

CMA vision, values and strategy: Response to consultation

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

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1 CMA VISION, VALUES AND STRATEGY: RESPONSE TO CONSULTATION

Introduction and consultation process

1.1 As part of the process of establishing the Competition and Markets Authority (CMA), on 1 October 2013 the CMA published a consultation document entitled *Vision, values and strategy for the CMA* and invited comments on it. The consultation closed on 12 November.

1.2 The consultation document is available online at:
www.gov.uk/government/uploads/system/uploads/attachment_data/file/245454/CMA_vision_strategy_values_FINAL_GOV_UK.pdf

1.3 The consultation document set out the proposals for the CMA's vision, its proposed strategy for implementing its vision, and the values to which it proposes to adhere in doing so. It then invited general views on all of these issues and responses to the following specific questions about them:

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?

Responses received

1.4 The CMA received ten formal responses to the consultation. We have also taken account of informal responses, including one from the Netherlands Authority for Consumers and Markets. A full list of formal respondents to the consultation can be found in the [Annexe](#). The formal consultation responses are published at: www.gov.uk/government/consultations/competition-and-markets-authority-vision-values-and-strategy.

1.5 The table below provides a breakdown of written responses by type of organisation.

Type of organisation	Responses
Business Representative Group	3
Large business	3
Legal advisers	1
Industry ombudsman	1
Consumer advocacy body	1
Academic body	1

Consultation responses

- 1.6 Respondents generally approved of the CMA's proposed vision, strategy and values, including the CMA's focus on ensuring that competition and markets work in the interests of consumers, businesses and the economy. A question was raised about whether there was an inconsistency between how the CMA's focus on consumers was set out in its primary duty and its mission. A question was also raised about whether the duty to 'promote' competition was compatible with all the CMA's activities, particularly in respect of merger control.

Independence

- 1.7 It was argued that the vision should place more emphasis on the CMA's independence from Government and that its decisions, particularly about which sectors of the economy to investigate, should be made without interference from Government and the media. Some questioned how far this was consistent with a strategic steer. While some direction from Government as to the characteristics of the economy it wished the CMA to encourage was legitimate, the current Steer risked pre-judging levels of competition in specific sectors of the economy. It was suggested that the CMA's credibility, and consequently, the attractiveness of the UK as a place to do business was, in part, based on the CMA being clearly perceived as wholly independent. The CMA should engage with politicians and other stakeholders to encourage a greater understanding of the practicalities of competition law enforcement.
- 1.8 One respondent was unconvinced about the need for the CMA to extend its role to examining and promoting competition in public services as this could divert its attention from much-needed work in the private sector. The CMA's focus on this work could also be seen as compromising its independence from Government and could also involve the CMA acting in areas which already had industry-specific regulators.

Consumers

- 1.9 Some respondents asked that the CMA acknowledge that improved competition was not the only solution to issues facing consumers. It was noted that unbridled competition could have negative side effects, and it was suggested that the CMA should also acknowledge that competition policy needed to sit within a wider policy framework.
- 1.10 Some respondents were concerned to emphasise the need to protect poor, vulnerable and 'digitally excluded' consumers. It was noted that extending competition could lead to consumer confusion if it were not supported by consumer education. The CMA should work to ensure that consumers were 'in control' by addressing issues such as opaque pricing. It would be important to the CMA to ensure that consumers had real choice, which in some markets would depend on product or service differentiation rather than price. A number of respondents also argued that the CMA should take a proactive role in consumer education, set out the minimum level of consumer education it aspired to, and explain how it would achieve this. It was suggested that the CMA's website could be a one-stop shop for consumer information. It was also suggested that the CMA should obtain independent assessments of whether and the extent to which its work benefited consumers, which would allow the CMA's work to be measured against competition agencies in other countries. One respondent noted that consumer detriment could not always be quantified financially, and that therefore the CMA should not only use cost/benefit analyses in assessing the success of its work.

Business

- 1.11 Views on the extent to which the CMA should work in the interests of businesses as well as consumers were mixed. Some respondents suggested that the CMA should also look to protect small businesses, which could also suffer from anticompetitive actions, as well as consumers, while another respondent considered that the CMA should concern itself only with how competition affected consumers.
- 1.12 The need to educate businesses about their obligations under competition law was also raised. It was suggested that the CMA should set out the minimum level of business education it aspired to and how it would achieve this. It was suggested that the CMA's website could contain useful material for businesses about their obligations. There ought also to be a way for business and the CMA to discuss and debate general issues about markets outside of the context of specific market investigations. This would help business and the CMA to better understand each other's views.

- 1.13 Further detail was requested about how the CMA would seek to avoid placing unnecessary burdens on businesses, particularly in respect of the length of its investigations and the data requested from businesses.

Regulators

- 1.14 There was general support for the CMA's focus on increased cooperation with regulators and consumer and enforcement bodies. It was noted that the creation of the UK Competition Network should help to ensure the various regulators would take a collaborative and consistent approach to competition issues and consumer protection.
- 1.15 Some respondents argued that the CMA should take a proactive, leadership role in its relations with sector regulators to ensure that competition agencies approached issues consistently. It was emphasised that the CMA would need to strongly support other regulators when they took action in their respective markets and that the CMA should also help to educate consumers. It was suggested that the CMA should act as a disseminator of best practice to other regulators and could act as a benchmark for regulators' performance. A question was also raised about how the CMA would interact with other regulators with competition powers, such as the Financial Conduct Authority.

Prioritisation

- 1.16 Respondents asked for further information about how the CMA would prioritise its activities and the types of cases it would pursue so that businesses would be better able to obtain guidance and reduce their costs. Respondents were also interested to know how the CMA would make decisions between competing priorities, for example where there was a tension between long- and short-term competition.
- 1.17 There was support for the consolidation in one document of the CMA's priorities with the OFT's current prioritisation principles. One respondent asked about the future of the OFT's current principles and the extent to which these might be revised.

Process

- 1.18 One respondent noted that there was no distinction made between how effective enforcement would be achieved in mergers, antitrust and market investigations. It considered that this was an important issue, particularly in relation to potential changes to case management procedures, and argued

that the CMA should have any new procedures clearly and visibly in place before it took over case handling, particularly in relation to CA98 cases.

- 1.19 One respondent suggested that the values dealing with the consultation of interested parties should be strengthened by including a statement that the CMA would carefully consider evidence. It also suggested raising the profile of the CMA's commitment to objectivity to the same level as that of the values relating to its ambitions. Other respondents asked about how the CMA would, as a single authority, seek to avoid confirmation bias. A question was also raised about what impact the CMA's focus on behavioural economics would have on its work.

The CMA's decisions on the responses to the consultation

- 1.20 The CMA would like to thank everyone who responded for their submissions. It has reviewed them, and having done so has produced a revised version of the Vision, Values and Strategy document, which is available at www.gov.uk/government/publications/vision-values-and-strategy-for-the-cma.
- 1.21 As noted above, respondents made comments that were both general and specific in nature and which related to the consultation document as a whole or to the three specific questions about the CMA's vision, values and strategy. In some cases, respondents raised detailed questions about the CMA's future policies, protocols and procedures. The Vision, Values and Strategy document sets out the CMA's initial high-level strategy for its first five years, the vision that informs that strategy and the values it intends to guide it in implementing it. It is not intended to provide detailed descriptions of the CMA's policies, protocols and procedures. The CMA has published and is currently consulting on Guidance which will address some of these more detailed points, and others will be addressed in further documents such as the CMA's Annual Plans.
- 1.22 As respondents were broadly supportive of the consultation document, the revised version of the CMA's Vision, Values and Strategy closely resembles it. The CMA has made changes to the document in order to address a number of points raised by respondents, specifically:
- Page 1, paragraph 2, second bullet: We have added the words 'and supporting' in response to suggestions that the CMA should support the work of sector regulators.

- Page 2, paragraph 5, third bullet: We have added the words ‘and support’ in response to suggestions that the CMA should support the work of other competition, regulatory and enforcement authorities.
- Page 3, paragraph 2.2: We have added the words ‘its Prioritisation Principles and its Annual Plans [which] indicate how the strategy will be put into practice, and its published Rules and Guidance which set out how it will do its work’ in response to questions about where and how the CMA will address queries about policies, protocols and procedures.
- Page 7, paragraph 2.15: We have added the following paragraph in response to points raised by respondents about how the CMA will take account of the steer: ‘The CMA will have regard to the steer, alongside other relevant considerations, in developing its Plans and in making decisions on where to focus its attention, but will determine each case on its merits.’
- Page 8, paragraph 2.19, fourth and sixth bullets: We have added the words ‘across all tools’ and ‘best in class’ respectively to address points raised about how effective enforcement will be achieved in different types of investigations.
- Page 10, paragraph 2.19, seventh bullet: We have added the following paragraph to address a question about how the CMA will make best use of the academic community: ‘Develop programmes of professional development across all professions in the CMA to help staff achieve the highest professional standards, drawing on the expertise of panellists and external academics as appropriate’.
- Page 13, paragraph 2.22: We have added the following text to address questions raised about how the CMA will develop and apply its Prioritisation Principles:

The CMA will apply its Prioritisation Principles (which are based on those developed by the OFT). It will interpret them in the light of the Government’s strategic steer, this document and other relevant considerations. And it will seek to ensure that its portfolio of activities and cases reflects a balance between different types of case and different sectors. It will review the operation of the Prioritisation Principles in future.

- Page 14, paragraph 2.27: We have added the words ‘based on the best available information’ to address suggestions about how the CMA should assess its effectiveness in helping consumers.
- Page 17, paragraph 3.2, values chart: We have amended the ‘Objectivity Internal’ value as follows to read as follows: ‘We take account of all information we gather and found our conclusions in evidence’.

- 1.23 The CMA has taken the opportunity of the consultation period to make other minor revisions to the document in order to emphasise its role in influencing the development of competition law and policy at the UK and EU levels (page 9, paragraph 2.19, third bullet) and to acknowledge that advocacy, guidance and engagement with business can complement its enforcement work (page 14, paragraph 2.24).
- 1.24 The CMA believes that its vision, based on its primary duty as set out in the Enterprise and Regulatory Reform Act 2013, its strategy which arises from that vision and the values which underpin it will enable it to act as a strong, independent protector and promoter of the benefits of competition for consumers, business and the economy as a whole. The CMA believes that it should seek to promote competition in all sectors of the economy where markets may not be operating in the best interests of consumers. It considers that this should include regulated industries and the public sector as these are sectors of the economy where the benefits of competition will be felt by the vast majority of people in the UK. In doing so, the CMA recognises the need to protect vulnerable consumers and those who, for a variety of reasons, may find it more difficult to exercise choice.
- 1.25 The CMA intends to achieve its aims through a combination of vigorous enforcement of competition law, active cooperation and coordination with other regulators and consumer bodies, and strong advocacy of the benefits of competition to consumers, business, Government and internationally. In doing so, the CMA intends to carry out its work in a fair, thorough and professional manner and with the intention of achieving maximum benefits for consumers whilst minimising, so far as possible, the burdens its work will impose on business.
- 1.26 The CMA recognises the need for it to routinely and objectively evaluate its performance in achieving the goals set out in this document, and the need for it to periodically revisit whether its vision and strategy continue to meet the needs of consumers.

Next steps

- 1.27 Alongside its Vision, Values and Strategy document, the CMA has now also published for consultation its Annual Plan for 2014/15 which sets out how it proposes to achieve its aims in the year following its launch.

Annexe: List of formal respondents

The following organisations formally responded to the consultation:

Allen & Overy

Aviva

The Confederation of British Industry

Citizens Advice Scotland

EDF Energy

Energy UK

ESRC Centre for Competition Policy at the University of East Anglia

National Federation of Retail Newsagents

The Property Ombudsman

USwitch