

# Competition and Markets Authority Annual Plan 2017/18

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



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Print ISBN 9781474142199

Web ISBN 9781474142205

ID 22031702 03/17

Printed on paper containing 75% recycled fibre content minimum

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

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## Foreword

As we enter a new year of operation, I am pleased with the CMA's progress to date. Through successful interventions in markets which affect millions of households and businesses across the UK, we have delivered well over £2 billion of direct financial benefit to consumers, exceeding ten times our cost to the UK taxpayer.

When we published our draft priorities in December, I said that we felt our existing direction of travel was broadly right. Responses to consultation have helped to confirm that view and so in 2017/18 we will build on our progress to date.

Enforcement to protect consumers and businesses from anticompetitive practices and unfair trading remains central to our purpose. We sharply stepped up our activity last year and we will maintain that momentum in 2017/18, including by increasing our targets for opening new cases. This will be at the expense of neither rigour nor even-handedness, nor the other high professional standards that underpin how we work.

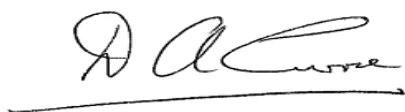
Alongside this, we will use the other tools at our disposal to ensure people get a fair deal when buying goods and services, and that markets work well, both now and in the future, including for the hardest pressed in society.

We are committed to supporting growth in the UK economy. We can do this and help tackle the UK's long-standing productivity problem by supporting conditions that enable innovative businesses that treat their customers well to emerge and succeed.

Over these past three years, we have become increasingly efficient, and increasingly proficient at enabling our staff to achieve their best work. Though we are no longer a new organisation, we remain hungry to find new ways to improve based on our experience, and to ensure we get the most out of our resources.

Wider developments will have a bearing on our role and our work this year, notably the UK's exit from the EU and new government economic strategies. In these discussions we will remain a strong voice for competition, including in our role as a trusted adviser within government. We will play a full part in discussions, but our principal focus remains delivering our duties under the existing legislative framework.

We are not complacent about the challenge, nor what it will take to meet the high expectations that many have for the CMA; we hold those same high expectations. I hope this Plan gives you a clear sense of our plans and priorities, and of what we want to achieve for the economy, for business, and most importantly for consumers across the United Kingdom.



**David Currie**  
*CMA Chairman*

## Highlights of our work last year

Over the past 12 months we have brought several major pieces of work to successful conclusion, ensuring that households and businesses across the UK get a better deal and are protected from anti-competitive and unfair practices.

We have implemented important decisions in two of the biggest investigations ever undertaken by a UK competition authority, into the multi-billion pound energy and retail banking markets. These in-depth reviews have laid the foundations for a transformative change to competition, which will lead to an enduring benefit for millions of households and businesses, whilst introducing measures that protect or empower the vulnerable and 'disengaged'.

The investments made in our first two years of operation have been paying off with enforcement of increased scale, pace and impact. Alongside substantial fines last year, totalling £100 million, our use of other powers also demonstrated our intent. By securing the UK regime's first Company Director disqualification for a competition law breach, as well as protecting the public, we sent a clear message about individual culpability for breaches of competition law. Alongside enforcement, we continued to use innovative communications to raise awareness of these laws and help businesses comply with them.

Online aspects of markets have become a major focus of our work, as many industries have become more digital in how they trade, raising important questions of policy and law. We have carried out competition enforcement investigations against online resale price maintenance and a cartel operating in an online marketplace. And following our cloud storage consumer enforcement investigation, ten companies including Apple, Amazon, Google, Microsoft and BT agreed to provide fairer terms for their cloud storage customers. We have just published the progress report in our market study in digital comparison tools, providing insights into how consumers use and understand these powerful choice-engines, and identifying areas for further exploration by the CMA.

In December 2016 we concluded our market study into legal services, demanding greater transparency for customers of these key services. And we launched a new study into care homes, a vital market for some of our most vulnerable citizens.

This small selection of our achievements in 2016/17 illustrates a sustained journey of increasing impact, pace and scale across all of our work. And as I hope you see from our 2017/18 priorities, this is a journey we are committed to continuing.



**Andrea Coscelli**  
*Acting Chief Executive*

## 1. Introduction

- 1.1 This document sets out the Competition and Market Authority's (CMA's) plans and priorities for the 2017/18 financial year.
- 1.2 The CMA's Annual Plan sets out our approach to our work and how we will fulfil our responsibilities in 2017/18 and achieve an enduring positive impact in markets across the UK. It explains how we will continue to deliver our overall vision and mission, along with our five strategic goals, as set out in our published Vision, Values and Strategy.<sup>1</sup> These remain appropriate and unchanged, and continue to inform our choices and decisions.
- 1.3 After a thorough review, in our fourth year we do not propose significantly to alter our direction. We have built up a broad portfolio of cases which reflect our 2016/17 commitment to step up our enforcement. We enter 2017/18 with a substantial volume of ongoing work and at the time of publication have 14 competition enforcement cases, eight consumer enforcement projects, 19 merger investigations, three regulatory appeals and two market studies underway.
- 1.4 During 2017/18 we will see these through to successful conclusion and open new cases as resources become available. Our capacity to undertake new non-mandatory work is affected by this as well as by the volume of work we are required by statute to carry out.<sup>2</sup>
- 1.5 A major focus of the coming year is to ensure we are using the resources at our disposal as efficiently as possible to see those cases through, open new ones and make further progress in our primary duty to promote competition, both within and outside the UK, for the benefit of consumers.

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<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> For example, a regulatory appeal or merger investigation.



## Our priorities for 2017/18

- 1.6 As markets evolve rapidly, we will continue to prioritise work that has the greatest impact on ensuring a good deal for consumers – including the most vulnerable – and where we can support innovation and growth across the UK.
- 1.7 With finite resources, we take a strategic approach to determining which cases to pursue and which sectors or issues to prioritise. We do so using our Prioritisation Principles,<sup>3</sup> balancing likely consumer benefit and strategic significance against risks and resources. We also take account of the activity, capacity and interests of our partners.
- 1.8 In this section we describe the sectors and behaviours which we are particularly interested in as we decide which work to carry out. Our choices are informed by our Strategic Assessment, published in November 2014,<sup>4</sup> which remains a relevant analysis of the longer-term risks to UK consumers and markets. The Assessment highlights a number of thematic areas, all of which are significant for the CMA going into 2017/18:



### Regulated sectors and infrastructure markets

- 1.9 Ensuring affordability and quality in regulated sectors is important for consumers, as these sectors provide essential services to virtually all households and businesses in the country. Intervening in and promoting competition within regulated sectors to make them work well for consumers and businesses therefore remains a priority for us in the coming year.
- 1.10 We have now implemented the remedies arising from our market investigations into the energy<sup>5</sup> and retail banking<sup>6</sup> markets, and we will continue working with Ofgem and the Financial Conduct Authority (FCA) to ensure that our remedies deliver the intended benefits for consumers, businesses and the UK economy.
- 1.11 We will continue to prioritise cases which allow us to make an enduring difference in regulated markets, which are of central importance to millions of families and businesses.

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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/government/publications/cma-strategic-assessment](http://www.gov.uk/government/publications/cma-strategic-assessment)

<sup>5</sup> [www.gov.uk/cma-cases/energy-market-investigation](http://www.gov.uk/cma-cases/energy-market-investigation)

<sup>6</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)

- 1.12 Sector regulators and the Competition Appeal Tribunal can also refer work to us. We will conclude two telecoms regulatory appeals in April 2017, we have one appeal in the energy sector underway and the FCA is currently consulting on making a market investigation reference of the investment consultancy market to the CMA.



### Markets for public services

- 1.13 We retain our interest in markets for the delivery of public services. We launched a new market study in December 2016 to explore the care homes market across the UK.<sup>7</sup> And we continue to carry out competition enforcement investigations into anti-competitive practices in the pharmaceutical sector, in particular into suspected unfair pricing in the supply of certain pharmaceutical products to the NHS.
- 1.14 Our aim is to help ensure that users of public services get good outcomes, that they are protected when making important decisions at often vulnerable times, and that taxpayers get the improvements in value for money that competitive markets can offer. Successive UK governments have recognised how competition and market-based solutions can play a part in public service delivery, with the ability to deliver lower prices, increase efficiency and offer greater choice for consumers.



### Sectors that are important to economic growth

- 1.15 There is a significant body of evidence<sup>8</sup> on the links between competitive markets, innovation, productivity and economic growth.
- 1.16 To help address the UK's longstanding problem with low productivity, we will prioritise cases in markets which are important to economic growth, building on our work in markets that underpin a well-functioning economy, such as legal services<sup>9</sup> and passenger rail.<sup>10</sup>

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<sup>7</sup> [www.gov.uk/cma-cases/care-homes-market-study](http://www.gov.uk/cma-cases/care-homes-market-study)

<sup>8</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>9</sup> [www.gov.uk/cma-cases/legal-services-market-study](http://www.gov.uk/cma-cases/legal-services-market-study)

<sup>10</sup> [www.gov.uk/cma-cases/passenger-rail-services-competition-policy-project](http://www.gov.uk/cma-cases/passenger-rail-services-competition-policy-project)



## Consumers' access to markets and barriers to decision-making

- 1.17 Some consumers may find that – by virtue of their circumstances – their access to a market is restricted or they are faced with less choice or higher prices. To drive effective competition, consumers need to be able and willing to access and assess information about the various offers available, and select the deal that gives them the best value and quality. Yet the risk of information overload, alongside practices such as drip pricing, misleading pricing and unfair contract terms, make it harder for consumers to find the right information and choose the best deal for them.
- 1.18 Equipping consumers with the right information and tools is a feature of our remedies in both the energy and retail banking market investigations and our legal services market study, and underpins our market study into digital comparison tools which will conclude later in 2017.<sup>11</sup> In the coming year, we will continue to focus on areas where there are widespread or endemic practices that negatively impact on consumer decision-making or choice.



## Online and digital markets Technology and emerging sectors

- 1.19 Online and digital transactions represent a large and growing part of the economy and also underpin most other economic activities, as well as raising important questions of competition law and policy. Meanwhile, 'challenger' businesses, innovative business models and new technologies have the potential to disrupt markets, both online and offline, often (but not always) to the benefit of consumers.
- 1.20 We will therefore continue to be active in the digital sphere and in emerging sectors. We will invest further in our in-house expertise, to increase our understanding of these new markets and practices and keep up to date with their rapid evolution. Alongside ongoing competition enforcement investigations, including into alleged online sales bans,<sup>12</sup> we have launched our market study into digital comparison tools, and consumer enforcement investigations into online gambling<sup>13</sup> and online secondary ticketing

<sup>11</sup> [www.gov.uk/government/news/cma-launches-study-into-digital-comparison-tools](http://www.gov.uk/government/news/cma-launches-study-into-digital-comparison-tools)

<sup>12</sup> [www.gov.uk/cma-cases/sports-equipment-sector-anti-competitive-practices](http://www.gov.uk/cma-cases/sports-equipment-sector-anti-competitive-practices)

<sup>13</sup> [www.gov.uk/government/news/cma-launches-investigation-into-online-gambling](http://www.gov.uk/government/news/cma-launches-investigation-into-online-gambling)

websites.<sup>14</sup> We expect to undertake further work in this area to achieve sustained benefits for consumers and the economy.

- 1.21 Overall we will build on our track record of working in multi-billion-pound markets, choosing from our range of powers to protect consumers and make these areas of the economy work better. We are also, though, interested in pursuing cases in markets served by small and medium-sized enterprises (SMEs), which are vital to economic growth but where evidence<sup>15</sup> also 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 informed enough to be able to alert us to these, as well as to avoid breaching the rules themselves.
- 1.22 During 2017/18 we will balance kicking off work in new areas with finishing what we have started. We are in markets to secure lasting change and will in general be inclined to see things through, before moving on. Through our evaluations programme and remedies reviews, we will also come back to markets where we have intervened in the past to ensure our work was effective, and if needs be we will revisit them.
- 1.23 Our future portfolio is necessarily characterised by a degree of uncertainty. It can take a lot of careful research to develop initial ideas into concrete proposals, and facts can emerge at any point which can change our views on whether pursuing an idea would be a good use of our resources.
- 1.24 There are a number of factors that are beyond our control, to a lesser or greater extent, which may affect our choices and what we carry out against our aims and intentions over the coming year. This can include fluctuations in the volume of cases which we are bound by law to undertake, such as merger control and regulatory appeals. It can also include the need to devote resources to defend our decisions in the courts, all the more likely given the recent step up in our enforcement output.
- 1.25 During the year we will also need to allocate resource to supporting policy discussions, in particular on the UK's exit from the EU and the UK government's evolving economic strategies. On Brexit, the government's wider approach is gradually unfolding and we say more later in this Plan. During consultation on our draft Annual Plan, the government published a Green Paper on its new industrial strategy and we anticipate a further Green Paper in 2017/18 to examine markets which are not working efficiently or

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<sup>14</sup> [www.gov.uk/government/news/cma-launches-enforcement-investigation-into-online-secondary-ticketing](http://www.gov.uk/government/news/cma-launches-enforcement-investigation-into-online-secondary-ticketing)

<sup>15</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)

fairly. The government approach on each of these issues is still evolving, and we will continue to assess the implications for competition and consumers, advising and responding appropriately. Unless and until there are changes, we will continue to carry out our responsibilities as the UK's primary independent competition and consumer authority, within our current legislative framework.

- 1.26 In late 2015, the government published its new Strategic Steer to the CMA, which we have regard to but are not bound by.<sup>16</sup> There is a close fit between the Steer and our own Strategic Assessment and plans. Ultimately, though, we are independent of government in our choice of work and our prioritisation of specific issues. All of our decisions are based on an assessment of how we can best work to the benefit of consumers, in line with our primary statutory duty, and this is our foremost consideration in the choices that we make as an organisation.

## **CMA tools and functions**

- 1.27 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.
- 1.28 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 particular 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 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,

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<sup>16</sup> [www.gov.uk/government/consultations/competition-regime-competition-and-markets-authority-governments-strategic-priorities](http://www.gov.uk/government/consultations/competition-regime-competition-and-markets-authority-governments-strategic-priorities)

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>17</sup>
- To give information or advice in respect of matters relating to any of the CMA's functions to the public.

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<sup>17</sup> These include decisions of regulators such as Ofcom, Ofgem, Ofwat, Monitor, the FCA, the Payment Systems Regulator, Northern Ireland Authority for Utility Regulation, the Office of Rail and Road and the Civil Aviation Authority.

## 2. CMA vision

2.1 Our mission is to make markets work well in the interests of consumers, businesses and the economy, and our overall ambition is to consistently be among the leading competition and consumer agencies in the world.

2.2 Underpinning our mission are five strategic goals:



### Deliver effective enforcement

to deter wrongdoing, prevent consumers from losing out from anti-competitive mergers or practices, and ensure that businesses and individuals understand the law



### Extend competition frontiers

by using the markets regime to improve the way competition works and by applying competition law and policy in the regulated sectors, alongside sector regulators



### Refocus consumer protection

by working with our partners to promote compliance and understanding of the law, empowering consumers to make informed choices, leading policy development and pursuing precedent-setting cases



### Achieve professional excellence

by managing every case efficiently, transparently and fairly, and ensuring all legal, economic and financial analysis is conducted to the highest international standards



### Develop integrated performance

by bringing together staff from different professional backgrounds to form effective multi-disciplinary teams, complementing the work of other consumer, regulatory and enforcement authorities and acting as a trusted competition adviser across government

### 3. Enforcement

- 3.1 Effective enforcement of the law is central to the CMA's purpose. Our enforcement powers enable us to tackle conduct that breaches competition or consumer law, and to deter businesses and individuals from future infringements. The CMA is determined to protect consumers from illegal anti-competitive practices and from harmful unfair trading practices.
- 3.2 This matters for businesses as well as households – not only because businesses can themselves be the victims of anti-competitive conduct, but because effective enforcement of the law, protecting competition and fair trading, supports good business practice, innovation and increased business efficiency. That, in turn, enables markets to work better, to the overall benefit of our economy and our society.
- 3.3 We are willing to pursue big cases through which we have the potential to deliver significant benefit for consumers or the economy generally, and where necessary or appropriate to set important precedents for the future. We recognise the possibility of legal challenge such cases present and will robustly defend our decisions where it is right to do so. As our enforcement activity increases, so does the expected number of legal challenges to our decisions. At April 2017 we face three appeals against our competition enforcement decisions at the Competition Appeal Tribunal. We welcome judicial oversight of our work and where we are not successful in appeals against our decisions we will learn lessons for future cases.

#### Competition enforcement

- 3.4 **In 2017/18 we will 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.**
- 3.5 Alongside retaining high procedural standards and analytical rigour, we are committed to increasing the speed and volume of our casework. We see this as essential to protecting consumers – and business customers, including small and microbusinesses – by ensuring that specific anti-competitive practices are ended as quickly as possible, and more generally that there is stronger deterrence against breaches of competition law.
- 3.6 We have exceeded our annual targets for opening new civil competition enforcement cases (under the prohibitions in the Competition Act 1998 and the EU equivalents) in each of our first three years, including opening ten new cases in 2016/17 against a target of four.



- 3.7 In this Annual Plan we increase this target by 50%, to a minimum of six new civil competition enforcement investigations for the year.
- 3.8 We continue to seek a balanced portfolio of cases, including large cases that have wider impact and smaller, more local, cases that send the message that no business is beyond the reach of competition enforcement. We aim to tackle anti-competitive practices across the UK, covering the nations and regions therein, and a variety of sectors. Smaller businesses are the foundation of the UK economy and play a crucial role in economic growth. It is therefore important that they are subject to competition law and to the competitive pressures which are the spurs to increased efficiency, greater innovation and higher productivity. This will in turn protect and benefit customers of these businesses, with whose interests we are principally concerned, and the wider UK economy.
- 3.9 As part of protecting consumers from anti-competitive practices, we remain mindful of our ‘competition disqualification’ powers under which individual directors of companies which infringe the competition prohibitions can be disqualified from UK directorships for a period of up to 15 years, either through a binding undertaking or by applying to the court for an order. These powers have been available to the UK competition authorities since 2003, but were used for the first time in November 2016 when we secured a disqualification undertaking from the managing director of one of the parties to a price collusion cartel,<sup>18</sup> for which we had issued an infringement decision in August; the undertaking disqualifies him for five years, reflecting the fact that he had personally contributed to the breach of competition law. The CMA will continue to review the conduct of directors in other cases, and will seek disqualification where appropriate.
- 3.10 Our approach to the criminal cartel offence is guided by lessons learned from the galvanised steel tanks trial in 2015, where those defendants who were found ‘not guilty’ based their defence solely on the grounds that they had not acted ‘dishonestly’, and also on the fact that the law has now been changed so that, for conduct from April 2014 onwards, there is no longer a requirement for the CMA to prove that individuals acted dishonestly to establish the offence. We take a pragmatic view about launching criminal cases where the activity occurred before April 2014. Although they are, all other things being equal, more difficult to prosecute, we note that in the past two years, in two different cases, individuals have pleaded guilty in respect of pre-April 2014

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<sup>18</sup> [www.gov.uk/government/news/cma-secures-director-disqualification-for-competition-law-breach](http://www.gov.uk/government/news/cma-secures-director-disqualification-for-competition-law-breach)

activity. We are actively considering the launch of other cases involving cartel activity from April 2014 onwards, on the basis of ongoing intelligence work.

## Consumer protection

- 3.11 **In 2017/18 we will prioritise projects where there are systemic market problems for consumers, where they are unable to exercise choice, or where we can expect to achieve wider impact, for example, by developing the law or by having a deterrent effect.**
- 3.12 Our powers to protect consumers from unfair trading practices and unfair contract terms complement our powers to protect consumers from anti-competitive practices. As well as protecting people in their purchases, this role complements and reinforces our other work to support productivity and growth, by addressing problems where competition enforcement alone does not, or cannot, make a market work well for consumers.
- 3.13 As with our competition enforcement activity, this work is increasingly in online and digital commerce, such as in the enforcement investigation we recently launched in the online secondary ticketing market.<sup>19</sup> But we also continue to ensure that consumers are protected in more traditional marketplaces, and that we are mindful that not all people can or do access markets using digital channels.
- 3.14 In this Annual Plan we are increasing our target of public launches of consumer protection projects (either initial investigations or reviews in a sector, or targeted enforcement cases) to a minimum of four for the year.
- 3.15 In December 2016 the National Audit Office (NAO) published<sup>20</sup> its review of the consumer protection landscape in England and Wales. It found that the CMA is achieving good impact in addressing market-wide consumer issues and generates at least £74 million of direct financial benefits to consumers, more than 12 times its cost to the taxpayer for these functions. In 2017/18 we will work with the Consumer Protection Partnership to address the NAO's recommendations which aim to make the overall consumer landscape work more effectively. In particular, we strongly support the NAO's recommendation that the government should consider introducing civil fining powers to act as a strong deterrent against unfair trading practices and breaches of consumer law. The Chancellor announced in Budget 2017 that the government would legislate to introduce such powers at the earliest opportunity.

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<sup>19</sup> [www.gov.uk/government/news/cma-launches-enforcement-investigation-into-online-secondary-ticketing](http://www.gov.uk/government/news/cma-launches-enforcement-investigation-into-online-secondary-ticketing)

<sup>20</sup> [www.nao.org.uk/report/protecting-consumers-from-scams-unfair-trading-and-unsafe-goods/](http://www.nao.org.uk/report/protecting-consumers-from-scams-unfair-trading-and-unsafe-goods/)

## Compliance and complaints

- 3.16 **In 2017/18 we will continue to use the outcomes of enforcement cases to ensure that relevant businesses and consumers are fully aware of the implications for their own behaviour.**
- 3.17 We know most businesses want to comply with the law, and so it is important to help them avoid illegal anti-competitive practices and unfair trading in the first place. Alongside stepping up enforcement 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.
- 3.18 We will continue to use research to make our communications as effective as possible, and will target sectors where intelligence informs us that compliance may be poor, aiming to increase awareness of the law and generate complaints that we can follow up.
- 3.19 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.
- 3.20 We will continue to advise and support public procurers and supply chain professionals on how best to detect and deter bid-rigging cartels, including through face-to-face training events successfully trialled in 2016/17 as well as the promotion of our existing online resources. We will work with the Government Commercial Function to find new ways to incorporate awareness of the risk of bid rigging into the curriculum for commercial professionals.
- 3.21 This year we will also launch a new procurement data screening and analysis tool. The free-to-use tool will help procurers to identify signs of bid rigging and investigate suspicious tenders, thereby helping to detect and deter illegal activity.

## Key commitments and initiatives

### 3.22 We will:

- launch as many new civil competition enforcement investigations as possible, where we have the requisite evidence, with six as a minimum;
- open new criminal investigations and pursue prosecutions as appropriate, having regard to lessons from our most recent cases as well as the change in the law in respect of cartel activity occurring from April 2014;
- 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 further cartel 'lead generation' events and communications activity with public procurement and anti-fraud teams in central and local government across the UK, and
- conduct further research into businesses' awareness and understanding of the law, to track progress and help target our compliance activity.

## 4. Markets and mergers

- 4.1 The markets regime allows us to look at specific markets or practices, through our markets projects,<sup>21</sup> to consider how competition can make markets work better in the interests of customers (whether individuals, households or businesses) and the economy. We can, and do, intervene to protect customers where more competition alone is not enough.
- 4.2 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 mitigated, prevented or remedied.
- 4.3 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.
- 4.4 We are responsible for deciding on appeals against the decisions of certain regulators, for example on regulatory price caps. 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

- 4.5 **In 2017/18 we will 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.**
- 4.6 We published the final reports in two major market investigations into energy and retail banking in 2016/17 and have implemented our wide-ranging packages of remedies to make these markets work better for consumers and small businesses. We also concluded our market study into legal services in England and Wales.<sup>22</sup>
- 4.7 In 2017/18 we will conclude the new market studies we launched into digital comparison tools<sup>23</sup> and care homes.<sup>24</sup> We will launch new market studies, calls for information or market investigations, focusing on areas in which we

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<sup>21</sup> Market projects include the statutory tools of market studies and market investigations.

<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/government/news/cma-launches-study-into-digital-comparison-tools](http://www.gov.uk/government/news/cma-launches-study-into-digital-comparison-tools)

<sup>24</sup> [www.gov.uk/cma-cases/care-homes-market-study](http://www.gov.uk/cma-cases/care-homes-market-study)

perceive there to be significant risks to consumers and the effective functioning of markets.

- 4.8 In line with the commitment in our Annual Plan 2016/17, we began a review of how we carry out market investigations and in early March 2017 we published<sup>25</sup> a consultation on proposals for changing the market investigation process. In 2017/18, we will conclude this work and take appropriate steps to improve how we undertake these complex projects as expertly and efficiently as possible.

## **Mergers work**

- 4.9 **In 2017/18 we will build on the improvements we have made in the past two and a half years, to embed an efficient, effective and targeted merger control end-to-end process across both phase 1 and phase 2.**
- 4.10 These end-to-end initiatives included improvements to our pre-notification processes, updates to the Merger Notice, appropriate use of initial enforcement orders and derogations, measures to ensure efficient phase 1 investigation processes, and improvements to our use of undertakings in lieu.
- 4.11 In 2017/18, we will continue to improve the process and procedure of our phase 2 investigations, to both support independent decision-makers in taking effective and robust decisions and to ensure efficiency and proportionate use of resources.
- 4.12 We will develop the skills, knowledge and capacity of our panel members and staff working on the mergers portfolio.
- 4.13 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.

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<sup>25</sup> [www.gov.uk/government/news/cma-proposes-market-investigation-changes](http://www.gov.uk/government/news/cma-proposes-market-investigation-changes)

## Remedies

- 4.14 **In 2017/18 we will make further progress in our systematic review of existing merger and market remedies, and ensure that new remedies which we design and implement are proportionate, timely and reflect a clear understanding of consumer behaviour.**
- 4.15 In 2015/16 we commenced a programme of work to systematically review our existing remedies, with the aim of removing measures that are no longer appropriate or may now be restricting or distorting competition. Removing such remedies not only lightens the administrative burden on affected businesses but also enables the CMA to focus its monitoring and enforcement activities on those remedies of greatest value to consumers and markets.
- 4.16 At the time of publication, we have removed or recommended the removal of 69 remedies, 75% of those we have reviewed to date. We will continue this programme of work, launching further reviews either on our own initiative or in response to submissions from affected parties.
- 4.17 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.
- 4.18 In 2016/17, we launched a joint programme of work with sector regulators through the UK Competition Network (UKCN) to develop a better understanding of consumer behaviour to inform proposed demand-side remedies. We will publish the lessons learnt from this programme in 2017/18.
- 4.19 We will commence an internal review of the rules and guidance applicable to merger remedies across phase 1 and phase 2 investigations. This will help ensure that relevant guidance is aligned and consistent, and will draw on our experiences of the powers we received in April 2014 to accept undertakings in lieu of an in-depth phase 2 investigation.

## Regulatory appeals

- 4.20 **In 2017/18 we will continue to carry out our duties for references concerning, and appeals against, the decisions of certain regulators.**
- 4.21 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.

4.22 The CMA will also review and update, as appropriate, the procedural rules and guidance applicable to its various regulatory appeals functions. This will help ensure that they remain fit for purpose and reflect any lessons learned from recent appeals.

## **Key commitments and initiatives**

4.23 We will:

- launch two to four new markets projects in the course of the year;
- conclude the review of how we carry out market investigations and take appropriate steps to improve how we undertake these projects in the future, including consulting on the strategic role of market investigations and revised markets guidance;
- 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;
- continue our ongoing programme of reviews of older remedies and launch three to four further reviews of existing merger or market remedies in the course of the year;
- commence an internal review of the rules and guidance applicable to merger remedies across phase 1 and phase 2 investigations; 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;
- conclude our joint programme of work with the UKCN to develop a better understanding of consumer behaviour to inform proposed remedies, and publish our findings, and
- review and update, as appropriate, the procedural rules and guidance applicable to our various regulatory appeals functions.



## 5. Partnership and advocacy

- 5.1 **In 2017/18 we will build ever closer relationships with partners, to ensure that the competition and consumer regimes can achieve the maximum possible benefit with minimal duplication or burden on business.**
- 5.2 Achieving our strategic goals depends heavily on effective working with our range of partners and making the best possible case for competition, including to those whose principal focus is on other policy objectives.

### Consumer and business engagement

- 5.3 We have worked hard to build a strong understanding of consumer and business issues across the entire range of our work, and remain committed to maintaining and developing this understanding in the future. This includes continuing to engage directly with consumers and consumer representative bodies, as well as businesses of all sizes, their representative bodies and trade associations to raise awareness of both the CMA, and of competition and consumer law. Such engagement with consumers and businesses 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.

### Consumer partners

- 5.4 We will continue to play an active role in the Consumer Protection Partnership (CPP), which brings together key players in the consumer landscape. In all our work with the CPP we will aim to bring a market focus to its collective assessment of the important issues facing consumers to ensure that the CPP's activities have the widest possible impact.
- 5.5 We will continue to work with the National Tasking Group, part of National Trading Standards, and with Trading Standards Scotland, to ensure that the highest priority consumer cases are allocated appropriately between the CMA and Trading Standards Services (TSS). We will support the work of TSS, for example in the area of unfair contract terms where the CMA holds the policy lead, and will continue to work closely with individual TSS on specific cases.
- 5.6 We will also continue to develop our relationships with other important consumer partners throughout the UK including through the Consumer Concurrency Group, which is chaired by the CMA, and by strengthening our

bilateral relationships with others such as the Advertising Standards Authority, the Information Commissioner's Office and Which?.

## **Concurrent regulators**

- 5.7 We work closely with concurrent regulators, under the enhanced concurrency arrangements that came into effect in April 2014, to help ensure that competition law is applied effectively and consistently in markets for essential services such as energy, rail, water and financial services.
- 5.8 In 2017/18 we will build on the progress we have made to date, continuing to work with the regulators to share expertise and to promote competitive markets through appropriate use of competition law enforcement powers and broader markets work. 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.

## **The UK and beyond**

- 5.9 The CMA is a UK institution, with a remit that extends across England, Northern Ireland, Scotland and Wales. While most of our staff are located in our London office, we have representatives in Scotland, Wales and Northern Ireland. As well as continuing to build on relationships with partners in the nations, we will also continue to engage with partners in different English regions, including those gaining devolved powers, to help us better understand the challenges facing local economies.
- 5.10 We continue to be committed to our board visiting, and holding its formal meetings in, all nations of the UK. Having held such meetings in Belfast, Edinburgh and Cardiff in the preceding two years, we also intend to hold a CMA board meeting in an English region outside London during 2017.
- 5.11 This year we will engage with and advise devolved administrations including, where feasible, local government, on the competition impact of their activities. In particular we will:
- engage with the Northern Ireland government on its development of economic policies to ensure that effective competition is part of the narrative of policymakers;
  - maintain our strong relationship with the Competition and Consumer Protection Commission in the Republic of Ireland to coordinate our work and protect consumers;

- work with the Welsh government to raise awareness of the importance of assessing policymaking for its impact on competition;
- closely monitor and, if appropriate, react to the introduction of the Wales Bill including increased devolution of transport policy in Wales;
- engage with Scottish government proposals for competition and consumer policy and offer advice in support of regulatory and policy initiatives, and
- continue to develop our programme of outreach events to build and reaffirm dialogue with our stakeholders in the nations, and offer relevant advice on competition matters accordingly.

5.12 Internationally, the UK strives to be one of the world's leading competition and consumer regimes. With our primary duty to promote competition, both within and outside the UK for the benefit of consumers, we coordinate our actions with those of agencies in other countries and, where appropriate, help other jurisdictions to develop robust systems.

5.13 The UK's exit from the EU could have a significant bearing upon our work. Its implications for the competition (including enforcement, mergers and markets) and consumer protection regimes, and the CMA, will depend upon the outcome of the exit negotiations and the terms of the future relationship with the EU. We are helping the government to understand how EU exit could affect these regimes as well as identifying key priorities going forward.

5.14 We may need to alter the priorities we set out here in response to this evolving environment although whatever the exit outcome, the CMA will continue its leading role in helping ensure that the economy thrives to the benefit of consumers – as a decision-making authority, adviser to government, and member of the international competition community. It remains our intention that the strong, mutually beneficial and cooperative relationships that the CMA and its predecessors have worked hard to build with our overseas counterparts in Europe and beyond will continue and develop further, not just up to, but also beyond, the UK's exit. So as well as working with the government, we will continue to collaborate with our European and international partners to ensure that consumers are protected, and to influence wider law and policy development.

## **Advocacy to promote competition**

- 5.15 We will continue to use our expertise, knowledge and insight to advise others, including the UK government and the devolved administrations, on how competition can work for the benefit of consumers, businesses and the UK economy. We will challenge current and proposed policies that unnecessarily restrict or impede competition. This includes in relation to the definition and implementation of the government's economic (and other) strategies, and proposals for revisions of laws or regulatory frameworks following the UK's exit from the EU. We will work with colleagues across central and local government to help them to understand the implications for markets of their proposals, and will assist local authorities to understand competition law and the benefits that competitive markets can bring for local areas.
- 5.16 Our programme of advocacy work will evolve throughout the year. We will continue to advise government departments in areas where they, or we, have concerns as to the impact of proposed government policies on competition. This will be particularly so in areas where we have ourselves carried out work recently, as we have in 2016/17 with the regulation of higher education and for bus, taxi and private hire services. We will follow up on themes raised by our enforcement, mergers and markets work, including on energy, rail transport and the markets for medicines and community pharmacy services. Our market study on care homes may also lead to further work with local authorities on how they can best discharge their responsibilities for shaping adult social care markets.

## **Research and evaluation**

- 5.17 We will continue with our programme of economic research aimed at improving how we implement competition policy. We expect to complete two such research projects during 2017/18. We will also continue to draw on the best academic thinking and practical experience of competition and consumer interventions to evaluate our work, including:
- (a) estimating the impact of each project as it completes;
  - (b) evaluating projects to identify the costs and benefits, and lessons learned; and
  - (c) exploring further how best to assess the CMA's wider impact on economic growth including through deterrence or improving the prospects for entry, exit and innovation in markets.

## Key commitments and initiatives

5.18 We will:

- continue to play a leading role in the development of competition and consumer protection 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 cases;
- publish two economic research reports;
- based on our work, make recommendations to the government on the impact of policy frameworks on competition in at least two sectors, and
- support and challenge the government in its implementation of its economic (and other) strategies and its development of policies affecting markets following the UK's exit from the EU.

## 6. Developing the CMA

- 6.1 **In 2017/18 we propose that we will continue to identify opportunities to improve the effectiveness of the organisation, promoting a culture of continuous improvement, diversity and professional excellence.**
- 6.2 We will develop an overarching Corporate Services Strategy, which outlines the vision for our corporate support services, including finance, HR and IT, over the Spending Review 2015 period. We will develop a plan to achieve that vision, including specific actions that we consider necessary to support cultural change.
- 6.3 We believe in the importance of leadership skills and that these are critical to the achievement of CMA's strategic objectives and will focus on various activities to improve our staff survey results on leadership and managing change to be aligned with those for 'High Performing' Civil Service departments.
- 6.4 With the introduction of the Enterprise Act 2016, the CMA has a target to offer apprenticeship starts equivalent to 2.3% of headcount per year: in 2017/18 that equates to approximately 14 starts. This is an opportunity to build our organisational capability and develop new staff skills, as well as supporting the government's social mobility agenda and improving the diversity of our people. We are committed to investing in apprenticeships, and will continue to offer opportunities for our existing staff as well as build capability through attracting new apprentices from outside the CMA.
- 6.5 We aim to help staff achieve their aspirations, potential and the highest standards of performance. We will continue to embed career and professional development for CMA staff through the use of our Career and Professional Development Hub and through leadership from Heads of Profession.
- 6.6 We are committed to promoting equality of opportunity, diversity and inclusivity throughout our organisation. Having a reputation for taking diversity and inclusivity 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. In the coming year, we will make further progress with our five-year Single Equality Scheme Action Plan, and move from being not only a compliant organisation to one that also actively promotes and celebrates diversity.
- 6.7 The CMA is committed to promoting the importance of good mental health and wellbeing in the workplace, tackling stigma and fostering an environment

where colleagues feel comfortable talking about mental health issues. In 2017/18 we will honour this commitment and implement the detailed action plan we signed up to in February 2017 as part of the 'Time to Change' pledge.<sup>26</sup> We will report on our progress in our Annual Report and Accounts.

- 6.8 We will bring together our systems and services to better enable us to increase the pace and quality of our work for the benefit of consumers, through business applications that are better aligned and integrated. We also plan to embed Cloud services across the CMA's applications, to align with the UK government's ICT and Digital Strategy. Our investment in infrastructure and support services will continue, to allow us to realise efficiencies in back-office functions which will in turn achieve more efficient and better quality services to the front line.
- 6.9 We plan to further embed and refine our common approach to managing projects across the CMA portfolio, reflecting on the experience of the CMA to date. This includes exploring how to achieve the outcomes we need with leaner project teams and lower resource costs while ensuring that we retain legal and economic rigour. Our systems and working practices will continue to promote flexibility and collaborative working while maintaining an overarching focus on timely and robust decisions.

## **Key commitments and initiatives**

6.10 We will:

- build our leadership and management skills to improve the engagement score in the annual Civil Service People Survey and become one of the Civil Service High Performers, 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 to promote equality of opportunity, diversity and inclusivity across the CMA. 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;
- offer new apprenticeship starts equivalent to 2.3% of headcount; and
- during the year, meet the government target of paying 80% of undisputed invoices within five working days of receiving them.

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<sup>26</sup> <https://competitionandmarkets.blog.gov.uk/2017/02/09/its-time-to-change-our-minds-on-mental-health/>

## 7. Resources

- 7.1 The 2015 Spending Review settlement allocated the CMA's budget for 2017/18 as a Resource Departmental Expenditure Limit (Resource DEL) budget before depreciation of £65.94 million (including £17.75 million Administration budget, before depreciation) and a Capital budget of £1.3 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 Personnel costs represent approximately three-quarters of the CMA's budget.
- 7.3 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.









ISBN 978-1-4741-4219-9



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