

# Competition and Markets Authority Annual Plan consultation 2018/19

Presented to Parliament pursuant to  
paragraph 13(2) of Schedule 4 to the  
Enterprise and Regulatory Reform Act 2013



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ISBN 978-1-5286-0133-7

CCS1117488156 12/17

Printed on paper containing 75% recycled fibre content minimum

Printed in the UK on behalf of the Controller of Her Majesty's Stationery Office

## Consultation information page

### Scope of this consultation

The consultation is intended to give interested parties the opportunity to provide views and comments on the CMA's proposed Annual Plan for 2018/19, which sets out the organisation's main objectives and priorities for the year.

### Duration

4 December 2017 to 14 January 2018

### Enquiries

By telephone: 020 3738 6000

By email: [general.enquiries@cma.gsi.gov.uk](mailto:general.enquiries@cma.gsi.gov.uk)

By post: Simon Jolley, Head of Strategy and Corporate Communications, Competition and Markets Authority, Victoria House, Southampton Row, London WC1B 4AD.

### How to respond

Respondents to this consultation are asked to supply a brief summary of the interest or organisation they represent, where appropriate. We ask that any suggested changes or comments on this document be submitted in writing by email or letter by 14 January 2018 at the latest.

### After the consultation

We will collate responses to the consultation and publish a summary of these, along with a final version of the Annual Plan, in March 2018.

### 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](http://www.gov.uk/government/publications/consultation-principles-guidance)

### 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:

Paul Latham, Director of Strategy, Communications and Devolved Nations  
Competition and Markets Authority  
Victoria House  
Southampton Row  
London WC1B 4AD

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## Foreword

As we consult on our priorities for next year, there is active political and public debate over the role of markets, the extent to which competitive markets can serve the public good, and when governments should step in to fix problems.

In this context, the Competition and Markets Authority's (CMA's) work is given added impetus. It is our task to intervene robustly in markets, where necessary, to make sure they work in people's favour. By doing our job well we can help build trust that markets benefit wider society.

At the same time, our statutory independence and strong framework of checks and balances means business and investors can feel confident that where we do intervene it will be carefully considered, evidence-based and proportionate.

Put simply, better competition gives consumers more choice, stimulates innovation and ensures businesses make better use of their resources. This is good for ordinary people who benefit from better products and services, and good for the economy because it means that the best businesses succeed and grow.

Conversely, practices that frustrate competition cause material losses to the public. We are therefore committed to protecting consumers' rights, in particular the most vulnerable, and making sure that they get a fair deal from businesses.

With increasing and accelerating changes to the world in which we operate – in the run-up to and beyond the UK's exit from the EU – the coming few years will be ones of opportunity and transformation, for the CMA and the competition and consumer regimes. We will build on our achievements and focus on becoming increasingly effective and efficient and achieving even greater impact for consumers across the UK.

We propose our main priorities in the coming year are to:

**Make a difference for people every day.** This means delivering high quality decisions that have an impact in the real world. We will make the right interventions in a timely and effective manner across our portfolio of merger, enforcement and markets cases whilst at the same time ensuring those interventions are justified and our procedures are sound.

It also means being even more bold and innovative in how we carry out our work, including the interventions we make to address any problems we find, taking well-judged risks and decisive actions to achieve the best outcomes for consumers.

**Better connect the CMA and the role of competition with wider society.** We will explain in clear terms the important role which competition has in making markets

work in people's favour, and strengthen our engagement with, and focus on, vulnerable consumers.

We will ensure that our profile remains strong, including through our continuing leadership role for competition in the regulated sectors and by playing our part in the consumer protection regime. We will reach out right across the UK and, as part of this, plan to increase our presence and capabilities in Scotland by opening a new, expanded Edinburgh office.

We will be a thought-leader in competition and consumer policy, exploring complex and pressing issues which affect consumers, businesses and the UK economy, including the implications of increased digitisation of commerce and tech-enabled business models.

**Prepare for the UK's exit from the EU.** We will seek to strengthen our international profile, to be able to play an increasingly important role in the review of global mergers and international competition enforcement investigations post-Exit. This includes maintaining existing – and forging new, strong, mutually beneficial and cooperative – relationships with other agencies, including the European Commission, with a view to promoting effective and consistent competition law and policy overseas for the benefit of UK consumers.

We will also continue to make important investments in the coming year to ensure that our capacity and capabilities match our ambitions. This includes creating a new digital, data and technology team, to enhance our understanding of the digital economy and make sure our practices, interventions and capabilities keep pace with this evolution of business models and practices.

We hope this draft Plan gives a clear impression of our priorities, and we look forward to receiving your feedback and suggestions.



**David Currie**  
*Chairman*

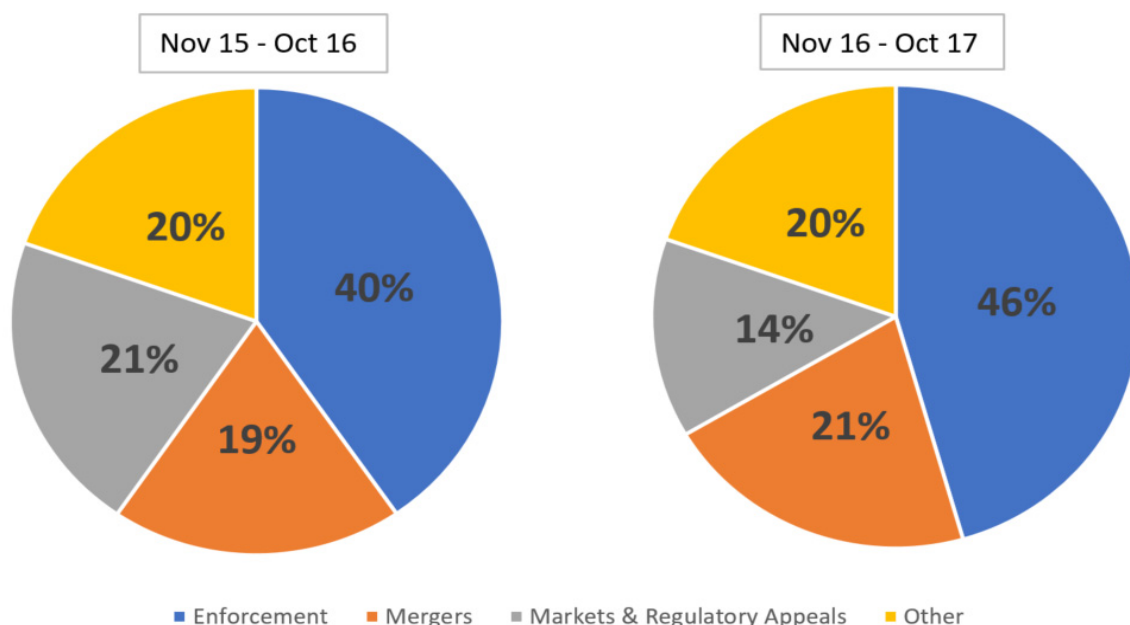


**Andrea Coscelli**  
*Chief Executive*



# 1. Introduction

- 1.1 This document sets out the CMA’s draft plans and priorities for 2018/19. It explains how we will continue to deliver our statutory duty – to promote competition, both within and outside the UK, for the benefit of consumers – and our mission – to make markets work well in the interests of consumers, businesses and the economy.
- 1.2 These are set out in our published Vision, Values and Strategy along with our five strategic goals,<sup>1</sup> and continue to inform our choices and decisions.
- 1.3 We will enter 2018/19 with a substantial volume of ongoing work and at the time of publication have 15 competition enforcement cases, seven consumer enforcement cases, 11 merger investigations and one market investigation underway. All our cases can be found at [gov.uk/cma-cases](http://gov.uk/cma-cases).
- 1.4 Over the coming year we will see many of these active cases through to successful conclusion and open new cases as resources become available.
- 1.5 The chart below illustrates how CMA staff time has been split across different types of work over the past 12 months. Among other things, it shows that we have stepped up our enforcement of competition and consumer law, as we committed to in 2016/17 and 2017/18. It also shows that over 20% of our available staff capacity is taken up by work we are required by statute to carry out when received, such as investigating mergers.<sup>2</sup>



<sup>1</sup> [www.gov.uk/government/publications/vision-values-and-strategy-for-the-cma](http://www.gov.uk/government/publications/vision-values-and-strategy-for-the-cma)

<sup>2</sup> 'Other' includes litigation, remedies, pipeline development, policy, advocacy and corporate projects.

## Our priorities for 2018/19

- 1.6 In this section, we describe the themes, sectors and behaviours which we are most interested in as we decide which work to carry out.
- 1.7 We have limited resources so we aim to focus them where we can make the biggest difference for consumers. To do this we assess potential casework using our Prioritisation Principles,<sup>3</sup> balancing the impact we expect to achieve and its strategic importance alongside the likely risk and the draw on our resources. We also take account of the activity, capacity and interests of other regulators and partner organisations.
- 1.8 This year, the themes which we propose should carry particular strategic importance as we select our cases are:
- Vulnerable consumers
  - Ensuring markets can be trusted
  - Online and digital markets
  - Supporting economic growth and productivity

### ***Vulnerable consumers***

- 1.9 People can be vulnerable for a range of reasons. It may be due to their personal circumstances, such as age, disability, financial capability or low income. There are also circumstances where a person may be vulnerable in a specific market or purchase: this may come at a personally difficult time, or they may be under pressure to make a choice with limited time to consider other options. Some vulnerable consumers may not be able to access or navigate the internet or may not have a car, limiting their ability to access cheaper deals.
- 1.10 We and our predecessors have carried out a range of work in recent years that helped vulnerable consumers, including the payday lending market investigation,<sup>4</sup> the market study into care homes for the elderly,<sup>5</sup> the consumer enforcement investigation into children's online games,<sup>6</sup> and the competition investigation into the supply of medicines to residential care homes.<sup>7</sup>

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<sup>3</sup> [www.gov.uk/government/publications/cma-prioritisation-principles](http://www.gov.uk/government/publications/cma-prioritisation-principles)

<sup>4</sup> [www.gov.uk/cma-cases/payday-lending-market-investigation](http://www.gov.uk/cma-cases/payday-lending-market-investigation)

<sup>5</sup> [www.gov.uk/cma-cases/care-homes-market-study](http://www.gov.uk/cma-cases/care-homes-market-study)

<sup>6</sup> [www.gov.uk/cma-cases/children-s-online-games](http://www.gov.uk/cma-cases/children-s-online-games)

<sup>7</sup> [www.gov.uk/cma-cases/investigation-into-the-supply-of-healthcare-products](http://www.gov.uk/cma-cases/investigation-into-the-supply-of-healthcare-products)

- 1.11 In how we choose, and then how we go about, our work, we propose to take a particular interest in the needs of, and harm suffered by, vulnerable consumers. These are people who often stand to lose proportionately more when markets are not working well, or who may be the losers in a market that is otherwise working well for most consumers. Whilst addressing inequality in society is a policy matter for government and politicians and outside our statutory remit, we can work hard to ensure as many consumers as possible, including the vulnerable, can access markets, get a good deal from traders and suppliers, and be protected from unfair trading.
- 1.12 We are also aware that we do not have all the answers, and in the coming year we plan to work with partners, including groups which represent vulnerable consumers, to learn more about how people's circumstances can affect their ability to engage in markets and get a fair deal.

### ***Ensuring markets can be trusted***

- 1.13 Trust is an essential component of all markets – so essential that we often do not even notice it. We all want to be sure that ‘what we’re seeing is what we’re getting’ – whether we buy it online or in person. And ensuring markets can be trusted is essential if the economy is to develop to its full potential. This is particularly the case in digital commerce, where new business models that could benefit consumers will only flourish if they are trusted. Brands, endorsements from those we know, buyer feedback, trusted trader schemes, contract and consumer law all contribute to people engaging confidently in buying and selling.
- 1.14 In this context we are particularly interested in examining the actions of businesses or the wider functioning of markets which could damage consumer trust. One way we can do this is by prioritising cases in markets for everyday goods and services, things that matter to typical consumers so they can be reassured that competition is working in their interests.
- 1.15 We already have a track record in tackling issues that go to the heart of trust in markets. In the consumer protection part of our portfolio, for example, we have been examining behaviour which may jeopardise this, including supermarket promotions practices,<sup>8</sup> online reviews,<sup>9</sup> and contracts for cloud storage services,<sup>10</sup> so that customers are treated fairly. Meanwhile our work tackling breaches of competition law in the supply of pharmaceuticals to the

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<sup>8</sup> [www.gov.uk/government/news/asda-has-complied-with-its-commitment-to-clear-pricing](https://www.gov.uk/government/news/asda-has-complied-with-its-commitment-to-clear-pricing)

<sup>9</sup> [www.gov.uk/cma-cases/online-reviews-and-endorsements](https://www.gov.uk/cma-cases/online-reviews-and-endorsements)

<sup>10</sup> [www.gov.uk/cma-cases/cloud-storage-consumer-compliance-review](https://www.gov.uk/cma-cases/cloud-storage-consumer-compliance-review)

NHS<sup>11</sup> is directed at ensuring trust in businesses that supply essential public services.

### **Online and digital markets**

- 1.16 Online and digital transactions represent a large and growing part of the economy, underpin most other economic activities and raise interesting and important questions of competition and consumer policy and law.
- 1.17 We welcome the benefits to consumers which digitisation can bring, including increased choice, convenience, lower prices and the increased spurs to efficiency of companies trading online. We must, however, ensure that those who hold market power do not abuse it to the detriment of consumers or other businesses, that algorithms and forms of artificial intelligence do not become a vehicle for collusion and that less digitally literate customers are not left behind.
- 1.18 The digital revolution will continue to change how markets and businesses work. Advances in digital technology and data science mean that businesses are increasingly able to capture and use data about their customers and the wider world to develop different business models and approaches to pricing.
- 1.19 We have already undertaken two market projects into this area: Commercial Use of Consumer Data<sup>12</sup> and Digital Comparison Tools.<sup>13</sup> In addition, we have led a number of enforcement investigations where data and technology have been integral to the harms we found, for example: an Amazon Marketplace cartel,<sup>14</sup> online auction platforms,<sup>15</sup> online gambling,<sup>16</sup> online hotel booking<sup>17</sup> and secondary ticketing.<sup>18</sup> In addition, complexities around technology have been integral to a number of recent merger and market investigations. This will continue to characterise our work in the future.
- 1.20 We embrace many of the changes which technology and increased digitisation of commerce brings. We have harnessed them in how we address market-wide problems, such as Open Banking, which is part of our solutions to problems we found through our retail banking market investigation.<sup>19</sup> But

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<sup>11</sup> [CMA CA98 and civil cartels cases](#)

<sup>12</sup> [www.gov.uk/cma-cases/commercial-use-of-consumer-data](http://www.gov.uk/cma-cases/commercial-use-of-consumer-data)

<sup>13</sup> [www.gov.uk/cma-cases/digital-comparison-tools-market-study](http://www.gov.uk/cma-cases/digital-comparison-tools-market-study)

<sup>14</sup> [www.gov.uk/cma-cases/online-sales-of-discretionary-consumer-products](http://www.gov.uk/cma-cases/online-sales-of-discretionary-consumer-products)

<sup>15</sup> [www.gov.uk/government/news/cma-accepts-commitments-offered-to-address-online-auction-concerns](http://www.gov.uk/government/news/cma-accepts-commitments-offered-to-address-online-auction-concerns)

<sup>16</sup> [www.gov.uk/cma-cases/online-gambling](http://www.gov.uk/cma-cases/online-gambling)

<sup>17</sup> [www.gov.uk/cma-cases/hotel-online-booking](http://www.gov.uk/cma-cases/hotel-online-booking)

<sup>18</sup> [www.gov.uk/cma-cases/secondary-ticketing-websites](http://www.gov.uk/cma-cases/secondary-ticketing-websites)

<sup>19</sup> [www.gov.uk/cma-cases/review-of-banking-for-small-and-medium-sized-businesses-smes-in-the-uk](http://www.gov.uk/cma-cases/review-of-banking-for-small-and-medium-sized-businesses-smes-in-the-uk)

we will also pay particular attention to businesses that misuse it to harm consumers.

- 1.21 We need to make sure our practices, interventions and capabilities keep pace with this evolution of business models and practices. We plan to enhance our understanding of the digital economy through the creation of a digital, data and technology team and continuing to step up our digital forensic capabilities. We are particularly interested in how companies use online data and the growth of algorithms in business decision-making, including price discrimination. You can read more about this in the [Developing the CMA](#) chapter.

### ***Supporting economic growth and productivity***

- 1.22 There is a significant body of evidence<sup>20</sup> on the links between competitive markets, innovation, productivity and economic growth, as the government's Industrial Strategy<sup>21</sup> recognises. Through our actions, therefore, we can help address the UK's longstanding problem with low productivity.
- 1.23 We intend to prioritise cases in markets which underpin and enable economic growth, building on our work in markets of central significance to a well-functioning economy, such as legal services<sup>22</sup> and passenger rail.<sup>23</sup>
- 1.24 Disruptive innovation is often a force for good in markets: good for competition and in turn good for consumers and economic growth. We will take an interest in markets where new entrants and innovative ideas that benefit consumers are being held back, either through anti-competitive practices by bigger or incumbent businesses or by inappropriate policies or regulations. At the same time we support high standards for consumers, and recognise that wider policy considerations beyond competition can be important in areas such as the 'gig' and sharing economies. Disruptors should not benefit from a playing field that is tilted unfairly in their direction through the exploitation of loopholes, nor should they be competing on factors other than those that ultimately benefit customers.
- 1.25 We intend to build on our track record of working in major markets which serve millions of people nationwide, choosing from our range of powers to empower and protect consumers, ensure businesses treat their customers fairly and make these areas of the economy work better.

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<sup>20</sup> [www.gov.uk/government/publications/productivity-and-competition-a-summary-of-the-evidence](http://www.gov.uk/government/publications/productivity-and-competition-a-summary-of-the-evidence)

<sup>21</sup> [www.gov.uk/government/publications/industrial-strategy-building-a-britain-fit-for-the-future](http://www.gov.uk/government/publications/industrial-strategy-building-a-britain-fit-for-the-future)

<sup>22</sup> [www.gov.uk/cma-cases/legal-services-market-study](http://www.gov.uk/cma-cases/legal-services-market-study)

<sup>23</sup> [www.gov.uk/cma-cases/passenger-rail-services-competition-policy-project](http://www.gov.uk/cma-cases/passenger-rail-services-competition-policy-project)

- 1.26 We are also, however, interested in pursuing cases in smaller markets across the UK and those served by small and medium-sized enterprises (SMEs), among whom evidence<sup>24</sup> suggests that there has been a lower level of awareness and understanding of competition and consumer law. SMEs can equally be the victims of anti-competitive practices and we want them to be aware of the law and their rights so they can alert us to anti-competitive practices harming them, as well as being informed enough to avoid breaking the law themselves.
- 1.27 Smaller cases, whilst achieving a relatively modest direct outcome, can have a much bigger effect when we promote them to other businesses in the relevant sector. Our 2015 enforcement investigation<sup>25</sup> into an estate agents cartel and the subsequent targeted communications campaign<sup>26</sup> triggered intelligence which led to another successful investigation<sup>27</sup> into a price-fixing cartel in the sector. More generally, we want to send a signal that competition matters wherever you are across the UK, in companies big or small.
- 1.28 Through actions in all these different areas, as well as fostering competition and protecting consumers, we can drive innovation, productivity and economic growth.

### ***Seeing things through and being agile***

- 1.29 During 2018/19, as well as starting work in new areas, we will see through projects we have already embarked on. We are in markets to secure lasting change and will in general be inclined to see things through, before moving on. We are committed to following through on the recommendations and remedies arising from our market studies and market investigations. This includes those we have completed in the past year, namely our market studies into legal services,<sup>28</sup> digital comparison tools, and care homes for the elderly. We will also not lose sight of the remedies and recommendations from our market investigations into energy and retail banking – markets of enormous importance to millions of households and businesses across the UK. Through our evaluations programme and remedies reviews, we will also come back to markets where we have intervened in the past to ensure that our work was effective, and if needs be we will revisit them.

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<sup>24</sup> [www.gov.uk/government/publications/uk-businesses-understanding-of-competition-law](http://www.gov.uk/government/publications/uk-businesses-understanding-of-competition-law);

[www.gov.uk/government/news/over-half-of-businesses-dont-know-unfair-contract-rules-well](http://www.gov.uk/government/news/over-half-of-businesses-dont-know-unfair-contract-rules-well)

<sup>25</sup> [www.gov.uk/cma-cases/investigation-into-property-sales-and-lettings-and-their-advertising](http://www.gov.uk/cma-cases/investigation-into-property-sales-and-lettings-and-their-advertising)

<sup>26</sup> [www.gov.uk/government/news/cma-warns-estate-and-lettings-agents-not-to-break-competition-law](http://www.gov.uk/government/news/cma-warns-estate-and-lettings-agents-not-to-break-competition-law)

<sup>27</sup> [www.gov.uk/cma-cases/residential-estate-agency-services-suspected-anti-competitive-arrangement-s](http://www.gov.uk/cma-cases/residential-estate-agency-services-suspected-anti-competitive-arrangement-s)

<sup>28</sup> [www.gov.uk/cma-cases/legal-services-market-study](http://www.gov.uk/cma-cases/legal-services-market-study)

- 1.30 We will continue to be agile, using the powers given to us flexibly and innovatively. This includes taking advantage of the opportunities to join up different parts of our toolkit, such as launching competition and consumer protection law investigations based on what we learn from merger investigations or market studies, as we have done following our care homes<sup>29</sup> and digital comparison tools<sup>30</sup> market studies, and following up on our recommendations to government arising from these projects.

### ***Other influences on our portfolio***

- 1.31 Our future portfolio will reflect all these considerations, but is necessarily also influenced by factors beyond our control. These can include fluctuations in the work which we are bound by law to undertake when they come to us, such as merger control and regulatory appeals. It can also include the need to devote resources to defend our decisions in the courts.
- 1.32 Our choices are also informed by our Strategic Assessment, published in November 2014,<sup>31</sup> which remains a relevant analysis of the longer-term risks to UK consumers and markets.
- 1.33 Following the establishment of a new Parliament, we expect the government to publish a new Strategic Steer, which we will have regard to but are not bound by. The Steer represents a helpful and transparent dialogue between the elected government of the day and its independent competition and consumer authority. All our decisions are ultimately, though, based on an assessment of how we can best work to the benefit of consumers, in line with our primary statutory duty.

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<sup>29</sup> [www.gov.uk/cma-cases/care-homes-market-study](http://www.gov.uk/cma-cases/care-homes-market-study)

<sup>30</sup> [www.gov.uk/cma-cases/digital-comparison-tools-market-study](http://www.gov.uk/cma-cases/digital-comparison-tools-market-study)

<sup>31</sup> [www.gov.uk/government/publications/cma-strategic-assessment](http://www.gov.uk/government/publications/cma-strategic-assessment)

## CMA tools and functions

1.34 We take an integrated approach across our work, selecting those tools through which we believe we will achieve maximum benefit for consumers and the UK economy.

1.35 The CMA's functions include the following:

- To investigate mergers that have the potential to lead to a substantial lessening of competition.
- To conduct studies and investigations into markets where there are suspected competition and consumer problems.
- To investigate individual businesses to determine whether they have breached UK or EU competition law and, if so, to end and deter such breaches, and bring criminal proceedings against individuals who commit the cartel offence.
- To enforce a range of civil and criminal consumer protection legislation, tackling issues which suggest a systemic market problem or which affect consumers' ability to make choices.
- to work with sector regulators that have concurrent competition law powers to enforce competition law in the regulated sectors and to promote competition for the benefit of consumers in the regulated sectors (gas, electricity, water, post, aviation, rail, communications, financial and healthcare services).
- To conduct regulatory appeals and references in relation to price controls, terms of licences or other regulatory arrangements under sector-specific legislation.<sup>32</sup>
- To give information and advice in respect of matters relating to any of the CMA's functions to the public, to businesses and to Ministers.

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<sup>32</sup> These include decisions of regulators such as Ofcom, Ofgem, Ofwat, NHS Improvement, the Financial Conduct Authority, the Payment Systems Regulator, Northern Ireland Authority for Utility Regulation, the Office of Rail and Road, and the Civil Aviation Authority.



## 2. Enforcement

- 2.1 Effective enforcement of competition and consumer protection laws remains central to the CMA's purpose. We are determined to protect consumers, and not least the most vulnerable, from illegal anti-competitive practices and from harmful, unfair and misleading trading practices.
- 2.2 Businesses can themselves be the victims of such practices, so we also protect the vast majority of businesses that play by the rules. Anti-competitive practices put up the costs that businesses face in supply chains. They often exclude businesses from markets they want to serve or prevent them from selling at prices and through channels which would attract customers. And by softening the spurs to efficiency that competitive pressures bring, anti-competitive practices weaken the performance of businesses overall.
- 2.3 So, robust enforcement of the law enables markets to work better, to the overall benefit of our economy and our society.
- 2.4 As our recent and continuing work in the multi-billion-pound UK pharmaceutical sector shows, we are willing to pursue big cases through which we have the potential to deliver significant benefit for consumers, taxpayers and the economy generally, and where necessary or appropriate to set important precedents for the future.
- 2.5 Small cases matter too. The 5.4 million<sup>33</sup> smaller businesses across the UK play an essential role in the country's economic growth. It is therefore important that they understand and comply with competition and consumer law, so that they treat their customers fairly and are subject to the competitive pressures which encourage efficiency, greater innovation, higher productivity and, for consumers, better value for money.

### Competition enforcement

- 2.6 **In 2018/19 we propose to build on our progress in taking forward a higher volume of cases, doing so as efficiently and quickly as possible, without compromising fairness and rigour.**
- 2.7 We remain committed to pursuing a high volume of competition investigations at pace. We need to deal with as many instances of harmful conduct as possible, and to bring them to an end as quickly as possible to best protect consumers. This also strengthens the deterrence against further harmful practices. Last year we increased our annual target for launching new

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<sup>33</sup> House of Commons Briefing Paper, number 06152 (23 November 2016), [Business statistics](#).

competition enforcement investigations, from four to six, and we are maintaining this higher target for the coming year.

- 2.8 We will do so alongside retaining high procedural standards and analytical rigour. This is important not only because our decisions are subject to judicial scrutiny – considered to be among the most stringent in the world – but because we want to make decisions that are right: well-reasoned, robust and taking account of all relevant considerations and viewpoints.
- 2.9 We have a solid competition enforcement toolkit and we will be flexible, bold and innovative in using the most appropriate tool to address anti-competitive practices and protect consumers across the UK.
- 2.10 Competition Act investigations, if they are to be fair and rigorous, inevitably take time. Sometimes, particularly in fast-moving markets such as technology sectors, an anti-competitive practice can so weaken a competitor that the damage to competition, and therefore to consumers, has been done before we can reach an infringement decision. In such cases, we will look for quicker ways to resolve our concerns where appropriate, instead of or ahead of reaching an infringement decision.
- 2.11 We will pursue interim measures where appropriate, and as swiftly as possible, to stop the alleged anti-competitive practice for the duration of our investigation.
- 2.12 Or we may seek to secure commitments with the companies we are investigating. We secured commitments in our online auctions investigation<sup>34</sup> to end on a lasting basis the illegal practice; and we did so within six months of our receiving an interim measures application. We also secured commitments in our investigation into the Showmen’s Guild rules on fairgrounds.<sup>35</sup>
- 2.13 We will not agree commitments in every case. But sometimes, as part of a balanced portfolio, it is appropriate to do so. We can then close the case relatively quickly, releasing resources to look into, and combat, other suspected anti-competitive practices.
- 2.14 We will impose substantial fines on companies in breach of competition law where appropriate. We also seek to ensure that individuals in businesses – directors, managers and employees – take full personal responsibility for ensuring that their businesses comply with competition law. In appropriate cases, we will continue to seek disqualification of directors of companies that

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<sup>34</sup> [www.gov.uk/government/news/cma-accepts-commitments-offered-to-address-online-auction-concerns](http://www.gov.uk/government/news/cma-accepts-commitments-offered-to-address-online-auction-concerns)

<sup>35</sup> [www.gov.uk/cma-cases/leisure-sector-anti-competitive-practices](http://www.gov.uk/cma-cases/leisure-sector-anti-competitive-practices)

breach competition law, to ensure that unsuitable individuals cannot serve as company directors and in the most serious cases, we will pursue criminal prosecutions.

- 2.15 Carrying out a high volume of investigations and taking action against companies and individuals who break the law increases the likelihood of legal challenge. We will robustly defend our decisions where it is right to do so, as we have successfully done most recently in the appeal against our decision in the steel water tanks<sup>36</sup> investigation. Although defending appeals is costly and time-consuming, we recognise the importance of, and welcome, judicial oversight of our work and where we are not successful in appeals against our decisions we will learn lessons for future cases.

## Consumer protection

- 2.16 **In 2018/19 we propose to address problems across markets or the actions of individual companies where people are being misled or treated unfairly, where they are unable to exercise choice, or where we can expect to achieve wider impact, for example by developing the law or having a deterrent effect.**
- 2.17 Our powers to protect consumers from unfair trading practices and contract terms complement our powers to protect consumers from anti-competitive practices: both allow us to make positive changes across markets where consumers are losing out.
- 2.18 As well as empowering or protecting people in their purchases, this role complements and reinforces our other work, by addressing problems where a competition enforcement investigation or a markets project does not, or cannot, protect consumers and make a market work in their favour. This could include carrying out consumer enforcement alongside a markets project. In the past year, we have done so with our market study and consumer law compliance review, which led to a targeted consumer protection investigation<sup>37</sup> into care homes for the elderly. We have also launched an enforcement investigation into certain practices of online travel agents<sup>38</sup> following our digital comparison tools market study.
- 2.19 As with our competition enforcement, digital and online commerce is a prominent characteristic of our consumer enforcement, such as our review of

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<sup>36</sup> [www.gov.uk/cma-cases/investigation-into-the-supply-of-galvanised-steel-tanks-for-water-storage](http://www.gov.uk/cma-cases/investigation-into-the-supply-of-galvanised-steel-tanks-for-water-storage)

<sup>37</sup> [www.gov.uk/cma-cases/care-homes-consumer-protection-case](http://www.gov.uk/cma-cases/care-homes-consumer-protection-case)

<sup>38</sup> [www.gov.uk/cma-cases/hotel-online-booking](http://www.gov.uk/cma-cases/hotel-online-booking)

terms and conditions for cloud storage<sup>39</sup> and online gambling<sup>40</sup> services, and our online secondary ticketing investigation.<sup>41</sup>

- 2.20 But we are mindful that some people, including more vulnerable consumers such as the elderly or those with a disability, cannot or do not search for, compare and buy goods and services online. So we will also continue to ensure that consumers are protected in more traditional marketplaces, as we did in securing commitments<sup>42</sup> from a major supermarket chain, Asda, to ensure its promotional pricing is fair and clear for shoppers, in clamping down on certain practices in the higher education sector to make sure universities treat their students fairly, and most recently by launching our care homes enforcement investigation mentioned above.
- 2.21 We will also aim to use the Enhanced Consumer Measures brought in under the Consumer Rights Act 2015 to get clear commitments from traders on how they will improve their practices, to secure appropriate redress for any consumers who have suffered financial loss from traders who have broken consumer law, and to help consumers to choose more effectively between different traders in the future.
- 2.22 In its 2016 review of the consumer protection landscape in England and Wales, the National Audit Office recommended that the government should consider introducing civil fining powers to act as a strong deterrent against unfair trading practices and breaches of consumer law. We strongly support this recommendation and will continue to work with government to explore legislative opportunities to introduce these powers.
- 2.23 The CMA is not the only UK agency with consumer protection powers and responsibilities. We will continue to work closely with Trading Standards Services and other consumer enforcement and advisory agencies and organisations to safeguard the rights of consumers across the UK, including the most vulnerable in our society.
- 2.24 Last year we increased our annual target for launching new consumer enforcement investigations, from three to four, and we are maintaining this higher target for the coming year.

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<sup>39</sup> [www.gov.uk/cma-cases/cloud-storage-consumer-compliance-review](http://www.gov.uk/cma-cases/cloud-storage-consumer-compliance-review)

<sup>40</sup> [www.gov.uk/cma-cases/online-gambling](http://www.gov.uk/cma-cases/online-gambling)

<sup>41</sup> [www.gov.uk/cma-cases/secondary-ticketing-websites](http://www.gov.uk/cma-cases/secondary-ticketing-websites)

<sup>42</sup> [www.gov.uk/government/news/asda-has-complied-with-its-commitment-to-clear-pricing](http://www.gov.uk/government/news/asda-has-complied-with-its-commitment-to-clear-pricing)

## Compliance and complaints

- 2.25 **In 2018/19 we propose to continue to complement tough enforcement with support for businesses through compliance and awareness-raising activities to help prevent anti-competitive practices and unfair trading occurring in the first place.**
- 2.26 We know that most businesses want to comply with the law, so we intend to use the outcomes of enforcement cases to ensure that relevant businesses and consumers are fully aware of the implications for their own behaviour. We will continue to use innovative communications tools to raise awareness of the law, change behaviour, minimise the burden of complying (especially for smaller firms) and encourage complaints when firms see unfair practice by others.
- 2.27 We will target sectors where intelligence and our own research informs us that compliance may be poor, aiming to increase awareness of the law and generate complaints that we can follow up.
- 2.28 We intend to build on our 2017 digital campaign to crack down on cartels<sup>43</sup> and to generate more and better leads for competition enforcement. We will also further promote our cartel screening tool for public procurement professionals. Using research we commissioned from the Behavioural Insights Team, we will make the process for reporting cartel concerns simpler, by ensuring that we have systems in place which are accessible and easy to use.
- 2.29 We also intend to carry out campaigns focused on unfair contract terms and conditions, further promoting our range of materials which help businesses understand the law. And we will apply new insights from updated research into how well businesses understand competition law.
- 2.30 We will continue to make appropriate use of advisory and warning letters in the case of suspected breaches of competition law, encouraging compliance without the need for a full formal investigation, and reinforcing this by publicising the broad facts where appropriate. However, companies which ignore our warnings risk more severe sanctions if our investigations show they have broken the law. This could include a higher fine than may otherwise have been the case, and recently we withdrew immunity from fines in a mobility scooters investigation<sup>44</sup> for this reason.

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<sup>43</sup> [www.gov.uk/government/news/cma-launches-campaign-to-crack-down-on-cartels](http://www.gov.uk/government/news/cma-launches-campaign-to-crack-down-on-cartels)

<sup>44</sup> [www.gov.uk/cma-cases/medical-equipment-anti-competitive-practices](http://www.gov.uk/cma-cases/medical-equipment-anti-competitive-practices)

## Key commitments and initiatives

2.31 We propose that we will:

- launch as many new competition enforcement investigations under the Competition Act 1998 as possible, where we have the requisite evidence, with six as a minimum;
- open new criminal investigations and pursue prosecutions as appropriate;
- continue to improve processes and challenge our ways of working to decrease the time taken to conclude competition enforcement investigations against a rolling three-year average benchmark;
- launch as many consumer cases or projects as possible where we have the requisite evidence, with four as a minimum;
- conclude our consumer enforcement cases or projects effectively either by agreement or by proceeding to litigation, with the majority to be concluded within 18 months of being publicly opened;
- carry out new digital campaigns to help businesses understand and comply with competition and consumer law; and
- apply insights from our further research into businesses' awareness and understanding of the law.

### 3. Markets and mergers

- 3.1 The markets regime allows us to look at specific markets or practices to consider how competition can make markets work better in the interests of customers (whether individuals, households or businesses) and the economy.
- 3.2 Meanwhile through our work on mergers we seek to ensure that the harmful effects of some mergers, which can include higher prices, lower quality or reduced innovation, are addressed or prevented.
- 3.3 We can impose remedies in markets and merger cases to address the problems we find, and we ensure that these are appropriately tested, implemented, monitored and enforced.
- 3.4 We are responsible for deciding on regulatory appeals and references, where firms operating in regulated sectors appeal against the decisions of the relevant regulator. This is an important part of our role as the decisions being challenged often concern significant sums of money and affect millions of consumers across the UK. The billions of pounds invested annually in the regulated sectors highlights the value of an efficient and stable regulatory regime.

#### Markets work

- 3.5 **In 2018/19 we propose to continue to look at specific markets or practices, and consider how competition can work better in these markets in the interests of customers – whether consumers or business customers.**
- 3.6 We intend to do so through using our whole toolkit to best effect, by examining a market in detail and if necessary dealing with some issues we find through targeted competition or consumer enforcement.
- 3.7 In some cases we empower consumers, in others we stop harmful practices; in some cases we control outcomes and in others we address the shape of markets and how they operate. We have a variety of robust actions we can take to ensure that markets work well and that consumers are protected. We are open-minded over which ones to use and will challenge ourselves to be bold and innovative in selecting those which will have the greatest impact in the real world.
- 3.8 Our focus in all our work is on getting the best result for consumers, including vulnerable consumers, to ensure they benefit from better competition in a market and get a fair deal from businesses. We may seek to achieve this

through addressing the underlying, long-term causes of consumers losing out as well as by stepping in if necessary to deal with the symptom in the short term.

- 3.9 We currently have underway one market investigation,<sup>45</sup> which we are carrying out under an improved, more streamlined process.<sup>46</sup> Having recently concluded our market studies into digital comparison tools<sup>47</sup> and care homes for the elderly,<sup>48</sup> we expect to launch at least one further markets project in 2017/18.

## Merger control

- 3.10 **In 2018/19 we propose to build on the improvements we have made in the past three and a half years, embedding and further evolving an efficient, effective and targeted end-to-end process across both phase 1 and phase 2, reducing burdens for businesses whilst protecting consumers.**

- 3.11 The voluntary nature of the UK merger regime is valued by business as it ensures that mergers which raise no competition concerns are not unduly held up by regulatory scrutiny, and thus helps to minimise burdens on business. In order to deter anti-competitive merger activity while preserving the benefits of the voluntary regime, the CMA will maintain a balanced and targeted approach to investigating non-notified mergers. To help us to achieve this we will continue to welcome informal briefings from companies so that we can advise on whether a potential merger is likely to come under scrutiny.

- 3.12 To protect consumers and ensure competitive markets, it is important that we carry out in-depth phase 2 investigations on those mergers which raise competition concerns following our phase 1 review and which cannot be resolved through undertakings in lieu. We recognise that such investigations are time-consuming and costly for the businesses involved. To minimise the cost and duration, we already have a degree of staff crossover between phases, whilst continuing to ensure the independence of phase 2 decision-making. We will continue to further reduce the burden for businesses by using evidence given by main parties and by third parties during phase 1 investigations.

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<sup>45</sup> [www.gov.uk/cma-cases/investment-consultants-market-investigation](http://www.gov.uk/cma-cases/investment-consultants-market-investigation)

<sup>46</sup> [www.gov.uk/government/consultations/updated-guidance-on-the-cmas-approach-to-market-investigations](http://www.gov.uk/government/consultations/updated-guidance-on-the-cmas-approach-to-market-investigations)

<sup>47</sup> [www.gov.uk/cma-cases/digital-comparison-tools-market-study](http://www.gov.uk/cma-cases/digital-comparison-tools-market-study)

<sup>48</sup> [www.gov.uk/cma-cases/care-homes-market-study](http://www.gov.uk/cma-cases/care-homes-market-study)



- 3.13 To manage the end-to-end process in the most efficient way, we will continue to fast-track appropriate mergers to phase 2, as soon as possible, as we have done in the past with BT Group plc's acquisition of EE Limited,<sup>49</sup> the merger between Ladbrokes plc and certain businesses of Gala Coral Group Limited,<sup>50</sup> and Tesco PLC's acquisition of Booker Group plc.<sup>51</sup>
- 3.14 We will continue to review policies and sharpen up our practices, and to provide further clarity for companies and professional advisers. In 2017/18 we did this by updating our merger notice, issuing guidance around initial enforcement orders and mergers intelligence guidance.

## **Remedies implementation, monitoring, enforcement and review**

- 3.15 **In 2018/19 we propose to focus on following through our remedies to make sure they have the desired effects, actively manage our stock of existing remedies, and ensure that new remedies get the right result.**
- 3.16 A strong remedies process is essential to the efficacy of any competition regime as this is very often how competition authorities' decisions are put into practice.
- 3.17 Building on our work with the UK Competition Network,<sup>52</sup> we will continue to develop a better understanding of consumer behaviour to inform proposed demand-side remedies. We will consequently design, test and implement remedies which are proportionate, timely and reflect a clear understanding of how people choose and purchase goods and services.
- 3.18 As part of the CMA's wider aim to improve our understanding of the digital economy and how consumers and businesses operate within it, we intend to explore ways to simulate aspects of the online commercial environment. This will allow us to experiment with different ways to address the difficulties and issues people encounter when buying online, and therefore design, test and implement solutions which will reliably address the concerns we find.
- 3.19 To secure lasting change, we make sure that organisations – whether public or private – adhere to the remedies we order so that households and other businesses achieve the intended benefits. Where necessary, we will issue public directions to organisations which do not comply. For example, in the past four months we have issued directions to the Co-operative Bank<sup>53</sup> and to

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<sup>49</sup> [www.gov.uk/government/news/btee-merger-fast-tracked-to-phase-2-investigation](http://www.gov.uk/government/news/btee-merger-fast-tracked-to-phase-2-investigation)

<sup>50</sup> [www.gov.uk/government/news/ladbrokescoral-merger-fast-tracked-to-phase-2-investigation](http://www.gov.uk/government/news/ladbrokescoral-merger-fast-tracked-to-phase-2-investigation)

<sup>51</sup> [www.gov.uk/government/news/tescobooker-merger-referred-for-in-depth-investigation](http://www.gov.uk/government/news/tescobooker-merger-referred-for-in-depth-investigation)

<sup>52</sup> [www.gov.uk/government/publications/behavioural-remedies-design-testing-and-lessons-learnt](http://www.gov.uk/government/publications/behavioural-remedies-design-testing-and-lessons-learnt)

<sup>53</sup> [www.gov.uk/government/publications/directions-issued-to-the-co-operative-bank](http://www.gov.uk/government/publications/directions-issued-to-the-co-operative-bank)

seven NHS hospitals<sup>54</sup> for not complying with remedies from our retail banking and private healthcare market investigations respectively. In the most serious cases, we can pursue organisations that continue not to comply through the UK courts, which have the power to impose injunctions and fines.

- 3.20 Alongside monitoring companies' adherence to our newer remedies, we will make sure that our older remedies continue to service a useful purpose and do not impose unnecessary costs on businesses or distort how markets operate.
- 3.21 We will continue our programme of reviews of existing remedies, and our mergers remedy portfolio in particular is in much better shape following our focused work over the past two years. Removing remedies which are no longer appropriate lightens the administrative load on affected businesses and allows us to make the best use of taxpayers' money by focusing our monitoring and enforcement on those remedies of greatest value to consumers and markets.
- 3.22 The CMA is subject to statutory timescales for the implementation of remedies – we are proposing to maintain our commitment to meet these timescales without the need for an extension in at least 80% of phase 2 merger and market cases.
- 3.23 In the coming year, we will conclude our review of remedies guidance across phase 1 and phase 2 mergers, consulting on any improvements.

## **Regulatory appeals and references**

- 3.24 **In 2018/19 we propose to continue to carry out our duties for references concerning, and appeals against, the decisions of certain regulators.**
- 3.25 This is an important part of our role and the decisions being challenged often concern significant sums of money for the regulated companies and affect millions of households and businesses across the UK. The scale of investment in regulated sectors – amounting to billions of pounds annually – highlights the importance of the CMA helping to ensure an efficient and stable regulatory regime for business.
- 3.26 In 2017/18 we published new guidance on how we carry out regulatory appeals in four markets: energy, telecommunications, payment systems and

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<sup>54</sup> [www.gov.uk/government/publications/private-healthcare-order-2014-directions-issued-to-7-hospitals](http://www.gov.uk/government/publications/private-healthcare-order-2014-directions-issued-to-7-hospitals)

water. We will use these in any new appeals we receive in these markets in 2018/19.

- 3.27 Although it is not possible to predict which (if any) decisions of which regulators will be referred or appealed to the CMA, we will ensure that we have the necessary skills among our staff and panel members to resource these cases appropriately.

## **Key commitments and initiatives**

3.28 We propose that we will:

- launch two to four new markets projects;
- run external symposia focused on the role of trust and impact on vulnerable consumers on approach to defining 'well-functioning' markets;
- seek to clear at least 70% of phase 1 merger cases that are less complex (and therefore do not require an issues meeting and case review meeting) within 35 working days;
- seek to complete 70% of phase 2 merger cases without an extension to the statutory deadline, measured as a three-year average of all relevant merger cases;
- seek to implement phase 2 merger and market investigation remedies without the need for an extension to the statutory deadline in at least 80% of cases, as measured as a three-year average of all relevant merger and markets cases;
- continue our ongoing review of older remedies and launch three to four further reviews of existing merger or market remedies in the course of the year; and
- Lead the International Competition Network's vertical mergers project, to better understand the approaches which different competition agencies take.

## **4. Partnership, advocacy and evaluation**

- 4.1 **In 2018/19 we intend to build ever closer relationships with partners, to listen to and influence public debate on consumer and competition policy.**
- 4.2 Achieving our mission relies heavily on productive relationships in the UK and internationally, and making the best possible case for competition, including to those whose principal focus is on other policy objectives.
- 4.3 This includes working well with stakeholders throughout and following our projects. Doing so will help to ensure that our interventions achieve the best results for households and businesses, and to help promote the outcomes of our enforcement investigations to help individuals and companies understand and comply with the law.
- 4.4 We also intend to expand our engagement across all nations of the UK. This will help us to better understand the concerns that people, politicians and businesses have, and to better explain how competition, and our work to promote it, benefits consumers, businesses and the UK economy.
- 4.5 Internationally, we will seek to strengthen our international profile, as we move towards playing an increasingly important role in the review of global mergers and international competition enforcement investigations post-Exit.

### **Explaining our work and the role of competition**

- 4.6 In the coming year, we will aim to strengthen the connections between the CMA, and our role in fostering competitive markets, with wider society. We will ensure that we are listening to and working with stakeholders across all nations and regions of the UK, to hear their views and explain our work and the benefits which competitive markets bring.
- 4.7 An important part of this is explaining our choices and our actions in ways which people – and not just those working in the competition and consumer law and economics communities – understand, using clear and accessible language.

### **Consumer engagement**

- 4.8 Through our work we have developed a clear picture of the challenges which ordinary people experience when buying goods and services.

- 4.9 We will continue to improve our understanding of these challenges, by engaging directly with consumers and consumer representative bodies, and developing productive relationships with organisations which represent or have a particular understanding of vulnerable consumers.

## **Understanding business issues**

- 4.10 We have worked hard to build a strong understanding of the issues facing businesses across the entire range of our work, and remain committed to maintaining and developing this understanding in the future.
- 4.11 This includes continuing to engage directly with businesses of all sizes, their representative bodies and trades associations to raise awareness of both the CMA, and of competition and consumer law.
- 4.12 Such engagement with businesses and the organisations which represent them also helps us to gather intelligence on potentially unfair and anti-competitive behaviour and to understand the challenges faced across the economy and society and throughout the UK, which in turn helps to inform where we should focus our work.

## **Concurrent regulators**

- 4.13 The CMA and sector regulators have concurrent powers to enforce competition law in the regulated sectors,<sup>55</sup> which provide essential services to households and businesses across the UK and account for about a quarter of the UK's gross domestic product.
- 4.14 In 2018/19, we intend to build further on the progress we and the regulators have made,<sup>56</sup> helping to ensure that competition law is applied effectively and consistently in markets for essential services. We will continue to fulfil our leadership role in overseeing the operation of the concurrency regime and to work with the sector regulators to enhance each other's expertise. This is in addition to supporting other policy work designed to promote competition and broader thinking and advocacy on opportunities to make these markets work well for consumers.

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<sup>55</sup> Such as energy, rail, water, aviation and financial services.

<sup>56</sup> [www.gov.uk/government/publications/competition-and-markets-authority-annual-concurrency-report-2017](http://www.gov.uk/government/publications/competition-and-markets-authority-annual-concurrency-report-2017)

## Working across the UK

- 4.15 The CMA is a UK institution, and is committed to working on behalf of consumers and businesses across all the nations and regions of the UK. As part of a UK nations and regions strategy, and to take account of national and regional diversity, we will continue to engage with a range of stakeholders in each nation especially through our offices in Belfast, Cardiff and Edinburgh, which provide advice and challenge across the CMA.
- 4.16 To further strengthen our presence in Scotland, we are opening a new, expanded office which we intend to initially grow to 25 to 30 staff. This will allow us to build stronger and wider relationships with Scottish government, business and consumer groups, and will increase our capability to carry out UK-wide projects from Scotland.
- 4.17 In the coming year, we intend to continue to build upon strong relationships with counterpart agencies and with devolved governments in Scotland, Wales and Northern Ireland, and with the Competition and Consumer Protection Commission in the Republic of Ireland. This will help to coordinate our work and better protect consumers, and we will also offer advice as appropriate on regulatory and economic policy initiatives to ensure that effective competition and consumer protection are given due consideration.
- 4.18 We propose to work with other members of the Consumer Protection Partnership (CPP) to improve the transparency of information on parcel delivery surcharging to Northern Ireland and parts of Scotland.
- 4.19 We propose to work with the Welsh Government in relation to the Wales Act 2017, particularly around transport policy and more generally promoting our Competition Impact Assessment tool, and be an active partner with the Wales Consumer Protection Partnership. We also intend to work towards the adoption of Welsh Language Standards.
- 4.20 As well as building on relationships with partners in the nations, we will continue to engage with partners in different English regions, including those with or gaining devolved powers, to help us better understand the challenges facing local economies.
- 4.21 The CMA board is fully committed to visiting and holding its formal meetings in all nations of the UK, and has done so in Belfast, Edinburgh and Cardiff in the past two years, and in Birmingham in September 2017. We intend to continue this programme in the coming year, including with a board meeting in Wales.

4.22 We have also established a network of Regional Champions, comprising directors from across the CMA. As part of their wider responsibilities in the CMA, they will help to lead our engagement with different English regions, both to improve our knowledge of different regions' characteristics and to raise awareness of the CMA.

## **Advocacy**

4.23 Consumers can lose out not only by the practices of businesses, but also by the conduct of government. Government can harness competition to make markets work in consumers' and taxpayers' favour, but may choose to restrict competition to achieve other policy aims.

4.24 Competitive markets are particularly relevant to the government's ambitions to improve productivity across the UK, articulated through its Industrial Strategy.<sup>57</sup> We expect that in the coming year, we will continue to support and challenge the government in the implementation of its Industrial Strategy and proposals for revisions of law or regulatory frameworks following the UK's exit from the EU.

4.25 There is extensive evidence that competition drives productivity in three main ways:

- First, within firms, competition puts a discipline upon managers to make their firms more efficient.
- Second, competition ensures that more productive firms increase their market share at the expense of less productive ones.
- Third, and perhaps most importantly, competition drives firms to innovate, coming up with new products and processes.

4.26 Our ambition is to be seen as a trusted and challenging competition adviser to the UK and devolved governments. We will therefore continue to:

- show how effective competition in markets benefits consumers;
- support policymakers to develop policies, practices and regulations that encourage competition markets in the interests of consumers, businesses and the UK economy; and

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<sup>57</sup> [www.gov.uk/government/publications/industrial-strategy-building-a-britain-fit-for-the-future](http://www.gov.uk/government/publications/industrial-strategy-building-a-britain-fit-for-the-future)

- challenge current and proposed policies that risk harming the interests of consumers by unnecessarily restricting, distorting or impeding competition.

4.27 Our programme of advocacy work will evolve throughout the year. We intend to continue to advise government departments both where they seek our advice on the impact of policies on markets and where we have concerns that the impact of proposed government policies on competition may harm the interests of consumers. This will be particularly so in areas where we have ourselves carried out work recently, including in public procurement, the regulation of higher education and for bus, taxi and private hire services. We will also follow up on recommendations to government we made in our market studies into digital comparison tools and care homes for the elderly.

## **Evaluation**

4.28 Being at the forefront of research and policy development remains a priority for us. We will continue with our programme of economic research aimed at improving how we implement competition policy. In doing so we will work with other competition agencies and we expect to complete two such research projects during 2018/19.

4.29 We will continue to draw on the best academic thinking and practical experience of competition and consumer interventions to evaluate our work, including estimating the impact of each project as it completes and evaluating projects to identify the costs and benefits. We will also continue to learn lessons from past cases, which we can apply to future work.

4.30 We will carry out an in-depth assessment of at least two completed cases, one of which will be carried out by an independent expert from outside the CMA.

## **Key commitments and initiatives**

4.31 We propose that we will:

- continue to play a leading role in the development of competition and consumer protection across the UK and internationally;
- within the UK, continue to play an active role in the CPP and continue to work closely with consumer enforcement, regulatory and advisory bodies in the wider consumer landscape;
- launch one or two new evaluations of previous projects;



- publish two economic research reports; and
- based on our work, make recommendations to the government on the impact of policy frameworks on competition in at least two sectors.

## 5. Developing the CMA

- 5.1 **In 2018/19 we intend to embark on an ambitious transformation programme to further enhance our operational effectiveness, and build an environment for motivated, skilled and diverse people.**
- 5.2 As set out in previous chapters, the digital transformation of the world in which we live and shop is an important focus for our work to protect consumers and make markets work in their favour. It is also highly relevant to how we operate as an organisation. We must ensure that the CMA continues to be an evolving, modern agency, which is fit for the challenges and opportunities of the future.
- 5.3 As part of this we will establish a new digital, data and technology team which will aim to improve how we capture, analyse and draw conclusions from large data sets, how we share them with partners and parties in cases and how we store them for future use. It will also explore new analytical techniques to help develop our understanding of issues in the technology sector.
- 5.4 We anticipate that the role of the team will include:
- to improve our capture and use of data;
  - to understand how firms use data and algorithms, the interactions between consumer issues and data ownership and what implications this might have for consumers and competition;
  - to link into the tech business and research communities in the UK and internationally; and
  - to build a relationship with the Information Commissioner's Office, other relevant regulators and the growing government data community.
- 5.5 We are committed to equality of opportunity and diversity throughout the CMA, making sure the way we work, the policies underpinning our practices and our culture all promote equality, diversity, inclusivity and respect. Having a reputation for taking these matters seriously, where all our staff are supported and developed, work in a positive, supportive environment and are able to reach their full potential whatever their background, will enable us to attract and retain the best staff in a highly competitive market for talented

people. Our Single Equality Scheme sets out our equality objectives and action plan for 2015 to 2019.<sup>58</sup>

## Key commitments and initiatives

5.6 We propose that we will:

- establish a new digital, data and technology team to further enhance our digital capacity and capabilities;
- increase the engagement score in the annual Civil Service People Survey, by taking corporate and local action on feedback from our staff to the survey, fulfilling our ambition to make the CMA a great place to work;
- make further progress towards the objectives set out in our Single Equality Scheme Action Plan. We will give a progress report on how the CMA is demonstrating its achievement of these against its published objectives and our desire to create a diverse and inclusive environment and culture; and
- offer new apprenticeship starts equivalent to 2.3% of headcount.

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<sup>58</sup> [www.gov.uk/government/publications/competition-and-markets-authority-equality-scheme-2015-to-2019](http://www.gov.uk/government/publications/competition-and-markets-authority-equality-scheme-2015-to-2019)

## 6. Preparing for the UK's exit from the EU

- 6.1 Planning for the UK's exit from the EU presents opportunities for the CMA as we expect to take on a bigger role on the world stage post-Exit. Planning for the new arrangements and to take advantage of these opportunities will be an important priority for us in the coming year.
- 6.2 At this point we do not know the exact characteristics of the UK's future relationship with the EU and what, if any, transition phase there will be. We must plan for new arrangements and new responsibilities to come in from as early as March 2019. As the future arrangements and responsibilities become clearer, we must also be able to make tough decisions on our priorities, at pace, so that we can be flexible to new circumstances.
- 6.3 Our preparations have already begun.
- 6.4 Over the past 18 months we have stepped up our antitrust enforcement activity and streamlined and clarified aspects of our mergers and markets work, meaning the UK regime is in good shape to meet the challenges and make the most of the opportunities which Exit will bring – to ensure that consumers, businesses and the UK economy benefit. Nonetheless there will need to be some changes to the legal framework and to how we carry out our work, alongside other national competition and consumer agencies.
- 6.5 Consistent with our role to assist with the development of law and policy options affecting markets, we have been working closely with the UK government and the competition law community, advising on the different policy choices and scenarios that affect the competition and consumer protection regimes. We will continue to do so in the coming year as the details of the UK's exit from the EU and post-Exit policy become clearer. We will also advise government in relation to wider proposals for revisions of laws or regulatory frameworks following the UK's exit from the EU where they may affect competition.
- 6.6 Our close working within government means we have a sound grasp of the key opportunities and challenges we are likely to face, which in particular fall into the following two areas where we may take on extra work from the European Commission: enforcement of competition law and merger control. The government recognises the need for us to begin to increase our capacity in readiness for Exit, and has allocated us extra funding in 2017/18 to allow us to do so.

## Enforcement

- 6.7 The UK's exit from the EU presents both opportunities and challenges for the CMA's enforcement of competition and consumer protection law.
- 6.8 Competition cases which were previously in the exclusive jurisdiction of the European Commission – often the larger and more complex cases – will be subject to national jurisdiction post-Exit. Effective cross-border cooperation is important for our work and in the future we will continue to cooperate in competition and consumer law enforcement with competition and consumer authorities worldwide, inside and outside the EU. This year we will seek to strengthen the CMA's links with these authorities, and our involvement in international bodies.
- 6.9 It is particularly important that arrangements for the transition ensure clarity in the allocation of existing and post-Exit investigations, processes and remedies. We will also seek sound post-Exit international cooperation agreements so that, for example, we can continue to refer consumer protection cases about traders in other parts of the EU, who are causing harm to UK consumers, to the enforcement authority in the state where that trader is based.
- 6.10 We have a good basis from which to work, having collaborated closely with the European Commission and other authorities in the EU and beyond, including for example with the US Federal Trade Commission in our competition investigation of anti-competitive practices in online sales of posters on Amazon,<sup>59</sup> with the International Consumer Protection and Enforcement Network on online reviews and endorsements<sup>60</sup> and with the EU's Consumer Protection Co-operation programme on car hire.<sup>61</sup>

## Merger control

- 6.11 As with our enforcement work, the UK's exit from the EU presents both opportunities and challenges for merger control as we will need to carry out investigations in parallel with the European Commission.
- 6.12 Many merger investigations which were previously in the exclusive jurisdiction of the European Commission are expected to come under the jurisdiction of the CMA post-Exit. We can therefore expect to see an increase in the number, size and complexity of the mergers we investigate. We will prepare to

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<sup>59</sup> [www.gov.uk/cma-cases/online-sales-of-discretionary-consumer-products](http://www.gov.uk/cma-cases/online-sales-of-discretionary-consumer-products)

<sup>60</sup> [www.gov.uk/cma-cases/online-reviews-and-endorsements](http://www.gov.uk/cma-cases/online-reviews-and-endorsements)

<sup>61</sup> [www.gov.uk/cma-cases/short-term-consumer-car-hire-across-the-european-union-eu](http://www.gov.uk/cma-cases/short-term-consumer-car-hire-across-the-european-union-eu)

take on such investigations to continue to ensure UK consumers do not suffer harmful effects from mergers.

- 6.13 As with our competition enforcement, it is particularly important that we put in place transitional arrangements which ensure clarity in the allocation of existing and post-Exit investigations, processes and remedies.

## **Strong partnerships**

- 6.14 International cooperation is crucial to the successful delivery of our competition and consumer work. With our primary duty to promote competition, both within and outside the UK for the benefit of consumers, we will coordinate our actions with those of agencies in other countries and, where appropriate, help other jurisdictions to develop robust systems.
- 6.15 Given the cross-border nature of the mergers which will come under our scrutiny and the enforcement investigations we intend to pursue, there is a need for greater international cooperation.
- 6.16 We want the strong, mutually beneficial and cooperative relationships that the CMA and its predecessors have worked hard to build with our overseas counterparts to continue and develop further, not just up to, but also beyond, the UK's exit from the EU. This will help us to step into a bigger role in undertaking global merger reviews and competition enforcement cases post-Exit. It is neither in our nor others' interests for the CMA to recede as a contributor to the development of competition and consumer law internationally.
- 6.17 We are starting from a strong base, with good relationships already in place with a range of international groups and agencies, an active International team and having held the presidency of ICPEN and the Chair of the International Competition Network in recent years.<sup>62</sup> However, whilst we have a model for effective cooperation with many other, national competition authorities,<sup>63</sup> the future relationship with the European Commission, particularly in relation to merger control, will require careful development.

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<sup>62</sup> The CMA held the presidency of the International Consumer Protection and Enforcement Network from 1 July 2015 to 30 June 2016. John Fingleton, Chief Executive of the Office of Fair Trading (which merged with the Competition Commission to form the CMA), was Chair of the International Competition Network from 1 May 2009 to 30 April 2012.

<sup>63</sup> Examples in 2017/18 include our work with the Federal Trade Commission on the Integra Lifesciences/Codman Neurosurgery Business merger and the Wilhelmsen Maritime Services/Drew Marine Technical Solutions merger.

## 7. Resources

- 7.1 The 2015 Spending Review settlement allocated the CMA's budget for 2018/19 as a Resource Departmental Expenditure Limit (Resource DEL) budget before depreciation of £65.94 million and a Capital budget of £7.4 million. This is a flat Resource DEL settlement, over the remaining Spending Review period, representing an estimated reduction over the four years of 7% in real terms.
- 7.2 The Resource DEL settlement places a limit of £17.75 million on administration expenditure (before depreciation). Personnel costs represent approximately three-quarters of the CMA's budget.
- 7.3 In the Autumn Budget 2017, the Chancellor allocated an additional £2.8 million funding each year, from 2018/19, for the CMA to take on more cases against companies that are acting unfairly. With this extra funding, the CMA's total RDEL budget for 2018/19 will be £68.7 million.
- 7.4 Resourcing the CMA for activities following the UK's exit from the EU is a key part of our planning process. To enable us to continue preparations, we have secured additional funding from HM Treasury in the 2017/18 financial year. The resource requirement continues to be reviewed and refined as new arrangements and responsibilities become clearer. This ensures that the CMA is well-placed to take tough decisions on priorities and be flexible to new circumstances.
- 7.5 As Accounting Officer, the CMA's Chief Executive is personally responsible for safeguarding the public funds for which he has charge, for ensuring propriety and regularity in the handling of public funds, and the day-to-day operations and management of the CMA.

## 8. Consultation questions

8.1 We hope that this draft Annual Plan gives you a clear impression of our plans and priorities for next year as they currently stand, and we look forward to receiving your feedback and suggestions:

- To what extent do you agree with the overall direction and areas of focus for the CMA set out in the 2018/19 draft Annual Plan?
- Is there anything more you think we should do during 2018/19?
- Is there anything you think we should de-prioritise during 2018/19?







CCS1117488156

978-1-5286-0133-7