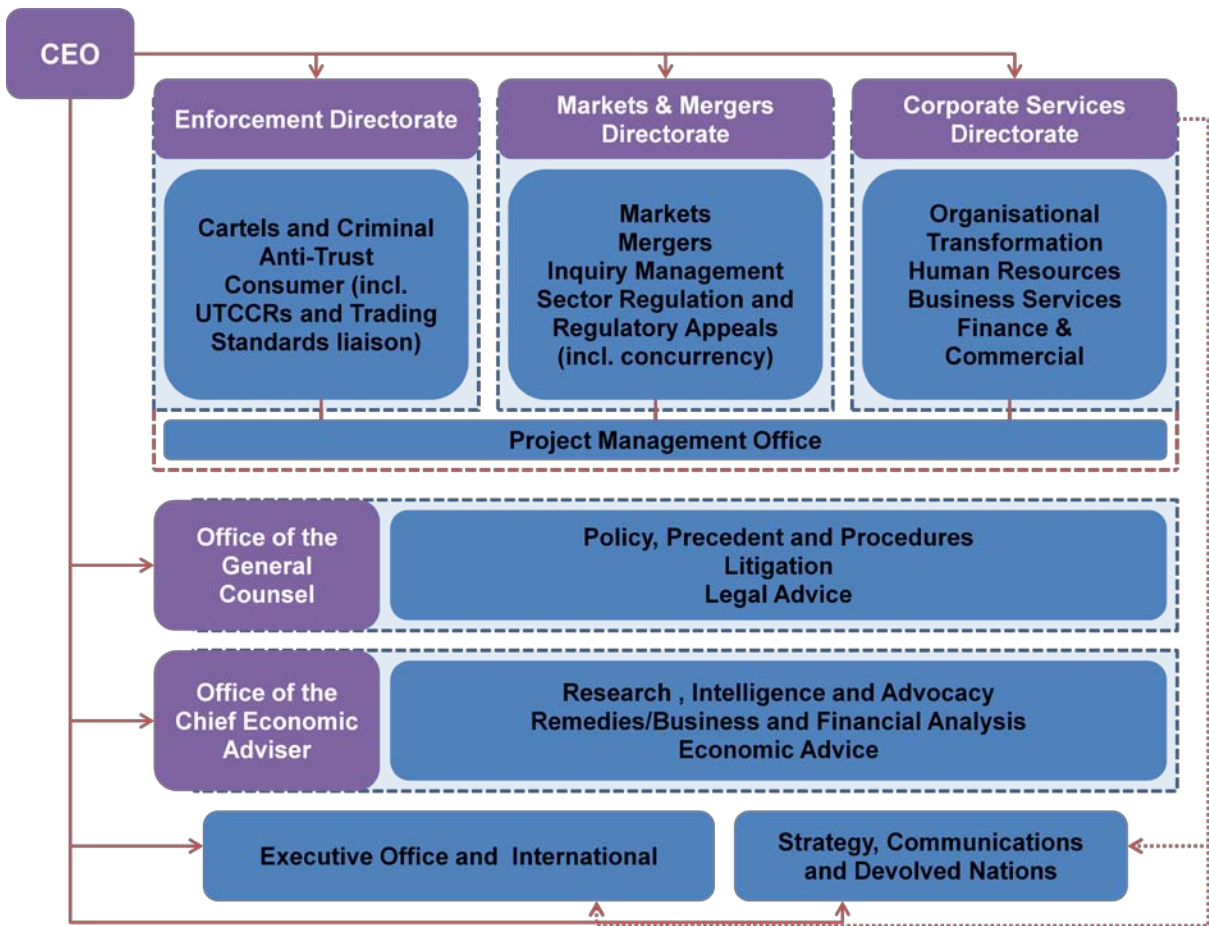
- Initiate three cases that focus on markets where there is evidence of widespread or endemic practices that negatively impact on consumer decision making or choice.
- Conclude our cases swiftly, either by agreement or by proceeding to litigation; we will aim for the majority to be concluded within 18 months of being opened
- Agree a set of protocols and ways of working with our national partners to ensure that the regime operates effectively to the benefit of consumer, and there is clarity on how and by whom cases and issues will be pursued
- Continue to play a leading role in the development of consumer protection internationally, particularly in Europe, working with our partners in e-commerce and on unfair terms
- Work with partners in developing a better awareness and understanding of consumer protection law among business and others

6 ACHIEVE PROFESSIONAL EXCELLENCE

- 6.1 Our case management needs to be efficient, effective, transparent and fair, consistent with our guidance and with the standards expected of us by others. Our legal and economic analysis also needs to be of a consistently high standard. In achieving these aims, we must also avoid imposing burdens on business that are unnecessary and counterproductive.

Structures

- 6.2 The structure and working practices of the CMA are designed to promote flexibility, collaborative working and professional excellence. We will do most of our work through multidisciplinary project teams, managed through a matrix framework that ensures proper accountability for delivery of timely and robust decisions and for the professional quality of our work. The CMA will also develop a consistent approach to managing projects which it will then apply across its work. This will be based on the proven approaches employed by the OFT and CC.
- 6.3 We intend for there to be three Groups, led by Executive Directors: Enforcement, Markets & Mergers and Corporate Services (see below). These will be supported by an Office of the General Counsel and an Office of the Chief Economic Adviser. The Office of the General Counsel and Office of the Chief Economic Adviser will be responsible for the legal, economic, business and financial advice and analysis provided to case teams and inquiry groups, including appropriate and rigorous quality assurance. The Offices will also develop programmes to facilitate the continuing professional development of staff in those professions. They will form colleges of professional expertise across the CMA.



Professional groups

- 6.4 All staff will belong to a profession, and the Head of each profession will be responsible for the professional development of those staff, including having substantial input into decisions on which projects they work on and the roles they play. These arrangements will not be confined to economists, lawyers, business and financial advisers and investigators but will also apply to those involved in project management and delivery and other professions including HR, communications, finance and IT.

Our commitments

During 2014/15 we will:

- Review and refine as appropriate our arrangements for quality assurance of the analytical and legal work on projects, including the checks and balances we apply, to improve the rigour and robustness to challenge of our work still further
- Draw on the expertise of the CMA panel and of external academic panellists to enhance the quality of our casework and develop the capabilities of our staff
- Review our approach to litigation to determine the best model for the CMA to use in particular circumstances
- Develop and implement a common approach to delivering projects effectively, building on the proven approaches of the OFT and CC
- Develop programmes of professional development across all the professions in the CMA to help staff to achieve the highest standards appropriate to their profession

7 DEVELOP INTEGRATED PERFORMANCE

- 7.1 We will integrate staff and members from all backgrounds through the design of the organisation and integrate the work both of different units and professional groups within the CMA with each other, and of the CMA with that of its external partners.
- 7.2 The CMA will be combining staff from the OFT, staff from the CC and staff new to the competition authorities.
- 7.3 Externally, working closely with all the bodies with which we share powers will be vital to integrating our tools to ensure that the competition and consumer regimes can deliver more than the sum of their parts and that we minimize duplication and other unnecessary burden on business.
- 7.4 The CMA will engage with and listen to consumer groups, businesses and their representatives, devolved administrations and other interested organisations to gather information, intelligence and feedback that will inform our work and processes. We will work in partnership with such intermediaries to reach their audiences, connecting with and influencing businesses and consumers to make markets work well. We will also work closely with the Government and with public bodies to influence their approaches to competition and markets and to advocate the contribution of well-framed competition to achieving policy objectives.
- 7.5 Internationally, the UK is one of the world's leading competition regimes. As such we have a role to play in coordinating our actions with those of agencies in other countries and, where appropriate, helping other jurisdictions to develop robust systems. In a world of increasing internationalised business, our effectiveness is linked to the effectiveness of other regimes in other jurisdictions. We will work constructively with international bodies and partner agencies, building on the roles the OFT and CC have played.
- 7.6 On the consumer side, we will play a full and active part in the Consumer Protection Partnership, taking leadership of specific policy areas where we have particular knowledge and expertise and delivering and collaborating with partners on enforcement. And on the competition side, we have been given a clear remit to work with sectoral regulators to make better use of competition policy and enforcement across the markets that they deal with.

Matrix-based organisation

- 7.7 Internally, we will make the most of our staff by combining different professional approaches and backgrounds into effective multidisciplinary teams. A matrix-based organisation allows us to harness the skills of our staff and apply these to areas of work where they are most needed, quickly and in a coordinated way. By doing so we will also enhance the skills and experience of our staff, investing in them as individuals and building resilience and a greater organisational capability. The Project Management Office will help us staff and manage projects in a way that both meets their needs for relevant skills and knowledge and contributes to developing individuals.
- 7.8 A CMA Academy will aim to provide staff with professional training to develop their skills; delivering a standard induction for all CMA staff (tier 1); core professional training in each of the main areas of work (tier 2) with an option to attend training in an area outside of the work staff are currently undertaking; and advanced training in specialist areas (tier 3).

Effective talent management

- 7.9 We want the CMA to be a great place to work and an organisation that offers interesting work and career development opportunities for our staff. We will identify, grow and retain talent, aligning our talent approach with our performance management systems, development plans, recruitment processes and our employee offer.
- 7.10 We will take advantage of civil service resources including the Toolkit and Competency Framework, and employ 360° feedback as part of Performance and Development Reviews, professional development and career frameworks, talent identification, targeted Leadership and Management development, technical and specialist training and Succession Planning. These will help us develop capable and committed staff in the right roles at the right time across the organisation.

Our commitments

During 2014/15 we will:

- Design and implement an organisational transformation programme to create a cohesive organisation, embed shared values and encourage integrated ways of working
- Work in multidisciplinary teams which blend people with different professional and organisational backgrounds
- Establish a Project Management Office and resourcing arrangements that ensure projects are staffed and managed in line with their needs and the skills, knowledge and aspirations of CMA staff
- Conduct and respond to an annual Civil Service Staff Survey
- Work with EU and international colleagues to encourage competition and open markets in the interests of UK consumers and businesses

ANNEXE

A. CMA Performance Framework

- A.1 The CMA, as a non-ministerial Department, has the freedom that status confers to prioritise its resources and its activity. It has full operational freedom to make case decisions independently in line with the legal framework and with internationally agreed good practice. This annexe sets out the performance the Government expects from the CMA. It also describes how the CMA will fulfil the performance reporting requirements of the Enterprise and Regulatory Reform Act 2013.
- A.2 The CMA Board is accountable for the success of the CMA as a whole and the delivery of the objectives set out in this document. The CMA's Chief Executive is the Accounting Officer for the CMA and is accountable to Parliament for its use of public money.
- A.3 The CMA's Mission is to **make markets work well in the interests of consumers, businesses and the economy**. Its overall ambition is consistently to be one of the leading competition and consumer agencies in the world.
- A.4 The Government expects the CMA to have a beneficial impact on consumers, on business behaviour and on productivity and growth in the economy, and to make robust decisions and implement effective and proportionate remedies.

The CMA will report annually on:

- 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)
- the ratio of direct financial benefits to consumers and costs for its principal tools
- its assessment of wider benefits of its work, for example on growth, business and consumer confidence in markets, compliance with competition law and deterrence of anticompetitive behaviour

Underpinning the CMA's mission are its five strategic goals:

1. Deliver effective enforcement

The Government expects the CMA, in line with its overall mission, to:

- make strong and effective use of all its competition tools across a range of projects

- select and conclude an appropriate mix of cases, including economically complex ‘effects’ cases and multiparty cartel cases, to maximise impact, end abuse and create a credible deterrent effect across the economy
- seek to conclude more and swifter cases while maintaining fairness and without this being at the expense of lower financial penalties
- ensure its decisions are robust to achieve a greater number of successfully concluded cases and investigations compared to the historical record
- increase the proportion of successful defences against appeals of its infringement decisions

The CMA will report annually on:

the number and nature of cases pursued under each of its enforcement tools, specifically:

- the Competition Act regime
- the criminal cartel offence
- merger control
- the outcomes of cases, including the level of fines imposed
- delivery of a target of an increased number of Competition Act cases against a rolling three-year average benchmark of previous OFT/CMA performance
- delivery of a target of a reduction in the time taken to bring Competition Act cases to a final conclusion against a rolling three-year average benchmark of previous OFT/CMA performance
- delivery of a target of an increase in the proportion of successful defences against appeals of its infringement decisions against a rolling three-year average benchmark of previous OFT/CMA performance
- activities to ensure timely and appropriate responses to its information requests
- comparisons of performance over time and against appropriate international benchmarks
- evaluation of the impact of at least two cases (including at least one market study or investigation)

2. Extend competition frontiers

The Government expects the CMA:

- to identify markets where competition is not working well and tackle the constraints on competition in these areas
- to assess specific sectors where enhanced competition could contribute to faster growth
- to increase the number and speed of cases pursued under the markets regime

- to work with sector regulators to stimulate a step change in the effectiveness of the concurrency arrangements, encourage the effective use of concurrent competition tools to tackle anticompetitive practices and promote competition
- to play a key role in challenging government where it creates barriers to competition

The CMA will report annually on:

- the number and nature of cases pursued under the markets regime
- the time taken to bring such cases to conclusion
- the outcome of cases
- its activities to promote competition in the regulated sectors and tackle anticompetitive practices, competition enforcement in regulated sectors and the operation of the concurrency regime
- its impact on government policy including the Government's response to recommendations made to it
- the longer-term impact of its interventions

3. Refocus consumer protection

The Government expects the CMA:

- to work with partners to make the new consumer arrangements work

The CMA will report annually on:

- the number and nature of cases pursued
- the speed with which it allocates cases through the National Trading Standards Board's National Tasking Group
- its interaction with other domestic and international enforcement agencies

4. Achieve professional excellence

The Government expects the CMA:

- to make robust decisions and implement effective and proportionate remedies to ensure processes proceed quickly, fairly, transparently and predictably, and to publish guidance on its procedures in its principal types of cases, including on its approach to administrative timetables

The CMA will report annually on:

- the number of issues referred to the procedural officer and the outcome of these cases
- performance against expected timetables in particular cases. Bespoke timetables will include the time taken from the opening of a CA98

investigation to the issue of a Statement of Objections and the time from Statement of Objections to final decision

- the number and outcome of appeals against the CMA's decisions
- transparency indicators in accordance with government policy

5. Develop integrated performance

The Government expects the CMA:

- to develop its structures strategy and practices so that it can demonstrate improvements in effectiveness and efficiency
- to develop procedures for ensuring any burdens it imposes on business are necessary and proportionate

The CMA will report annually on:

- its integration of its functions and development of its culture
- activities to improve its practices and procedures
- its collaboration with partner agencies at home and abroad

Success with these five goals will increase the CMA's impact and make it:

- A respected and influential independent authority in the UK and abroad

The Government expects the CMA:

- to maintain or improve on the high reputation of the OFT and CC

The CMA will report on:

- the opinions of domestic and international stakeholders

- A great place to work

The Government expects the CMA:

- to retain and develop the high quality people it needs

The CMA will report annually on:

- the results of its regular staff survey