

## **CMA update on Volkswagen**

The Competition and Markets Authority (CMA), under its consumer protection powers, has been carefully examining allegations relating to Volkswagen's vehicle emission tests, which emerged in September 2015.

Following an independent consideration of all relevant issues, and after liaising closely with other UK and international authorities, the CMA has decided it is not appropriate to open a formal investigation at this time.

A number of considerations have been taken into account in reaching this conclusion, including the fact that the Consumer Rights Act 2015, which gives the CMA new powers enabling it to secure compensation for consumers, only came into effect on 1 October 2015, which is after the affected vehicles were sold, and that VW has committed to fixing the affected vehicles. This means that in this case, the CMA's civil enforcement powers have limited application to the alleged wrongdoing that took place.

Regarding a criminal investigation, an important consideration was that the alleged misconduct at the root of this issue appears to have taken place outside the UK, notably in Germany, and is the subject of a criminal investigation by the German authorities. In view of this, the CMA has had regard to the general presumption that a prosecution should take place in the jurisdiction where the majority of the more serious criminality occurred.

The CMA is committed to protecting consumers and will continue to monitor developments in liaison with other relevant agencies, in particular to identify whether the roll-out of the proposed 'fix' raises concerns under consumer protection law. Should new information be brought to the CMA's attention, or if Volkswagen Group's future conduct leads to consumer detriment, the CMA will re-assess the options available.

As the national competition and consumer agency, the CMA has considered this matter from a consumer protection perspective by reference to the CMA's consumer enforcement powers. The CMA's decision does not affect the decisions of other authorities with a potential interest in the matter, or the application of other laws. Responsibility for the vehicle testing regime in the UK rests with the Department for Transport. Wider environmental and public health considerations are a matter for the Department for the Environment, Food and Rural Affairs and for the Department of Health respectively.