

Vision, values and strategy for the CMA

Consultation document

© Crown copyright 2013

This publication (excluding the CMA logo) may be reproduced free of charge in any format or medium provided that it is reproduced accurately and not used in a misleading context.

The material must be acknowledged as crown copyright and the title of the publication specified.

Contents

CMA Vision	4
CMA's Proposed Strategy	6
CMA's Statement of Values	20
The Consultation.....	21

CMA VISION

Primary Duty

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

Enterprise and Regulatory Reform Act 2013 s25(3)

CMA Mission

The CMA makes markets work well in the interests of consumers, businesses and the economy.

CMA Overall ambition

Consistently be one of the leading competition and consumer agencies in the world.

To achieve this, it has set itself five goals. It will:

1 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 it makes good, timely decisions that stand up to appeal

2 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

3 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

4 Achieve professional excellence

- Conduct legal, economic and financial analysis to the highest international standards while avoiding unnecessary burdens on business
- Manage all its 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

5 Develop integrated performance

- Combine staff from different professional and organisational backgrounds into effective multi-disciplinary teams
- Use all the competition and consumer measures at its 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

Success with these five goals will make the CMA:

- An agency that has a beneficial impact on consumers, on business behaviour and on productivity and growth in the economy;
- A respected and influential independent authority in the UK and abroad; and
- A great place to work

CMA'S PROPOSED STRATEGY

Introduction

The CMA is a new organisation, created by the Enterprise and Regulatory Reform Act 2013 ('the Act'). The Act 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). The Act gives the CMA a primary statutory duty to 'promote competition, both within and outside the UK, for the benefit of consumers'. Its statutory functions are summarised on page 19.

The CMA will acquire its powers on 1st April 2014. This document sets out an initial high level strategy for the CMA over the next five years. It should be read alongside the CMA's mission, vision and values which are also being published for consultation.

Why does competition matter?

Competition is crucial in stimulating efficient and strong economies and encouraging growth. Examples of its positive economic effects include:

- price drops of 20-40 per cent after international cartels were broken up;
- employment rates boosted by 2.5-5.0 percentage points by reforms to state controls and barriers to competition;
- GDP gains of 2.5% from competition policy reforms in Australia;
- net benefits of €100 million a year from merger control in the Netherlands; and
- consumer savings from cartel enforcement in the US over 8 years of some US\$1.85 billion.

Competition drives productivity growth by shifting market share to more efficient firms and inducing all firms to become more efficient, often through innovation, in order to survive. Across developed and less developed economies, competition has been found to result in

higher productivity growth and in both lower prices and greater choice for consumers. Conversely, the lack of competition adversely affects productivity¹. The UK experience of these phenomena has been summed up in work done at LSE for the Government's Growth Commission:

'It is clear to us that competition has been key in driving productivity and when it has not been present historically the UK has suffered.'²

Competition works for the benefit of consumers when firms compete fairly and when consumers are empowered, confident and able to exercise informed choice.

The existence of open markets and competition rules is necessary, but not sufficient for economic benefits to be secured. Strong, effective enforcement of competition policy (antitrust enforcement, cartel enforcement and merger control) is also necessary, and the independence and strength of the competition authorities in doing that is an important factor influencing the growth of productivity. International consensus suggests that authorities need to engage in a combination of deterrence, enforcement, intervention in markets where justified and advocacy with Government, business and the public.

The work of competition authorities makes a measurable difference to the overall economic health of a nation and to consumers. In the three years to 2012, the OFT and CC estimate that they generated around £810 million per year in benefits to consumers from their various activities. These figures do not include indirect benefits such as deterrence, which research indicates dramatically increases the impact of specific activities. But they make a tangible difference to the cost of living; OFT and CC action has reduced prices or charges to customers of banks, retail pharmacies, estate agents and doorstep lenders in recent years.

Efficient, innovative, well managed companies thrive in competitive markets. Empowered, informed consumers both benefit from effective competition and stimulate it. But the benefits of effective competition are not limited to the commercial sector. Increased productivity in public sector supports growth for two reasons: the public sector is, itself, a large part of the economy; and the outputs of the public sector are essential for supporting growth in the wider

¹ A good summary of the economic literature is to be found in a recent World Bank *viewpoint* paper entitled [Encouraging Thriving Markets for Development](#).

² UK Economic Performance Since 1997: Growth, Productivity and Jobs; Dan Corry, Anna Valero & John Van Reenen, Centre for Economic Performance, London School of Economics, 2011

economy. Where elements of market competition are present, they can help drive service improvement and value for money in markets for public services.

Economic context

The Government's strategic steer indicates the importance of competition enforcement for growth

'Securing strong, sustainable economic growth is the Government's central priority and open and fair competition is a vital ingredient in achieving this. The threat of new entry and development of new business models forces firms to innovate and puts them in the best position to compete internationally. Consumers benefit through greater choice, better quality, lower prices and innovation.'

The current economic climate gives rise to particular risks which inform the priorities for competition enforcement. Although the economic situation in the UK is changing, and will continue to do so over the period of this strategy, at this stage these include:

- the risk of unfair business practices arising or increasing where firms' profits are under downward pressure;
- the potential for cartel activity and other anti-competitive practices, particularly in markets with few firms or where demand is weak; and
- the likelihood of consumers facing squeezed disposable incomes making distressed purchases or being tempted by high risk products; the most vulnerable consumers being at the greatest risk; and
- pressure on consumer living standards.

Other structural changes in the economy also have implications for the priorities for the work of competition authorities:

- the increasing focus on market mechanisms in public service delivery makes it essential that effective competition enforcement contributes to releasing the potential for productivity growth and service improvement

- liberalisation of professional services and the advance of creative and digital industries can contribute to economic recovery, but may also pose risks which need to be understood.
- thematic changes in markets such as the increase in online business bring benefits for many, but also potential risks and downsides. Online personalised pricing and the use of price comparison tools have potential positive impacts, but also carry new risks, for example of reducing incentives to search widely. The growth of online markets also risks leaving many consumers 'digitally excluded' without the benefits of choice and value enjoyed by the internet savvy.

The Government's ambitions for reform and expectations of the CMA

Further strengthening and improving a world class competition regime is central to the Government's growth plan. The reforms embedded in the creation of the CMA are designed to:

- improve the quality of decisions and strengthen the regime
- support the competition authorities in taking forward the right cases
- improve speed and predictability for business

The Government's ambitions for the reforms to the consumer landscape are designed to:

- reduce the complexity of the consumer landscape
- strengthen the effectiveness of the enforcement of consumer rights
- ensure that activities that help consumers to be empowered are delivered more cost-effectively

In addition to the primary duty in the Act to promote competition, both within and outside the UK, for the benefit of consumers, Ministers have decided to give the CMA a periodic strategic steer, setting out their priorities. Recognising that the CMA is constitutionally and operationally independent of Ministers, they have asked it to have regard to this steer. The Government published its first draft strategic steer to the CMA for consultation on 15 July

2013. It highlights five sets of issues which it considers to be crucial to growth and which it would like the CMA to have regard to in developing its strategic and operational plans. In its view, the CMA should:

- take account of consumer behaviour particularly in markets where there are information problems and asymmetries.
- take account of longer-term dynamic competition through innovation and the development of new business models, as well as short-term competition in the market.
- be willing to consider potential competition concerns in business-to-business markets, including the effects of differences in bargaining power between firms in a supply chain;
- assess specific sectors where enhanced competition could contribute to faster growth, working with the responsible regulator where appropriate; and
- address emerging competition problems early and increase the number and speed of cases, to the benefit of consumers and the wider economy while ensuring fairness and avoiding undue burdens on business.

Strategy for achieving the CMA's Vision

The CMA's stated mission is to make markets work well in the interests of consumers, businesses and the economy. Its ambition is to be consistently one of the leading competition and consumer agencies in the world. It starts from a strong base in the existing authorities, both of which have high domestic and international reputations, but the transition to a single authority provides the opportunity for further improvement.

It intends to achieve this ambition by setting itself five goals:

- Deliver effective enforcement
- Extend competition frontiers
- Refocus consumer protection
- Achieve professional excellence

- Develop integrated performance

And thereby to become:

- An agency that has a beneficial impact on consumer welfare and on productivity and growth in the economy
- A respected and influential independent authority in the UK and abroad; and
- A great place to work

The following sections explain how the CMA proposes to work towards these ambitions. It will:

Deliver effective enforcement

- Create a new unit to gather and analyse intelligence in a variety of forms from a variety of sources to inform market risk assessments, the development of a pipeline of potential cases, their prioritisation and other decisions;
- Prioritise cases and allocate resources to ensure that impact is maximised and deterrence enhanced, promoting compliance by individuals and firms;
- Intervene swiftly where necessary to ensure that mergers do not substantially lessen competition;
- Build on the OFT's recent enhancements in case management procedures to improve the rigour and perceived fairness of decision-making further, securing the benefits of collective decision-making, drawing on the experience of the CMA panellists where it can add value across a broader range of work and further enhancing the robustness of case decisions to challenge;
- Use the new powers conferred by the Act to enhance the speed and efficiency of casework;
- Build on the systems of knowledge management and professional development in the OFT and CC, and extend proven models across the CMA's work; and

- Draw on lessons from research and international best practice to complement enforcement with the education and advocacy necessary to maximise the deterrent effect of strong decisions and penalties, and increase compliance with the law among businesses.

Extend competition frontiers

- Work with sector regulators to create a new UK Competition Network which will stimulate a step change in the effectiveness of the concurrency arrangements, encourage the spread of competition and the use and effectiveness of competition enforcement in regulated sectors like financial services and energy;
- Work with Government and regulators to advocate the further development of effective competition in markets for public services for the benefit of users of public services and taxpayers and advise on how this can be achieved;
- Intervene in a timely and decisive way in markets in any sector where deficiencies of competition are clearly harming consumers, assessing where the potential for consumer benefit is greatest when selecting markets for scrutiny;
- Intervene where necessary to ensure that competition in developing sectors, such as online markets, focuses on what matters to customers rather than exploiting their vulnerability to information asymmetries and biases and encourages beneficial innovation;
- Engage in effective targeted advocacy with stakeholders in all parts of the UK (including but not limited to Government) on the benefits of competition, to complement casework; and
- Use our casework and research to stay at the forefront of international understanding of the nature and effects of competition in a variety of markets and circumstances.

Refocus consumer protection

- Work with consumer bodies and enforcement partners across the UK to co-ordinate activity and share intelligence and best practice;
- Pursue cases where it is best placed to do so and where it can be confident of high impact or precedent value, allocating other cases to the most appropriate enforcer;
- Act where consumer enforcement supports competition, as where consumer choice is inhibited by poor, misleading or unbalanced information or bias;
- Integrate the use of competition and consumer tools so that whichever best serves the interest of the consumer can be used in each case; and
- Embed the new regime – telling a compelling story about the importance of consumer protection and its interaction with competition, and working with partners to ensure the roles of different organisations are understood.

Achieve professional excellence

- Conduct competition and market analysis and regulatory appeals to the highest standards and remain in the forefront of evolving best practice;
- Ensure all staff benefit from a strong professional ethos and opportunities to develop;
- Improve standards of project management; adopting the best practices of the CC and OFT and using a new project management office to promote and ensure best project management practice, adhering to the discipline of new statutory timescales;
- Capture the benefits of the merger of authorities by reducing duplication, increasing efficiency, and streamlining the merger review process;
- Maintain and even enhance existing high standards of transparency and engagement with those affected by our work and the wider community; and

- Avoid imposing unnecessary burdens on business, and take account of the effect of the choices we make on businesses and other interested parties.

Develop integrated performance

- Integrate staff and members from all backgrounds through the design of the organisation and its processes, bringing together staff working in different disciplines and phases of competition work under common management; equipping and enabling them to work across phases and disciplines;
- Recruit openly at Board and senior staff levels to get the right blend of the best people;
- Integrate former OFT and CC practice by integrating guidance and policy development;
- Use all the competition and consumer measures at its disposal in circumstances for which they are best suited and where they can have the most impact
- Learn lessons from its various activities and apply them across the full range of its work to improve performance
- Integrate professions by continuing to work in multidisciplinary teams and in a matrix environment which ensures both delivery and the quality of professional input;
- Integrate work with regulatory and enforcement partners – consumer bodies, UK government and devolved administrations, sector regulators, other enforcement bodies, and other national and international competition and consumer authorities; and
- Work with EU and international colleagues to encourage competition and open markets in the interests of UK consumers and businesses.

It will thereby become:

An agency that has a beneficial impact on consumer welfare and on productivity and growth in the economy

- It will strive to achieve whatever target is agreed with government for the ratio of consumer benefit from its activities to its costs through focused case selection and rigorous enforcement;
- It will seek to measure its wider and longer term impacts, for example on stimulating innovation and deterring malpractice, more broadly and qualitatively.

A respected and influential independent authority in the UK and abroad

- It will maintain open, transparent relations with stakeholders across the UK including regularly seeking their views; thereby maintaining a high reputation on external measures;
- It will continue to play a leadership as well as participant role in EU and international gatherings;
- It will operate sensitively in all parts of the UK, taking account of the different economic and constitutional circumstances in the devolved administrations;
- It will vigorously and proactively explain the CMA's approach, decisions and reasoning; and
- It will improve the historical record in front of courts without avoiding tough cases or ducking controversial decisions.

A great place to work

- It will consult widely with staff, including on values and ways of working;
- It will develop an organisational transformation programme;
- It will build processes on professional service models; and

- It will provide more, better opportunities for variety and advancement than in either previous organisation, and provide staff with the appropriate developmental support
- Its success achieving these five core goals will make CMA a 'destination employer' for talented professionals wanting to work on challenging competition and consumer cases in the public good.

Strategic choices

Some of the CMA's work does not allow it discretion; for example it has a duty to investigate qualifying mergers that meet the relevant statutory tests, to undertake market investigations referred by sector regulators and regulatory appeals, and to consider and respond to supercomplaints within 90 days. But in other aspects of its work it has strategic choices to make, including:

- which sector(s) to operate in;
- what sort of issues to address (the structure of markets or the behaviour of firms or consumers);
- how far it should be proactive (determining the agenda) and how far responsive to complaints and concerns addressed to it;
- which cases to pursue and how to pursue them (for example whether to pursue a Competition Act case or a market study in a sector, or how to balance cases that are substantial in their own right with others with wider precedent or deterrent value); and
- how to deploy its resources among its various activities, for example balancing casework with advocacy at home and abroad.

The CMA will make these decisions based on the intelligence and analysis gathered and conducted through its improved research and intelligence capability. In prioritising the deployment of resources it will take an evidence based view of the likely economic impact of its work in the short and longer term, while recognising public concerns, and will act where it can be most effective, working closely with consumer enforcers and regulators to ensure its

efforts are complementary to theirs. This approach builds on the OFT's existing prioritisation principles, which the CMA does not propose to change at this stage but will interpret in the light of the Government's strategic steer and this document, and may review in the light of experience in future.

In its first couple of years the CMA is likely to focus attention:

- on regulated sectors (in collaboration with their sector regulators) because they are a high proportion of the economy, characterised by suppliers with market power, a cause of public concern and a specific remit from Ministers;
- on emerging sectors and business models, including online, to ensure we understand the opportunities and risks to consumers inherent in them and to ensure that emerging markets are characterised by healthy competition on product features which customers value;
- on themes surfaced by economic circumstances, for example the particular vulnerability of some groups of consumers; and
- on markets in what have historically been public services where the opportunities for competition to develop in the interests of service users and taxpayers may be greatest.

In doing so, the CMA will use all the investigation and enforcement tools at its disposal, and maintain a balanced portfolio across them. Enforcement and market analysis, for example, are complementary; as are competition and consumer tools, and may be used together in the same case or as alternatives where one is more appropriate than the other.

The CMA will publish more detail on its strategy and approach in its first Annual Plan, which the Act requires it to lay before Parliament.

Evaluation and Review

Public accountability and its own ambition to be among the leading competition and consumer agencies internationally, mean that the CMA will need to demonstrate its impact. The CMA expects to have to account to Government and to Parliament for its performance in:

- delivering direct, quantifiable financial benefits to consumers;
- deterring unlawful activity in markets;
- promoting UK growth, business and consumer confidence; and
- influencing Government policy.

Historically, the OFT and CC have delivered benefits to consumers of at least five times their costs. The CMA expects to deliver benefits to consumers of at least this scale. In addition to this quantitative analysis of impact the CMA will need to assess the other benefits of its work, for example the deterrence effect of its actions on potential anti competitive behaviour or any improvement in the prospects of innovation or entry.

External perceptions of impact influence the overall health of a competition regime. For the UK to compete effectively its competition regime must be seen to be effective and robust. The views of stakeholders, nationally and internationally, are important in providing indicators of the CMA's success in commanding confidence and respect and as such will form a key part of its approach to evaluating its success.

The CMA's evaluation and review of its own activity will also inform its choices and prioritisation, and help it understand and improve its own performance. The CMA will therefore build on the internationally recognised evaluation and review programmes of the OFT and CC and use the insights it gains to:

- prioritise work informed by an understanding of potential impact;
- deliver more of the right cases, faster, and with greater robustness.

Statutory functions

The CMA's statutory functions are:

- to investigate mergers that could potentially give rise to a substantial lessening of competition, and require the merging parties to take steps to protect competition while the investigation takes place.
- to conduct studies and investigations into particular markets where there are suspected competition and consumer problems, and to require market participants to take steps to address these problems;
- to investigate individual businesses to determine whether they have breached UK or EU prohibitions against anti-competitive agreements and abuse of a dominant position under the Competition Act 1998 ('CA98');
- to bring criminal proceedings against individuals who commit cartel offences under the EA02;
- to enforce a range of consumer protection legislation, and bring criminal proceedings under the Consumer Protection from Unfair Trading Regulations 2008 (CPRs); and
- to conduct regulatory appeals and references in relation to price controls, terms of licences or other regulatory arrangements under sector specific legislation (gas, electricity, water, post, communications, aviation, rail and health).

CMA'S STATEMENT OF VALUES

CMA values



How they are demonstrated externally

CMA Values

How they are demonstrated internally

We seek maximum impact on the economy and consumer welfare

Ambition

We set demanding objectives and are not afraid to take well judged risks to achieve them

Our work is robust and considered, and bears comparison with the best

Excellence

We continuously develop our people and work to the highest standards of analytical rigour

We pursue cases vigorously and professionally so they stand up to challenge

Commitment

We do what it takes to deliver, meeting deadlines, budgets and quality standards

We allow everyone their say and avoid imposing unnecessary burdens on business

Fairness

Opportunities and advancement are available to all on merit

We work effectively with external partners

Teamwork

We work together in a flexible, collegiate way

We operate openly and transparently

Honesty

We encourage frankness and challenge one another

We are trustworthy and trusted

Integrity

We treat one another equally and with respect

We treat all those we deal with fairly

Impartiality

We operate fair processes

We are independent of Ministers and vested interests and act in the public interest

Objectivity

We are evidence based

Civil Service Values

THE CONSULTATION

Topic

The proposed Vision, Values and strategy for the new Competition and Markets Authority (CMA) which was created by the Enterprise and Regulatory Reform Act 2013 (the Act).

Scope of this consultation

The consultation is intended to give interested parties the opportunity to provide views and comments on the CMA's proposed Vision, Values and strategy.

To

This consultation is aimed at all those who have an interest in the activities of the CMA. In particular, it may be of interest to business and consumer groups, the Trading Standards community, regulators with concurrent powers, other government departments and legal advisors

Questions

Question 1

Do you agree that the CMA's vision accurately and adequately describes what the CMA is seeking to achieve? Do you have any comment on it?

Question 2

Do you have any comment to make on the CMA's proposed strategy or the priorities set out within it?

Question 3

Do you have any comment to make on the CMA's proposed statement of values?

After the consultation

Responses to the consultation will inform the development of the CMA's first Annual Plan which the Act obliges it to lay before Parliament and publish.

Duration

1 October 2013 to 12 November 2013

Enquiries

By telephone: 020 7271 0021

By email: strategy@cma.gsi.gov.uk

By post:

Strategy consultation

CMA

Victoria House

Southampton Row

London WC1B 4AD

How to respond

Respondents to this consultation are asked to supply a brief summary of the interests or organisations they represent, where appropriate. We ask that any suggested changes or comments on the documents be submitted in writing by email or post.

Compliance with the *Cabinet Office Consultation Principles*

This consultation is compliant with the latest Cabinet Office Consultation Principles. The Cabinet Office Consultation Principles criteria can be found at www.gov.uk/government/publications/consultation-principles-guidance. An eight-week period of consultation has been deemed appropriate in this case as there has already been extensive consultation on the Government's intentions for the CMA and debate during the passage of the Act through Parliament, and there will be further opportunity to comment on the CMA's draft Annual Plan.

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