

**Competition and Markets
Authority (CMA)**

**Proposed approach to the
treatment of existing Office
of Fair Trading and
Competition Commission
guidance**

Consultation document

September 2013

CMA12con

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Any enquiries regarding this publication should be sent to us at: CMA Transition Team on behalf of the CMA, Department for Business, Innovation and Skills, 3rd Floor, 1 Victoria Street, London SW1H 0ET, or email cmaconsultation@bis.gsi.gov.uk.

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

Scope of this consultation

Topic of this consultation

This consultation seeks views on proposals for the treatment of existing Office of Fair Trading (OFT) and Competition Commission (CC) guidance and other publications relevant to the functions that will transfer to the Competition and Markets Authority (CMA) on 1 April 2014.

This consultation and the accompanying proposals have been drafted by the Transition Team which has been appointed by the CMA Chair Designate and Chief Executive Designate, and consists of individuals from the OFT, the CC and elsewhere.¹

Geographical scope

There is no specific geographical dimension to this consultation.

How to respond

We would welcome your comments on any aspect of the proposals contained in this document. In particular, your feedback is sought on the specific questions indicated in this document, and summarised at Chapter 3 of this document. Please respond to as many questions as you are able and provide supporting evidence for your views where appropriate.

You can respond to this consultation:

By email to cmaconsultation@bis.gsi.gov.uk

By post to:

The CMA Transition Team on behalf of the CMA
(c/o Easha Lam)
Department for Business, Innovation and Skills
3rd Floor, Orchard 2
1 Victoria Street
London
SW1H 0ET

¹ Pending formal creation of the CMA on 1st October 2013, the OFT and CC act on behalf of the CMA through the Transition Team.

When responding to this consultation, please state whether you are responding as an individual or whether you are representing the views of an organisation. If responding on behalf of an organisation, please make it clear whom the organisation represents and, where applicable, how the views of members were assembled.

Please also indicate whether you are happy for your response to be made available on the CMA's website. Further information regarding our use of data received during this consultation is provided below.

Enquiries

If have any questions relating to this consultation please contact Easha Lam on the email address above or by telephone on 020 7215 2044.

Closing date

Responses should be received by 5pm on 11 November 2013.

Next steps

The Transition Team will consider the responses to this consultation document and make amendments to its proposals where appropriate. The CMA Board (once established) will make the decisions on the matters being consulted on and the content of any final guidance, to be published in advance of 1 April 2014.

Compliance with the Cabinet Office Consultation Principles

This consultation complies with the Cabinet Office Consultation Principles. A list of the key criteria, along with a link to the full document, can be found at Annexe A.

Consultation period

The deadline for responses to this consultation is eight weeks. While this represents an expedited consultation period, we note that the in-depth Government consultation exercise which led to the decision to create the CMA asked a number of questions and yielded a number of valuable responses on issues related to this consultation, which have informed the proposed approach to the Transition Team's proposals for the treatment of existing OFT/CC guidance. Furthermore, the timetable for the formation of the CMA requires that consultation on numerous proposed guidance documents be carried out within a very short period of time. We feel that, given these considerations, the eight week consultation period is an appropriate one to obtain responses from interested parties.

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:

Mr John Conway
Department for Business, Innovation and Skills
Consultation Coordinator
1 Victoria Street
London
SW1H 0ET

Telephone John on 020 7215 6402 or e-mail to: john.conway@bis.gsi.gov.uk.

Data use statement for responses

Personal data received in the course of this consultation will be processed in accordance with the Data Protection Act 1998. Our use of all information received (including personal data) is subject to Part 9 of the EA02. We may wish to publish or refer to comments received in response to this consultation in future publications. In deciding whether to do so, we will have regard to the need for excluding from publication, as far as that is practicable, any information relating to the private affairs of an individual or any commercial information relating to a business which, if published, would or might, in our opinion, significantly harm the individual's interests, or, as the case may be, the legitimate business interests of that business. If you consider that your response contains such information, that information should be marked 'confidential information' and an explanation given as to why you consider it is confidential.

Please note that information provided in response to this consultation, including personal information, may be the subject of requests from the public for information under the Freedom of Information Act 2000. In considering such requests for information we will take full account of any reasons provided by respondents in support of confidentiality, the Data Protection Act 1998 and our obligations under Part 9 of the EA02.

If you are replying by email, these provisions override any standard confidentiality disclaimer that is generated by your organisation's IT system.

CMA12con

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1 INTRODUCTION

Background

- 1.1 The CMA will be established under the Enterprise and Regulatory Reform Act 2013 (ERRA13) as the UK's economy-wide competition authority responsible for ensuring that competition and markets work well for consumers. On 1 April 2014, the functions of the CC and many of the functions of the OFT will be transferred to the CMA and these bodies abolished. The CMA's primary duty will be to promote competition, both within and outside the UK, for the benefit of consumers.
- 1.2 The CMA will have a range of statutory powers to address problems in markets:
- under the Enterprise Act 2002 (EA02), the CMA will be able to investigate mergers which could potentially give rise to a substantial lessening of competition and specify measures which the merging parties must take to protect competition between them while the investigation takes place
 - the EA02 will also enable the CMA to conduct market studies and market investigations to assess particular markets in which there are suspected competition problems, and to require market participants to take remedial action which the CMA may specify
 - the CMA will have powers to enforce a range of consumer protection legislation (either directly or through Part 8 of the EA02) and to bring criminal proceedings under the Consumer Protection from Unfair Trading Regulations 2008 (CPRs)
 - the CMA will take on the CC's powers and duties in relation to the conduct of appeals regarding regulatory determinations such as under section 193 of the Communications Act 2003
 - the CMA will also be able to bring criminal proceedings against individuals who commit the cartel offence under section 188 of the EA02, and
 - finally, under the Competition Act 1998 (CA98) the CMA will be able to investigate individual undertakings or groups of undertakings to

determine whether they may be in breach of the UK or EU prohibitions against anti-competitive agreements and abuse of a dominant position.

- 1.3 The ERR13 implements a number of enhancements to these statutory powers (compared to the powers available to the CC and OFT), in order to improve the robustness of decision-making, increase the speed and predictability of the CMA's activities, and strengthen the UK's competition regime as a whole.²
- 1.4 The Transition Team has published for consultation a series of draft guidance documents to assist the business and legal communities and other interested parties in their interactions with the CMA. The Transition Team proposes that these guidance documents will supplement some of the existing OFT and CC guidance, which will remain in place when the CMA becomes operational. Further background on the Transition Team's proposed approach to the CMA's guidance is provided in Chapter 2 below.

Purpose of this consultation

- 1.5 As is clear from the draft guidance documents published in the first tranche of the consultation, the Transition Team is proposing to put relevant existing OFT and CC publications to the CMA Board (once this is formed) for adoption by the CMA. **This document draws together in one place those publications which the Transition Team proposes to put to the CMA Board for adoption. Its purpose is to consult on those proposals, which are set out in Annexe B.**³
- 1.6 In addition, this document responds to requests made in response to the consultation on the first tranche of the draft CMA guidance documents for the CMA to publish a consolidated list of OFT and CC guidance proposed for adoption by the CMA.

² An overview of the changes is contained in CMA1: Towards the CMA, published on 15 July 2013 and available at www.gov.uk/cma.

³ These proposals cover a number of different types of publication, such as statutory and non-statutory guidance, rules, statements of policy, and information leaflets. For ease of reference, these are referred to throughout this document as 'guidance'.

Question 1:

Do you agree with the proposed approach to the treatment of existing OFT and CC guidance and other publications?

2 BACKGROUND ON THE TRANSITION TEAM'S APPROACH

- 2.1 The CMA is required by the CA98 and EA02 to publish guidance on a number of matters. In addition, the Transition Team considers that published guidance will aid public understanding of the UK competition and consumer regime, thereby helping third parties to engage with and support the effective operation of the CMA.
- 2.2 The Transition Team has therefore considered what guidance it will be appropriate for the CMA to have in place from 1 April 2014, when the relevant functions of the CC and OFT will be transferred to the CMA.
- 2.3 The Transition Team has also considered the most appropriate way to provide that guidance: whether by:
- adopting existing OFT or CC guidance
 - drafting supplementary guidance to be read in conjunction with existing guidance, or
 - drafting new guidance to replace existing guidance.
- 2.4 In developing its proposals for the CMA's guidance, the Transition Team had regard to a number of factors, including:
- ensuring compliance with the CMA's statutory obligations to provide guidance
 - reflecting changes to the UK competition and consumer regime introduced by the ERRA13
 - reflecting significant updates to case law or practice since existing OFT and CC guidance was published
 - the time and resources required to prepare new guidance prior to 1 April 2014, and
 - reducing transition costs and uncertainty for the CMA and third parties by building on the OFT's and CC's existing practices and guidance where appropriate.

- 2.5 The Transition Team has taken a tool-specific approach to developing its proposals for the CMA's guidance. Its proposals for each tool are set out in Annexe B.
- 2.6 Subject to any changes in light of responses to this consultation or the consultation on the new guidance documents for each tool, these documents will be put to the CMA Board (once established) for adoption.⁴ The suite of adopted and new guidance documents will however be kept under review once the CMA is in operation, in the light of its developing practice and case experience.

Question 2:

Do you consider that any of the existing OFT and CC guidance proposed for adoption (as set out in Annexe B, and subject to the limitations referred to therein) is, in any respect, no longer appropriate?

Question 3:

Do you consider that the Transition Team's proposals set out at Annexe B provide sufficient information on the treatment of existing OFT and CC guidance after their functions are transferred to the CMA?

Question 4:

Do you consider that the CMA should prioritise updating any guidance document or producing new guidance on any topic after 1 April 2014?

⁴ As those pre-existing documents were published prior to the amendments to the EA02 made by the ERRA13, they will (if and when adopted) need to be read subject to the CMA's new guidance documents and to certain other 'global' changes resulting from the coming into force of the ERRA13 (for example, reading references to the OFT or CC as referring in each case to the CMA). See further Annexe B.

3 QUESTIONS FOR CONSULTATION

Question 1: Do you agree with the proposed approach to the treatment of existing OFT and CC guidance and other publications?

Question 2: Do you consider that any of the existing OFT and CC guidance proposed for adoption (as set out in Annexe B, and subject to the limitations referred to therein) is, in any respect, no longer appropriate?

Question 3: Do you consider that the Transition Team's proposals set out at Annexe B provide sufficient information on the treatment of existing OFT and CC guidance after their functions are transferred to the CMA?

Question 4: Do you consider that the CMA should prioritise updating any guidance document or producing new guidance on any topic after 1 April 2014?

ANNEXE(S)

A. CONSULTATION CRITERIA

[The Civil Service Reform Plan](#) commits the Government to improving policy making and implementation with a greater focus on robust evidence, transparency and engaging with key groups earlier in the process.

As a result the Government is improving the way it consults by adopting a more proportionate and targeted approach, so that the type and scale of engagement is proportional to the potential impacts of the proposal. The emphasis is on understanding the effects of a proposal and focussing on real engagement with key groups rather than following a set process.

The key Consultation Principles are:

- departments will follow a range of timescales rather than defaulting to a 12-week period, particularly where extensive engagement has occurred before
- departments will need to give more thought to how they engage with and consult with those who are affected
- consultation should be 'digital by default', but other forms should be used where these are needed to reach the groups affected by a policy, and
- the principles of the Compact between government and the voluntary and community sector will continue to be respected.

The full Cabinet Office Consultation Principles can be found on the Cabinet Office website at: www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance

This guidance replaces the [Code of Practice on Consultation](#) issued in July 2008 on the BIS website.

B. DRAFT PROPOSALS FOR EXISTING OFT/CC GUIDANCE

The table below sets out the Transition Team’s proposals for the treatment of existing OFT and CC guidance documents and publications that are relevant to the functions to be transferred to the CMA.⁵ For ease of reference, the table lists the documents relevant to each tool and also includes the new CMA guidance published by the Transition Team.

Document code	Title	Status of document	
		Replaced/ obsolete ⁶	Adopted by the CMA Board ⁷
Mergers			
New guidance			
CMA2con ⁸	Mergers: Guidance on the CMA’s jurisdiction and procedure	-	✓
Previous guidance⁹			
OFT527	Mergers jurisdictional and procedural guidance	✓	-
CC18	Merger procedural guidelines	✓	-
OFT1254/ CC2	Merger assessment guidelines	-	✓
OFT1313/ CC2(summary)	Quick guide to UK merger assessment	-	✓

⁵ The table includes guidance existing at the date of publication. The OFT and/or CC may publish, prior to 1 April 2014, further rules or guidance relevant to the functions being transferred to the CMA. If they do so, they will indicate whether the CMA Transition Team proposes to put these documents to the CMA Board for adoption.

⁶ OFT and CC publications listed in this column are proposed to be replaced, or rendered obsolete, by CMA guidance or publications.

⁷ Publications listed in this column are proposed for adoption by the CMA Board (subject to any guidance prepared by the CMA in the future).

⁸ Currently subject to consultation. The consultation document is available at www.gov.uk/government/consultations/competition-and-markets-authority-guidance-part-1.

⁹ The existing OFT and CC merger-related documents that are proposed for adoption should be read subject to the limitations set out in Annexe D to the draft Mergers: Guidance on the CMA’s jurisdiction and procedure (see CMA2con).

Document code	Title	Status of document	
		Replaced/ obsolete ⁶	Adopted by the CMA Board ⁷
OFT1122	Mergers: Exceptions to the duty to refer and undertakings in lieu of reference guidance	-	✓
CC8	Merger remedies: Competition Commission guidelines	-	✓ (except Annex A)
OFT1060	Memorandum of understanding between the OFT and the CC on the variation and termination of merger and market undertakings and orders	✓	-
CC9	Guidance on water merger references	-	✓
OFT1230/ CC com1	Good practice in the design and presentation of consumer survey evidence in merger inquiries	-	✓
OFT1305/ CC2com2	Commentary on retail mergers	-	✓
Merger Notice (Dec 2010)	Merger Notice under section 96 of the Enterprise Act 2002	✓	-
OFT	OFT: Template initial undertakings	✓	-
OFT (Aug 2012)	Mergers fee information	✓	-
	OFT: Enquiry letter template	✓	-
	Competition Commission: Template Interim Undertakings (Completed Merger)	✓	-
	Memorandum of understanding between Ofcom and the OFT	✓	-
	The OFT's role in reviewing NHS mergers: Frequently Asked Questions	-	✓
CC1	Competition Commission: rules of procedure for merger reference groups, market reference groups and special reference groups ¹⁰	-	✓
CC4	Competition Commission: general advice and	✓	-

¹⁰ This document may require some amendment prior to adoption to reflect the interactions between the CMA Panel, the CMA chair and the CMA Board introduced by the ERRA13.

Document code	Title	Status of document	
		Replaced/ obsolete ⁶	Adopted by the CMA Board ⁷
	information		
CC5	Statement of policy on penalties	✓	-
CC6	Competition Commission: guidance to merger reference groups, market reference groups and special reference groups	✓	-
CC7	Chairman's guidance on disclosure of information in merger and market inquiries	-	✓
CC12	Disclosure of information by the CC to other public authorities	✓	-
	Suggested best practice for submission of technical economic analysis	-	✓
	Guidance on outside interests of members, staff and external advisors	✓	-
OFT441	How will the Enterprise Act 2002 change the Competition Act 1998 regime?	✓	-
OFT518	Overview of the Enterprise Act	✓	-
OFT530	Practical information – everything you need to know about the Enterprise Act	✓	-
Markets			
New guidance			
CMA3con ¹¹	Market Studies and Market Investigations: Supplemental guidance on the CMA's approach	-	✓
Existing guidance¹²			

¹¹ Currently subject to consultation. The consultation document is available at www.gov.uk/government/consultations/competition-and-markets-authority-guidance-part-1.

¹² The existing OFT and CC markets-related documents that are proposed for adoption should be read subject to the limitations set out in Annexes A and B to the draft Market Studies and Market Investigations: Supplemental guidance on the CMA's approach (see CMA3con).

Document code	Title	Status of document	
		Replaced/ obsolete ⁶	Adopted by the CMA Board ⁷
OFT511	Market investigation references	-	✓
OFT514	Super-complaints: guidance for designated consumer bodies	-	✓
OFT518	Overview of the Enterprise Act	✓	-
OFT519	Market studies: guidance on the OFT approach	-	✓
OFT530	Practical information – everything you need to know about the Enterprise Act	✓	-
OFT548	Super-complaint concurrent duties	-	✓
OFT1060	Memorandum of understanding between the OFT and the CC on the variation and termination of merger and market undertakings and orders	✓	-
CC1	Competition Commission rules of procedure for merger reference groups, market reference groups and special reference groups ¹³	-	✓
CC3	Market investigation references: Competition Commission guidelines	-	✓
CC4	Competition Commission: general advice and information	✓	-
CC5	Statement of policy on penalties	✓	-
CC6	Competition Commission: guidance to merger reference groups, market reference groups and special reference groups	✓	-
CC7	Chairman's guidance on disclosure of information in merger and market inquiries	-	✓
CC12	Disclosure of information by the CC to other public authorities	✓	-

¹³ This document may require some amendment prior to adoption to reflect the interactions between the CMA Panel, the CMA chair and the CMA Board introduced by the ERRA13.

Document code	Title	Status of document	
		Replaced/ obsolete ⁶	Adopted by the CMA Board ⁷
	Competition Commission: suggested best practice for submissions of technical economic analysis	-	✓
	Competition Commission: guidance on outside interests of members, staff and external advisors	✓	-
CA98			
New guidance			
CMA8con ¹⁴	Competition Act 1998: Guidance on the CMA's investigation procedures, and the CMA's Competition Act 1998 Rules	-	✓
Existing guidance¹⁵			
OFT1263rev	A guide to the OFT's investigations procedures in Competition Act 1998 cases	✓	-
OFT953	Prioritisation Principles	✓	-
OFT (April 2010)	Short-form opinions – the OFT's approach	-	✓
OFT423	Guidance on the appropriate amount of a penalty	-	✓
OFT401	Agreements and concerted practices	-	✓
OFT402	Abuse of a dominant position	-	✓
OFT403	Market definition	-	✓
OFT404	Powers of investigation	-	✓
OFT407	Enforcement	-	✓
OFT415	Assessment of market power	-	✓

¹⁴ Currently subject to consultation. The consultation document is available at www.gov.uk/cma.

¹⁵ The existing OFT CA98-related documents that are proposed for adoption should be read subject to the limitations set out in Annexe A to the draft Competition Act 1998: Guidance on the CMA's investigation procedures (see CMA8con).

Document code	Title	Status of document	
		Replaced/ obsolete ⁶	Adopted by the CMA Board ⁷
OFT451	Involving third parties in Competition Act investigations	-	✓
OFT 1341	How your business can achieve compliance with competition law	-	✓
OFT1227	Drivers of compliance and non-compliance with competition law	-	✓
OFT442	Modernisation	-	✓
OFT419	Vertical agreements	-	✓
OFT1340	Company directors and competition law	-	✓
OFT421	Services of general economic interest exclusion	-	✓
OFT408	Trade associations, professional and self-regulating bodies	-	✓
OFT1280a	The application of competition law following the revocation of the Land Agreements Exclusion Order	-	✓
OFT1389	Public bodies and competition law	-	✓
OFT740rev	How competition law applies to co-operation between farming businesses: FAQs	-	✓
OFT1317	Land agreements and competition law – An overview of how competition law applies to land agreements	-	✓
OFT439	Public transport ticketing schemes block exemption	-	✓
OFT447	Competing fairly	-	✓
OFT1330	Quick guide to competition law compliance	-	✓
OFT1234	Transparency – a statement of the OFT's approach	✓	-
OFT1495	Applications for leniency and no action in cartel cases	-	✓
OFT435	Cartels and the Competition Act 1998 – a guide for purchasers	-	✓
OFT436	Leniency in cartel cases	✓	-

Document code	Title	Status of document	
		Replaced/ obsolete ⁶	Adopted by the CMA Board ⁷
OFT 510	Director disqualification in competition cases	-	✓
OFT515	Powers for investigating criminal cartels	✓	-
OFT546	Memorandum of understanding between the OFT and the NCD, Crown Office, Scotland	✓	-
OFT393	The Transport Acts: guidance on the competition test	-	✓
OFT452	Guidance on the application of competition law to certain aspects of the bus market following the Local Transport Act 2008	-	✓
Concurrency			
New guidance			
CMA10con ¹⁶	Regulated Industries: Guidance on concurrent application of competition law to regulated industries	-	✓
Existing Guidance			
OFT405	Concurrent Application to Regulated Industries	✓	-
Criminal cartels			
New guidance			
CMA9con ¹⁷	Cartel Offence: Prosecution Guidance	-	✓
Existing guidance¹⁸			
OFT1495	Applications for leniency and no-action in cartel cases (including OFT1495i and OFT1495b)	-	✓

¹⁶ Currently subject to consultation. The consultation document is available at www.gov.uk/cma.

¹⁷ Currently subject to consultation. The consultation document is available at www.gov.uk/cma.

¹⁸ The existing OFT cartels-related documents that are proposed for adoption should be read subject to the limitations set out in Annexe B to the consultation document for the draft Cartel Offence: Prosecution Guidance (CMA9con).

Document code	Title	Status of document	
		Replaced/ obsolete ⁶	Adopted by the CMA Board ⁷
OFT 404	Powers of Investigation	-	✓
OFT 510	Director disqualification in competition cases	-	✓
OFT515	Powers for investigating criminal cartels	✓	-
OFT435	Cartels and the Competition Act 1998 – a guide for purchasers	-	✓
OFT 423	OFT's guidance as to the appropriate amount of a penalty	-	✓
OFT 1263rev	A guide to the OFT's investigation procedures in competition cases	✓	-
OFT 738	Covert surveillance in cartel investigations	✓	-
OFT 739	Covert human intelligence in cartel investigations	✓	-
OFT1389	Public bodies and competition law	-	✓
OFT 442	Modernisation	-	✓
OFT546	Memorandum of understanding between the OFT and the NCD, Crown Office, Scotland	✓	-
OFT547	Memorandum of understanding between the OFT and the Director of the SFO	✓	-
OFT740rev	How competition law applies to co-operation between farming businesses: FAQs	-	✓
OFT1330	Quick Guide to competition law compliance	-	✓
OFT447	Competing Fairly	-	✓
Regulatory Appeals and References			
New guidance			

Document code	Title	Status of document	
		Replaced/ obsolete ⁶	Adopted by the CMA Board ⁷
CMA5con ¹⁹	Cost recovery in telecoms price control references: guidance on the CMA's approach	-	✓
Existing guidance²⁰			
CC1	Competition Commission rules of procedure for merger reference groups, market reference groups and special reference groups ²¹	-	✓
CC4	Competition Commission: general advice and information	✓	-
CC6	Competition Commission: guidance to merger reference groups, market reference groups and special reference groups	✓	-
CC13	Price control appeals under section 193 of the Communications Act 2003: Competition Commission Guidelines	-	✓
CC10	The Energy Code Modification Rules	-	✓
CC11	Guide to appeals in Energy Code Modification Cases	-	✓
CC14	Competition Commission Energy Licence Modification Appeals Rules	-	✓
CC15	Energy Licence Modification Appeals: Competition Commission Guide	-	✓
CC16	Competition Commission Postal Services Price Control Appeals Rules	-	✓
CC17	Postal Services Price Control Appeals: Competition Commission Guide	-	✓

¹⁹ Currently subject to consultation. The consultation document is available at www.gov.uk/government/consultations/competition-and-markets-authority-guidance-part-1.

²⁰ The existing OFT and CC regulatory appeals and references-related documents that are proposed for adoption should be read subject to the limitations set out in the Annexe to the draft Cost recovery in telecoms price control references: guidance on the CMA's approach (see CMA5con).

²¹ This document may require some amendment prior to adoption to reflect the interactions between the CMA Panel, the CMA chair and the CMA Board introduced by the ERRA13.

Document code	Title	Status of document	
		Replaced/ obsolete ⁶	Adopted by the CMA Board ⁷
Consumer			
New guidance			
CMA7con ²²	Consumer Protection: Guidance on the CMA's approach to use of its consumer powers	-	✓
Existing guidance²³			
OFT1221	Statement of consumer protection enforcement principles	✓	-
OFT311	Unfair contract terms guidance	-	✓
OFT911	A quick guide to competition and consumer protection laws that affect your business	-	✓
OFT512	Enforcement of consumer protection legislation – guidance on Part 8 Enterprise Act 2002	-	✓
OFT1292	The OFT's approach to promoting business compliance with consumer protection law	✓	-
OFT143	Unfair standard terms	-	✓
OFT734	Guidance on unfair terms in holiday caravan agreements	-	✓
OFT737	Guidance on unfair terms in home improvement contracts	-	✓
OFT668	Guidance on unfair terms in package holiday contracts	-	✓
OFT667	Guidance on unfair terms in consumer entertainment contracts	-	✓
OFT635	Guidance on unfair terms in care home contracts	-	✓

²² Currently subject to consultation. The consultation document is available at www.gov.uk/cma.

²³ The existing OFT consumer-related documents that are proposed for adoption should be read subject to the limitations set out in Annexe B to Consumer Protection: Guidance on the CMA's approach to use of its consumer powers (see CMA7con).

Document code	Title	Status of document	
		Replaced/ obsolete ⁶	Adopted by the CMA Board ⁷
OFT373	Guidance on unfair terms in health and fitness club agreements	-	✓
OFT356	Guidance on unfair terms in tenancy agreements	-	✓
OFT1008	Consumer protection from unfair trading	-	✓
OFT979	The Consumer Protection from Unfair Trading Regulations: a basic guide for business	-	✓
OFT1273	Criminal enforcement of the Consumer Protection from Unfair Trading Regulations	✓	-
OFT1494	Key issues in ongoing contracts: a practical guide	-	✓
Review of remedies			
New guidance			
CMA11con ²⁴	Remedies: CMA Guidance on the variation and termination of merger, monopoly and markets undertakings and orders	-	✓
Existing guidance²⁵			
OFT1060	Memorandum of understanding between the OFT and the CC on the variation and termination of merger, monopoly and market undertakings and orders under the Fair Trading Act 1973 and the Enterprise Act 2002	✓	-
CC1	Competition Commission: Rules of Procedure ²⁶	-	✓
OFT1254/ CC2	Merger Assessment Guidelines	-	✓

²⁴ Currently subject to consultation. The consultation document is available at www.gov.uk/cma.

²⁵ The existing OFT and CC documents related to the review of remedies, and that are proposed for adoption, should be read subject to the limitations set out in the Annexe B to Remedies: CMA Guidance on the variation and termination of merger, monopoly and markets undertakings and orders (see CMA11con).

²⁶ This document may require some amendment prior to adoption to reflect the interactions between the CMA Panel, the CMA chair and the CMA Board introduced by the ERRA13.

Document code	Title	Status of document	
		Replaced/ obsolete ⁶	Adopted by the CMA Board ⁷
CC3	Guidelines for Market Investigations	-	✓
CC7	Chairman's Guidance on Disclosure of Information in Merger Inquiries, Market Investigations and Reviews of Undertakings and Orders accepted or made under the Enterprise Act 2002 and Fair Trading Act 1973	-	✓
OFT953	Prioritisation principles	✓	-
Administrative penalties			
New guidance			
CMA4con ²⁷	Administrative Penalties: Statement of Policy on the CMA's approach	-	✓
Existing guidance²⁸			
CC4	General Advice and Information	✓	-
CC5	Statement of Policy on Penalties	✓	-
CC6	Competition Commission: guidance to merger reference groups, market reference groups and special reference groups	✓	-
CC18	Merger procedural guidelines	✓	-
OFT441	How will the Enterprise Act 2002 change the Competition Act 1998 regime?	✓	-
OFT511	Market investigation references	-	✓
OFT518	Overview of the Enterprise Act	✓	-

²⁷ Currently subject to consultation. The consultation document is available at www.gov.uk/government/consultations/competition-and-markets-authority-guidance-part-1.

²⁸ The existing OFT and CC administrative penalties-related documents that are proposed for adoption should be read subject to the limitations set out in Annexe C to the draft Administrative Penalties: Statement of Policy on the CMA's approach (see CMA4con).

Document code	Title	Status of document	
		Replaced/ obsolete ⁶	Adopted by the CMA Board ⁷
OFT519	Market studies: guidance on the OFT approach	-	✓
OFT527	Mergers jurisdictional and procedural guidance	✓	-
OFT530	Practical information – everything you need to know about the Enterprise Act	✓	-
OFT1254/ CC2	Merger assessment guidelines	-	✓
OFT1263rev	The OFT's CA98 procedures guide	✓	-
SI 2004/2751	The Competition Act 1998 (Office of Fair Trading's Rules) Order 2004	✓	-
Transparency and disclosure			
New guidance			
CMA6con ²⁹	Transparency and disclosure: Statement of the CMA's policy and approach	-	✓
Existing guidance³⁰			
OFT1234	Transparency – a statement of the OFT's approach	✓	-
CC7	Chairman's Guidance on disclosure of information in merger and market inquiries	-	✓
CC12	Disclosure of information by the Competition Commission to other public authorities	✓	-
CC6	Competition Commission: guidance to merger reference groups, market reference groups and special reference groups	✓	-

²⁹ Currently subject to consultation. The consultation document is available at www.gov.uk/government/consultations/competition-and-markets-authority-guidance-part-1.

³⁰ The existing OFT and CC transparency and disclosure-related documents that are proposed for adoption should be read subject to the limitations set out in Annexes A and B to the draft Transparency and disclosure: Statement of the CMA's policy and approach (see CMA6con).

Document code	Title	Status of document	
		Replaced/ obsolete ⁶	Adopted by the CMA Board ⁷
OFT518	Overview of the Enterprise Act	✓	-