

CMA CONSULTATION ON DRAFT REVISED CMA GUIDANCE ON THE APPROPRIATE AMOUNT OF A PENALTY

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 draft revised CMA guidance on the appropriate amount of a penalty (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 set out in chapter 5? Please give reasons for your views.

2.1 Our comments relate to the CMA's proposed changes to the guidance concerning the starting point for the CMA's penalty calculation (Step 1), as set out in paragraph 2.6 of the draft revised guidance.

2.2 In paragraph 2.6 the CMA draws a distinction between two different categories of infringements of the Chapter I prohibition/Article 101: (1) cartel activities and other non-cartel object infringements which are inherently likely to cause significant harm to competition and (2) less serious object infringements and infringements by effect. The draft guidance indicates that the first category will generally fall within the 21 to 30% starting point, whereas the second category will be likely to fall within the 10 to 20% starting point.

2.3 It would be useful if the revised guidance could provide further detail on what the CMA considers to be covered by the phrases "other non-cartel object infringements which are inherently likely to cause significant harm to competition" and "less serious object infringements", including the distinction between them. In particular, if possible, it would be useful if the revised guidance could provide examples of the different types of infringements that might be covered by each, including by reference to past cases where appropriate.

Question 2: Are there any other areas of the Current Guidance which you consider could be usefully clarified? Please explain which areas and why.

2.4 We do not wish to comment on this question.