

## EXCEPTION TO THE DUTY TO REFER IN MARKETS OF INSUFFICIENT IMPORTANCE

### COMMENTS ON THE CMA'S CONSULTATION

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#### 1 INTRODUCTION

1.1 Charles Russell Speechlys LLP welcomes the opportunity to comment on the CMA's consultation on amendments to its guidance on how the CMA applies the exception to the duty to refer in markets of insufficient importance (the Consultation).

1.2 Please note that the comments in this response should not be taken to represent the views of any of our clients.

#### 2 THE CMA'S CONSULTATION QUESTIONS

##### **Question 1: Do you agree with the proposed changes to the thresholds?**

2.1 Our understanding from the Consultation is that the CMA's proposed changes to the thresholds are based on an internal review by the CMA of past case practice. This would appear to be an appropriate basis for revising the thresholds.

2.2 However, without seeing the results of the internal review, it is difficult to comment on the specific changes to the thresholds proposed by the CMA.

##### **Question 2: Do you agree with the potential benefits of these proposals?**

2.3 We welcome the CMA's overall aim to seek to reduce the burden of merger control on businesses in appropriate cases.

2.4 As regards the potential benefit of a reduction in the CMA's costs of investigating mergers, it is not clear to us that the proposals would have this effect, given that the thresholds are indicative only and the CMA will still carry out a case-by-case assessment to decide whether to apply the de minimis exception.

##### **Question 3: Do you have any other comments about the proposed changes?**

2.5 In the event that the CMA decides to proceed with the changes, it might be useful to include further cases studies/case references in the guidance (including in relation to relevant cases arising since the guidance was published in 2010) to assist parties with carrying out a self-assessment of whether the exception might apply in a particular case.