

CMA impact assessment 2016/17

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1. Summary

- 1.1 The Competition and Markets Authority (CMA) is the UK's lead competition and consumer authority and its primary duty is to promote competition, both within and outside the UK, for the benefit of consumers. It is an independent non-ministerial government department which, from 1 April 2014, brought together and took on the functions of the Competition Commission (CC) and many of the functions of the Office of Fair Trading (OFT). The CMA has a wide range of tools to use in addressing competition and consumer problems including carrying out investigations into mergers and markets, enforcing competition and consumer law and working with sector regulators. The CMA also has a function to consider regulatory references and appeals.
- 1.2 As part of its performance framework agreement with the Department for Business, Energy & Industrial Strategy (BEIS)¹ the CMA is required to report annually on:
- (a) 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); and
 - (b) the ratio of direct financial benefits to consumers and costs for its principal tools.
- 1.3 In this third CMA Impact Assessment we report on performance against this target for the financial year 2016/17. As the target is measured as a three-year rolling average, for 2016/17 the calculation is based on the performance of the previous three financial years of the CMA. This is the first impact assessment that includes only cases concluded by the CMA, rather than our predecessor bodies.²
- 1.4 For the period 2014 to 2017 the estimated direct financial benefit to consumers was £3.7 billion in aggregate representing annual average consumer savings of £1.2 billion. The ratio of direct benefits to cost was 18.6 to 1. Around half of the estimated total savings over the period are from the market investigations into energy³ and retail banking⁴, and the market study into the supply of legal services⁵. These three large projects were completed

¹ BIS (January 2014), [Competition and Markets Authority: performance management framework](#).

² Some of the cases included within these figures were initiated by one of our predecessor bodies, but concluded by the CMA

³ CMA case: [Energy market investigation](#).

⁴ CMA case: [Retail banking market investigation](#).

⁵ CMA case: [Legal services market study](#).

in the 2016/17 financial year but were conducted over a number of years. The breakdown of the average annual benefit by tool is set out in Table 1 below.⁶

Table 1: Estimated average annual CMA consumer savings and costs for 2014–17

<i>Area of CMA work</i>	<i>£m</i>
	<i>Savings</i>
Competition enforcement	138
Consumer protection enforcement	59
Merger control*	143
Market studies and market investigations	887
<hr/>	
Total benefits	1,228
Costs	66†
Benefit/costs	18.6:1

*The CMA has a duty to investigate mergers that legally qualify for scrutiny. This means that CMA merger control work is demand-led and not discretionary, unlike most other areas of the CMA's work. Given that the number of qualifying mergers can vary considerably from year-to-year (because of fluctuations in the economic cycle for example), the number of investigated mergers and the direct consumer benefits of the CMA's merger control work can also vary significantly from year-to-year.

†This is total CMA costs (actual spend) minus costs of the CMA work on regulatory appeals.

1.5 The assessment is undertaken by the CMA itself and is reviewed by an external expert. This year the expert was Dr Christopher Decker of the University of Oxford⁷. The methodology used by the CMA is based on that developed and used by the OFT and CC⁸, validated by successive independent academic reviewers and consistent with approaches now regarded by the OECD as international good practice.⁹

1.6 Impact estimations are conducted immediately after cases are completed and are therefore based only on information available during the case and on assumptions regarding the expected impact of our interventions. On this basis the estimates are considered to be 'ex ante' evaluations. For example, for market studies and investigations the impact estimates capture the expected future benefits of remedies, rather than an ex post assessment of their effectiveness in practice. In general, the assumptions we apply are cautious and hence we consider our estimates to be conservative. In order to gain

⁶ The figures for market studies and market investigations in Table 1 include benefits from markets work completed in 2014/15 and 2015/16, in addition to the three projects mentioned above.

⁷ Dr Decker is a Research Fellow in Law and Economics in the University of Oxford and a Director of Regulatory Economics Limited, a private consultancy firm which undertakes advisory work mainly for governments and other public bodies.

⁸ OFT (July 2010), [Guide to the OFT's impact estimation methods](#).

⁹ OECD (April 2014), [Guide for assessing the impact of competition authorities' activities](#).

further understanding of the impact of our work, we also conduct ex-post evaluations for a small subset of cases that help us to critically assess the effects of past interventions, drawing lessons and implications to inform future decision making at the CMA.

- 1.7 Our estimates exclude the impact of a number of cases where the CMA's intervention is likely to generate considerable consumer benefits but these benefits were difficult to quantify in a sufficiently robust manner.
- 1.8 The estimate of benefits excludes the CMA's compliance work,¹⁰ international activities¹¹ and regulatory appeals as our role is an appellate one rather than being the primary regulator.¹² The benefits from our advocacy to government are also excluded. However, we are currently exploring methods for quantifying these benefits with a view to potentially including them in future years. The impact of the CMA's advocacy work involves estimating the consumer benefits resulting from policy changes, where these have been influenced by CMA advocacy work, and allocating a proportion of those benefits to the CMA.
- 1.9 In addition, the focus on direct financial benefits means that we exclude many important wider impacts of the competition regime. For example, we do not take into account the deterrence effect of our work, such as the deterrence of anti-competitive mergers or anti-competitive conduct. Evidence from existing academic studies and previous OFT research¹³ indicate that such deterrence can be significant albeit very difficult to measure precisely.
- 1.10 Studies also show that increases in competition in a market are often associated with increases in productivity, and that competition policy interventions can therefore improve productivity.¹⁴ This impact on productivity is not captured in our impact assessment. In sum, evidence suggests that the direct impact of interventions is only a part of the overall impact of competition authorities' work.

¹⁰ See for example the CMA's activity to assess compliance with the law across the higher education sector following publication of advice for providers on their consumer law obligations to undergraduate students.

¹¹ Our impact estimates for example do not account for benefits from our work on UK engagement with international networks and organisations.

¹² Our duty in this area is to act according to the relevant legal framework rather than necessarily acting in the immediate interest of consumers.

¹³ See *The impact of competition interventions on compliance and deterrence, OFT1391* and *The deterrent effect of competition enforcement, OFT 962*.

¹⁴ CMA (2015), [Productivity and competition: a summary of the evidence](#).

2. Overview of our methodology

- 2.1 The impact estimations included within this report focus on the direct financial benefits to consumers of the CMA's work completed over the previous three financial years. We present the benefits as three year rolling averages to avoid year to year fluctuations in the impact estimates due to uneven caseloads across years and to reflect the fact that some of our cases take more than one year to complete. The direct financial benefits to consumers may include, for example, the direct reduction in prices to consumers or the value to consumers of improvements in quality, service or information provision following an intervention.
- 2.2 We present estimates of the impact of our work for each of the following areas:
- (a) competition law enforcement
 - (b) consumer protection enforcement
 - (c) merger control
 - (d) market studies and market investigation references (collectively referred to as 'markets work' in this document)
- 2.3 For merger control and markets work, the CMA is both the phase 1 and phase 2 authority in a two-stage process (phase 1 cases being referred where there are sufficient competition concerns to require further, more in depth, phase 2 investigation). Although the decision makers at phase 2 comprise a group of independent members drawn from the CMA panel (to ensure a transparent and distinct process) the CMA has responsibility for both phases including their resourcing. Where cases have been referred to phase 2, benefit estimates are only made once the phase 2 process has been completed, although both phase 1 and phase 2 costs are part of the impact assessment.
- 2.4 For confidentiality reasons we do not publish impact estimations for individual cases and projects. However, our estimates have been independently reviewed by Dr Christopher Decker to ensure that our benefit estimates are reasonable and robust.¹⁵

¹⁵ Consistent with the purposes of the review exercise, we asked Dr Decker to confirm the accuracy of the calculations of impacts. He also commented on the consistency of the estimates with our published guidance, and consistency of approach taken between different cases. He was not asked to comment on the underlying assumptions where these were based on analysis carried out as part of individual cases (for example, the estimates of consumer detriment resulting from identified competition problems).

- 2.5 The methodology used when preparing the estimates for the CMA's impact assessment reports, including this one, is largely based on that developed and used by the OFT and CC¹⁶. However, unlike the OFT positive impact report, the CMA impact assessment estimates include benefits from cases where the outcome is under appeal at the time of publication of the report. We include these benefits as we consider this ensures the impact assessment is the best estimate of the likely impact of the CMA cases at the time of the publication of the report. In addition, this approach also ensures that the benefit estimates are included in the impact assessment at roughly the same time as the costs the CMA incurred in carrying out the case.¹⁷ This approach requires that subsequent impact assessments may need to be revised to take into account the outcome of any appeals. No adjustment of this nature had to be made in this year's impact assessment with respect to past years.
- 2.6 In order to calculate the impact of any case or project, the CMA usually estimates the following components based on information and evidence available from the original investigation:
- (a) the size of the affected turnover;
 - (b) the price, quality or other negative effect removed or avoided due to the CMA's intervention (i.e. usually increased price, but may be in the form of decreased quality, decreased choice, etc.); and
 - (c) the length of time the detriment (e.g. higher prices) would have prevailed absent the intervention.
- 2.7 First, we estimate the annual impact on consumers by multiplying the turnover of the affected goods and services by the assumed price increase that was removed or avoided due to our action. Second, we estimate future consumer savings by multiplying the annual impact by the number of years we believe the detriment to consumers would have prevailed. We discount future accruals of benefits (see paragraph 2.12).
- 2.8 Data on the size of the turnover affected by our intervention (referred to as 'affected turnover') is usually gathered by the case team as part of its evidence-gathering and can be recalled from the original investigation. To be conservative, the CMA typically applies a narrow definition of the affected turnover by estimating it as the turnover of the directly affected firms. That is, we assume that the price of the goods or services competing with those offered by the firm(s) subject to the investigation in the market are unaffected,

¹⁶ OFT (July 2010), [Guide to the OFT's impact estimation methods](#).

¹⁷ It can be several years before appeals are concluded leading to a significant lag between the inclusion of the benefits and costs of certain cases.

even though it is likely that, in some circumstances, they would also decrease to some extent as a result of our intervention. At other times, where the CMA tackles a sector more widely (e.g. through markets or consumer protection work), to estimate the affected turnover we need to make assumptions on the size of the market that is affected by our action.

- 2.9 In relation to the effect avoided or removed due to the CMA's intervention, where possible we base our estimations on information collected during the original investigation. This may be, under rare circumstances, information on the actual effect (for example, the price overcharge due to an unfair pricing practice), or more frequently, an estimation of the likely effect on consumers (for example, the magnitude of upward pricing pressure resulting from a merger) as assessed by the case teams during the original investigation. However, where such information and data are unavailable, we apply rules of thumb that are conservative interpretations of estimated effects and consistent with recent academic research.
- 2.10 Similarly, when estimating the expected future duration of the detriment prevailing absent our intervention we draw on information collected at the time of the original investigation. As a starting point, we tend to take a default duration value that is based on, but not equal to, existing international practice and academic research and adjust this value where case-specific information suggests this would be appropriate.
- 2.11 Ex-ante estimates of impact are based on the best information available at the time of estimation – which is typically when the decision or recommendations have been made but the full impact is not yet observable. In contrast, ex-post evaluations are usually more robust and are based on information gathered after the recommendations or remedies have been implemented and the resulting impact realised, often several years after the case has been completed. The CMA's most recent ex-post evaluations, published in the 2016/17 financial year, concluded the following:
- (a) A review of 8 mergers¹⁸ that we cleared on the basis of entry or expansion of rival firms. This review looked into both our assessment of entry/expansion in merger cases and our remedies process. The evaluation found that whilst our expectations around future entry and expansion were often met, they were not always met, and identifies various ways in which we can improve our approach in future cases.

¹⁸ CMA case: [Evaluation of entry and expansion in UK merger cases](#).

- (b) An evaluation of the Competition Commission's market investigation into BAA airports (2009). This estimated the benefits associated with our remedies to total around £870 million by 2020¹⁹ due to increased passenger numbers and downward pressure on fares.
- (c) An evaluation of the OFT's consumer enforcement work in the health and fitness sector (2011)²⁰. This review showed significant impact on gym users²¹ who are estimated to have saved around £37 million due to their increased ability to cancel gym membership and any reductions in contract length.

2.12 In line with central government techniques for discounting future accruals of benefits or costs, we discount future consumer savings by the HM Treasury endorsed Social Time Preference Rate (3.5%).²²

2.13 Under certain circumstances we also need to use the Consumer Price Index to bring the benefits to the price level of the current year. This is the case when, due to the CMA's investigation, consumers are able to seek redress for any past harm suffered.

¹⁹ CMA case: [BAA Airports: evaluation of remedies](#).

²⁰ CMA case: [Evaluation of the OFT's enforcement action on health and fitness contract](#).

²¹ We only attempted to quantify benefits to consumers of gyms that were directly investigated by the OFT and made changes as a result.

²² See HM Treasury, [The Green Book: Appraisal and Evaluation in Central Government](#).

3. Consumer savings by area

Competition enforcement

- 3.1 The CMA engages in a range of activities aimed at ensuring compliance with the Competition Act 1998 (CA98), including formally investigating and taking enforcement action against anti-competitive practices and using ‘softer’ tools such as providing guidance and targeted compliance initiatives.²³ Under the Enterprise Act 2002 (EA02) we can also investigate and prosecute individuals for certain breaches.
- 3.2 We estimate that the CMA’s interventions saved consumers at least £414.6 million in aggregate between the financial years 2014 and 2017 representing annual average consumer savings of £138.2 million. These figures are based on anticipated price reductions that are likely to follow the break-up of a cartel or the termination of other unlawful conduct.
- 3.3 One case, the CMA’s Phenytoin Pfizer Flynn investigation,²⁴ accounts for a significant proportion of the benefits in 2016/17. The CMA found that Pfizer and Flynn each abused their respective dominant positions by imposing unfair and excessive prices for phenytoin sodium capsules in the UK. Parties have ceased the unfair practice after the CMA ordered them to reduce their prices. The positive direct impact of the CMA is considered to be twofold. First of all, the NHS and patients will benefit from the decreased phenytoin sodium capsule prices. Secondly, we expect the NHS to seek redress for the harm suffered over the duration of the infringement, to the benefit of patients, by relying on our findings.
- 3.4 The estimate does not include the significant deterrent effect of our competition enforcement actions. The overall magnitude of the CMA’s impact is therefore expected to be significantly higher than the estimated direct financial benefits.

Consumer protection enforcement

- 3.5 The CMA’s consumer protection enforcement work seeks to change trader behaviour that appears to contravene consumer protection legislation using a range of interventions such as publishing guidance, issuing informal warnings, accepting undertakings under the EA02, or obtaining court orders. All interventions are aimed at protecting consumers, particularly vulnerable

²³ The benefits from these softer tools are not typically included in the quantified estimate of benefits.

²⁴ CMA case: [Phenytoin sodium capsules: suspected unfair pricing](#).

consumers, from rogue trading, unfair commercial practices and other breaches of consumer protection legislation.

- 3.6 The CMA often works together with other organisations, for example Trading Standards²⁵, who are also responsible for consumer protection enforcement and tackling unfair trading practices. We also cooperate with other national authorities within the Consumer Protection Cooperation Network to apply and enforce consumer rights legislation. In our impact assessment we include consumer benefits resulting from these joint actions, where these have been led or significantly influenced by the CMA, by allocating a proportion of the benefits to the CMA.
- 3.7 For the period 2014 to 2017, the total consumer benefits in aggregate from relevant consumer enforcement work are estimated to be £178.3 million, giving an average of £59.4 million per year. These benefits may include a reduction in consumer detriment as a result of stopping unlawful practices, or the estimated price impact of the CMA's interventions, for example as a result of increased transparency and more informed consumer decisions. The CMA's Groceries Pricing case²⁶ accounts for the largest part of the 2016/17 impact figure. The estimate for this case only includes benefits from commitments given by one supermarket to the CMA in relation to specific areas of concern and does not attempt to quantify our wider work in the area.²⁷
- 3.8 Our estimates, as already noted, do not include the deterrence effect of the CMA's consumer protection activities even though we tend to prioritise cases where we expect that changing the behaviour of one business would set an important precedent or have other market-wide implications. In addition, as mentioned in paragraph 1.7, we do not include cases in our impact assessment where benefits cannot be quantified in a sufficiently robust manner, for example, because of the nature of the changes expected in the market or data availability issues. An example of this for the 2016/17 financial year is the CMA's consumer protection work in relation to online reviews and endorsements²⁸ which is likely to bring significant benefits to people who use online reviews and opinions as sources of information when making their buying choices. Even though in the 2015/16 impact assessment we included benefits from two investigations^{29,30} that were part of this work, we decided to

²⁵ For an evaluation of the activities of Trading Standards, see OFT (June 2009), *An evaluation of the impact of the fair trading work of local authority Trading Standards Services in the UK*, OFT1085.

²⁶ CMA case: [The groceries pricing super-complaint](#).

²⁷ The CMA has worked with supermarkets and Trading Standards Services to ensure that shoppers can have more confidence that they are getting a good deal.

²⁸ CMA case: [Online reviews and endorsements](#).

²⁹ CMA case: [Online endorsements](#).

³⁰ CMA case: [Fake online reviews](#).

exclude the further two^{31,32} cases concluded in 2016/17 in absence of sufficiently robust data. Therefore, the impact of the CMA's consumer protection work is likely to be considerably larger than the £59.4 million average annual benefit we quantified.

Merger control

- 3.9 The CMA operates both stages of the UK two-stage merger regime. Businesses can (voluntarily) notify a merger to the CMA and, in addition, the CMA has a duty to keep merger activity under review and can investigate mergers that have not been notified to it. At phase 1 it reviews merger situations falling within its jurisdiction³³ and refers for more detailed scrutiny (at phase 2) any cases where there is a realistic prospect of a substantial lessening of competition (SLC) in a UK market. The CMA has the power to accept undertakings in lieu (of reference to phase 2) (UiLs) from the merging parties at phase 1, if these are deemed to address potential concerns identified in the course of its investigations.
- 3.10 At phase 2, a CMA panel of independent members conducts an in-depth investigation to assess if a merger is expected to result in an SLC. If an SLC is expected, the CMA decides on the remedies required and can impose remedies by order if it is not able to agree them with the businesses.
- 3.11 Our estimates of consumer savings in this area include merger proposals amended through UiLs, mergers that are abandoned (abandoned mergers), and mergers amended or prohibited by the CMA at phase 2.
- 3.12 In the OFT's and also the CMA's previous impact assessments the benefits from abandoned mergers and UiLs at phase 1 have been scaled down by the 'SLC rate'. This is the proportion of phase 2 mergers where an SLC finding was made, averaged over 3 years. The purpose of the SLC rate is to reflect that not all abandoned mergers and UiLs at phase 1 may have been found to lead to SLCs at phase 2. However, the previous approach may have led to overly conservative estimates for phase 1 merger benefits. This is because it assumes that those mergers where UiLs are offered and accepted would be cleared with the same probability in phase 2 as those where UiLs were not offered or were rejected, whereas in practice UiLs may be more likely to be offered for cases which are more likely to be found anticompetitive at phase 2

³¹ CMA case: [Non-disclosure of paid endorsements](#).

³² CMA case: [Retailer hosting reviews on its website](#).

³³ Mergers of businesses with EU and global turnover above a certain size fall within the jurisdiction of the European Commission. Mergers affecting trade between member states may also be reviewed by the European Commission.

(i.e. there is a selection bias). Merging parties who consider that the phase 2 investigation is likely to result in an SLC may offer comprehensive UiLs at the end of phase 1 (in order to avoid reference) or choose to abandon the merger altogether. As indicated in the CMA's 2015/16 impact assessment report³⁴ we have therefore reconsidered the methodology and decided to change the SLC rate adjustment this year.

3.13 In order to test how large the selection bias might be, we calculated the following rates (all of which are averaged over the last 4 years):

(a) Phase 2 SLC findings as a proportion of all phase 2 cases (original concept): 44%

(b) Phase 2 SLC findings as a proportion of phase 2 cases where UiLs were offered but rejected by the CMA at the end of phase 1: 56%

(c) Phase 2 SLC findings as a proportion of phase 2 cases where UiLs were not offered: 36%

3.14 The figures in the previous paragraph suggest that the likelihood of an SLC finding in phase 2 is substantially higher for cases where UiLs were offered but rejected at phase 1 (56% compared with 44%). We consider that this supports the view that the SLC rate applied in previous CMA impact assessments did lead to overly conservative estimates for phase 1 UiLs and abandoned mergers. In light of these findings, the SLC rate has been adjusted this year. The benefits from phase 1 mergers are therefore scaled down by the proportion of phase 2 SLC findings among phase 1 cases that offered UiLs (56%).³⁵

3.15 Using the approach described above, our estimates show that during the past three financial years (2014 to 2017) the merger regime has saved consumers £428.8 million in total, giving an average of £142.9 million per year. A significant proportion of the 2016/17 benefits estimate relates to the Ladbrokes/Coral merger inquiry³⁶. The CMA concluded that the merger could lead to a worsening of the Parties' offer made to customers at both a local and national level.³⁷ As a result the CMA required Ladbrokes and Coral to sell off 360 licensed betting shops to resolve its competition concerns.

³⁴ CMA (July 2016), [CMA impact assessment 2015/16](#).

³⁵ There may be some reasons to believe these estimates are still conservative as abandonments could have a higher rate of SLC at phase 2 and we have not controlled for the substance of UiLs offered at phase 1, which can vary across cases. The new methodology was reviewed and supported by Dr Christopher Decker.

³⁶ CMA case: [Ladbrokes/Coral merger inquiry](#).

³⁷ The CMA identified 642 local areas where the merger may be expected to result in a substantial lessening of competition. As a result the CMA required Ladbrokes and Coral to sell off 360 licensed betting shops to resolve its competition concerns.

- 3.16 The benefits from the UK merger regime are dependent on the cases that come to the CMA for assessment and are therefore driven, in part, by the economic climate and can vary significantly from year to year. They are also dependent on the composition of the merger being assessed. If anti-competitive mergers are proposed and prohibited or altered then the estimated direct benefits of the merger regime will be greater. Our estimates exclude benefits from mergers affecting UK consumers which are reviewed by the European Commission.³⁸
- 3.17 Benefit figures for mergers do not include the wider benefits, such as deterrence, of its mergers work and the wider merger regime. We would expect deterrence effects to be significant and therefore that having a merger control regime in itself prevents anticompetitive mergers from being proposed.

Market studies and market investigations

- 3.18 Market studies are examinations into the causes of why particular markets appear not to be working well for consumers and may lead to proposals as to how they might be made to work better. They take an overview of regulatory and other economic drivers in a market and patterns of consumer and business behaviour.
- 3.19 Markets may be referred for a market investigation for further analysis where there are reasonable grounds for suspecting that any feature, or combination of features, of a market in the UK is preventing, restricting, or distorting competition. In estimating consumer savings, we consider the impact of both market studies that have not resulted in a market investigation and completed market investigations. Given the wide variety of projects that our markets work covers, the exact method used to estimate impact differs from case to case. We include ex-ante estimates of impact from those projects where the CMA's recommendations and/or orders are expected to be implemented by the relevant bodies (e.g. regulators, other government departments) and therefore have a positive impact on consumers.
- 3.20 We estimate that the savings from the markets regime are £2,661 million in total between the financial years 2014 and 2017, giving an average of £887 million per year. Around two-thirds of the total benefits are from the works that were concluded in the 2016/17 financial year which are:

³⁸ Mergers of businesses with EU and global turnover above a certain size fall within the jurisdiction of the European Commission. Mergers affecting trade between member states may also be reviewed by the European Commission.

- (a) Legal services market study³⁹
- (b) Retail banking market investigation⁴⁰
- (c) Energy market investigation⁴¹

- 3.21 Even though these investigations concluded in the 2016/17 financial year, they were significant projects conducted over a number of years (the Energy and Retail banking market investigations were opened in 2014 and the Legal services market study in 2016).
- 3.22 The impact estimations quantify the likely benefits arising from the recommendations or orders made by the CMA in each market study or investigation.
- 3.23 For banking and legal services the impact assessment focuses on measures that will lead to improved customer engagement and therefore to more shopping around/switching so more consumers will be able to access better-priced products
- 3.24 By quantifying only the direct savings from switching we are likely to underestimate the benefits from increased consumer engagement. That is, we expect increased customer engagement to bring about a more competitive environment which will benefit a wider customer group. In particular, we expect substantial long-lasting dynamic benefits from our remedies through the increased pressure on providers to improve their quality of service, to innovate and to compete on prices. Increased customer engagement might also encourage entry by new providers. Since we are not able to quantify all the beneficial impacts accruing from increased competition, we only take into account the gains to specific customer groups who are likely to benefit directly from our remedies (i.e. those who will shop around/switch provider).
- 3.25 In addition, the estimate of benefits does not encompass the full extent of the CMA's remedy packages in each case. For some of our remedies it has not been possible to provide any quantification of the benefits. Therefore, we consider our estimates conservative.
- 3.26 For energy, we have taken a conservative approach and not included estimates of the impact of engagement and switching remedies in this year's figures because of current uncertainties in quantifying their effects. We intend to assess the impact of these remedies in next year's impact report. At this

³⁹ CMA case: [Legal services market study](#).

⁴⁰ CMA case: [Retail banking market investigation](#).

⁴¹ CMA case: [Energy market investigation](#).

stage our impact estimate is based on the anticipated effect of other key elements of the energy market remedies package, including the transitional price cap remedy that will apply to all prepayment customers without fully interoperable smart meters from 1st April 2017 to 31st December 2020.⁴²

- 3.27 When estimating our impact from any markets project we also consider how likely the recommendations or orders are to be implemented by the relevant bodies. To account for the uncertainty associated with the market and policy context and therefore with the overall effectiveness of the remedies we use cautious assumptions when estimating the benefits. Moreover, where we think that the proposed remedies may not be fully implemented by the regulators estimates are further scaled down by assumed likelihood of implementation.
- 3.28 Where CMA recommendations or orders from a market study or investigation are implemented by other government departments or regulators, or industry stakeholders are involved, we only claim a proportion of the estimated consumer savings. Hence, the benefits from the Energy market investigation are allocated between the CMA and Ofgem⁴³, and the impact estimates for the Retail banking market investigation are apportioned between the CMA and the Financial Conduct Authority⁴⁴. In relation to the Legal services market study we have also allocated a proportion of the benefits to the frontline legal services regulators⁴⁵.

⁴²The impact estimate for energy also includes estimates of the benefits of remedies to introduce locational pricing of transmission losses and to bring forward the introduction of half-hourly settlement.

⁴³ The Office of Gas and Electricity Markets (Ofgem) regulates the monopoly companies which run the gas and electricity networks. It takes decisions on price controls and enforcement, acting in the interests of consumers and helping the industries to achieve environmental improvements.

⁴⁴ The Financial Conduct Authority (FCA) regulates the financial services industry in the UK. Its role includes protecting consumers, keeping the industry stable, and promoting healthy competition between financial service providers.

⁴⁵ These include the Solicitors Regulatory Authority and the Legal Services Board.

4. Costs

- 4.1 Cost figures may fluctuate from year to year and as such will have an impact on the benefit to cost ratios reported in the CMA impact assessment. To smooth out any such fluctuations, we use a three-year moving average for total costs. This is consistent with the way in which we report estimated benefits.
- 4.2 For the purposes of calculating the benefit to cost ratio, the total costs of the CMA exclude the costs incurred in fulfilling the CMA's function with regard to the determination of regulatory appeals as we do not include any benefits from these in the impact assessment.
- 4.3 On this basis, the average annual CMA cost over the financial years 2014 to 2017 is estimated at £66 million.