

CMA CONSULTATION ON PROPOSED CHANGES TO MARKET INVESTIGATIONS

COMMENTS ON THE CMA'S CONSULTATION

1 INTRODUCTION

1.1 Charles Russell Speechlys LLP welcomes the opportunity to comment on the CMA's consultation on updated guidance on the CMA's approach to market investigations (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 MIs set out under proposal (A) (streamlining the MI process)? If not please explain why and whether there are any alternative changes that would achieve the stated aims set out in paragraphs 1.10 and 1.11?

2.1 We do not wish to comment on this question.

Question 2: Do you agree with the proposed changes set out under proposal (B) (strengthening synergies between market studies and market investigations, and clarifying the relationship between the Board and the Group in relation to the scope of MIs)? If not please explain why and whether there are any alternative changes that would achieve the stated aims set out in paragraphs 1.10 and 1.11?

2.2 We do not wish to comment on this question.

Question 3: What do you consider to be the potential benefits arising from the changes? Are there any possible risks arising from the proposals, and how could these be mitigated?

2.3 In the event that the CMA decides to proceed with the changes, this would lead to the Provisional Findings and Provisional Decision on Remedies being combined into a single Provisional Decision Report. The draft updated guidance indicates (at paragraph 35) as follows:

"As set out in the Rules, the time allowed for the consultation will be no less than 21 days and the CMA applies some flexibility in setting reasonable deadlines case by case in light of the relevant circumstances."

2.4 The current position is that parties normally have at least 21 days to respond to the Provisional Findings and then, later in the process, a further period of at least 21 days to respond to the

Provisional Decision on Remedies. If the CMA only allows a single period of a minimum of 21 days for responding to the Provisional Decision Report, there might be a risk that this would not allow sufficient time to enable parties to respond both on the AEC and on remedies.

Question 4: Is the updated text of the guidance sufficiently clear and does it adequately reflect the proposed changes? If there are particular aspects of the amended text where you feel greater clarity is necessary, please be specific about the aspects concerned and the changes you would propose to improve them.

- 2.5 In light of our comments in response to Question 3 above, in the event that the CMA decides to proceed with the changes, it might wish to consider whether the updated guidance should specify a longer minimum period than 21 days for responding to the Provisional Decision Report.
- 2.6 **Do you have any other comments about the proposed changes and the resulting amendments to the guidance?**
- 2.7 We do not wish to make any other comments.

4 April 2017