

Local Authority Chief Executive

From: John Kirkpatrick
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Dear Chief Executive

Local authorities and competition: a CMA report

In 2015 the Treasury¹ invited the CMA to examine how the actions of local authorities could support competition and challenge them where they did not, and to report on its findings during 2017. The report setting out our work in responding to this commission was published today and is available [here](#).

Over the last two years, the CMA has:

- Challenged local authorities where unnecessary restrictions on competition are being created, for example in the regulation of private hire vehicles;
- Offered insight about specific markets where the CMA has particular expertise, for example in the market for municipal waste; and,
- Sought to build competition expertise within local authorities so that policy makers can understand the risks to the effective functioning of markets, for example by adding to the LGA's Enterprising Councils guidance, and can protect themselves from illegal anti-competitive behaviour through the launch of the CMA's Screening for Cartels data analysis tool.

Initial conversations with the LGA, COSLA, business groups and a range of local government think tanks helped us understand the challenges facing local authorities. We have used the intervening time to explore local authorities' various market roles as buyer, market shaper, supplier and regulator.

¹ HM Treasury, '[A better deal: boosting competition to bring down bills for families and firms](#)' (November 2015)

As a significant *purchaser of goods and services*, local authorities can use their buyer power to capture the benefits of competition and secure excellent value and outcomes for local taxpayers. But equally, if misdirected, this buyer power can distort competition, particularly over the longer term. We have explored some of the risks related to the design of procurement processes, for example the tension between the effort required to run pro-competitive tender exercises and the need to contain the costs of procurement activity. The design of the process can also affect the likelihood of bid-rigging, which can raise costs by up to 30% more than competitive levels.

In some circumstances, local authorities can use their buyer power to *manage competition and shape the market*. This is not straightforward, and requires specialist skills and understanding of particular markets. Our Care Homes Market Investigation explored local authorities' ability to shape the market, and the restrictions imposed by factors outside their control, such as funding or a lack of suitable suppliers.

Where local authorities decide it is in the best interests of local consumers to *provide goods or services directly*, it is important that the potential impact on private sector providers is assessed and fully considered. Particular risks arise where Local Authority Trading Companies and other commercial vehicles are employed. Such commercial enterprises are not in themselves bad for competition. Indeed, a greater number of competitors is generally speaking a good thing and public provision may be a good way to capture efficiencies. But issues can arise if public ownership gives a trading company an unfair advantage over other competitors. Importantly, even a perception that a trading company is competing unfairly may have a negative impact on the way the market operates, potentially leaving local consumers, businesses and even the local authority itself facing reduced choice, poorer services and higher prices.

Local authorities also have a key role in *regulating markets* to meet public policy goals, such as public safety, and to secure positive outcomes for the local economy, businesses and consumers. As with regulation by central government, there is a risk of unintended consequences of regulation, particularly if the regulation favours a particular business model or unintentionally limits the ability of consumers to make and act on informed choices.

These interactions between local authorities and competition are explored in more detail in the examples in the CMA's report. We hope that, together, they will provide a helpful set of case studies that will give you a greater insight into how your authority can identify and address competition risks, and secure the benefits of competition for local consumers and taxpayers.

I would like to thank all those local authority officials and representatives that gave their time and expertise to helping us in this work. I would particularly like to acknowledge the substantial support given by the Local Government Association.

This report does not signal the end of our interest in local authorities. We will continue to work with local authorities as appropriate, including through follow up work on the care homes market and our recently announced heat networks market study. If you would like to discuss any of the issues raised in this report, please do not hesitate to contact me.

Yours faithfully

John Kirkpatrick
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