

# Competition law compliance guidance materials

## Competition and Markets Authority

### Department for Business, Energy and Industrial Strategy

RPC rating: **validated**

#### Description of the measure

The Competition and Markets Authority's submission covers 35 guidance publications for businesses concerning compliance with competition law. These publications are designed to offer an alternative to a specific, comprehensive existing CMA guidance document. The list of publications is attached as an annex to this statement. The CMA has provided an assessment for each individual publication, a summary table combining them and an overarching methodology note setting out how the impacts were assessed.

#### Impacts of the measure

The publications, with the exception of four on the list (numbers 1, 24, 28 and 32), are all estimated to result in small compliance savings to business over time, on the basis that familiarisation costs with these publications will be lower than that in the counterfactual. The CMA's assessment for each individual publication provides a link to the document that businesses would otherwise have to read. The 35 measures have a combined EANDCB that rounds to -£0.2 million.

The methodology note sets out the CMA's approach to estimating impacts in some detail. In summary, this involves the following broad steps:

1. *Estimating readership and business population affected.* This uses historical 'unique page view' figures of CMA compliance materials, adjusted for the proportion expected to be from businesses. The unique page view data are projected forward, at a diminishing rate, over ten years.
2. *Establishing the counterfactual.* This divides the affected business population in the counterfactual into three groups: firms that would not seek to familiarise themselves with the law (group 1); firms that would read the existing CMA materials (group 2a); and firms that would use a lawyer's services for familiarisation (group 2b). The percentages in these groups are informed by research commissioned by the CMA on UK businesses' understanding of competition law. 45 per cent of businesses in the sample reported no or very little awareness of competition law and are assumed to constitute group 1.

Of the remaining 55 per cent, the research suggests that 82 per cent (i.e. around 45 per cent overall) would read the existing CMA materials and that 18 per cent (i.e. around 10 per cent overall) would pay for legal advice. These form groups 2a and 2b, respectively.

3. *Estimating the cost of familiarisation for group 1 businesses and the net reduction in cost for group 2a businesses.* For group 1, the CMA estimates the familiarisation cost of reading the new compliance materials but does not attempt to measure benefits. For group 2a, the net benefit over time is calculated through the difference in reading time multiplied by the hourly wage of the reader. For group 2b, it is assumed there is no impact because the CMA considers it highly unlikely that firms will reduce legal fees as a result of the publication of new CMA compliance materials.

## Quality of submission

The CMA has provided an exemplary analysis and presentation. The methodology followed is very well structured and follows sound appraisal principles. The CMA has used evidence to support its assumptions and, where evidence is more limited, adopted prudent assumptions. The inclusion of a summary table and a methodology note alongside the 35 individual assessments is very helpful. The RPC verifies the (rounded) estimated equivalent annual net direct cost to business (EANDCB) of - £0.2 million. Although the thoroughness of the approach may seem slightly disproportionate to the scale of the impact here, the development of the methodology, in particular, should be very useful for future assessments.

The CMA appears to have included the familiarisation cost to businesses in group 1 for two reasons. First, compliance materials are targeted at businesses in this group. Second, although the group will include businesses that are non-compliant with competition law, it also includes compliant businesses at risk of non-compliance through ignorance of the law. On the basis that some businesses in group 1 will not read the new guidance, and that many of those which do will experience a net benefit, these costs could be on the high side for business impact target reporting purposes.

The CMA's estimates do not include savings from businesses no longer needing to use legal services in the same way as at present to help them to understand competition law. Some savings could have been included in the EANDCB figures if there was good evidence to support them.

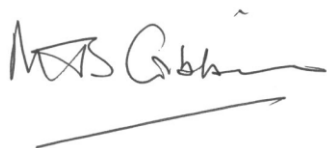
However, on both these points, the RPC accepts that the CMA's analysis is prudent and proportionate.

### Regulator assessment

Classification	Qualifying regulatory provision (OUT)
Equivalent annual net direct cost to business (EANDCB)	£0.2 million
Business net present value	£1.6 million

### RPC assessment<sup>1</sup>

Classification	Qualifying regulatory provision (OUT)
EANDCB – RPC validated	£0.2 million
Business impact target score	£1.0 million



**Michael Gibbons CBE**, Chairman

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<sup>1</sup> For reporting purposes, the RPC validates EANDCB and BIT score figures to the nearest £100,000.

Annex: List of CMA competition law compliance guidance publications covered by this validation.

<b>Publication</b>
1. Advice for directors on avoiding disqualification – 60 second summary
2. Price fixing: guidance for online sellers
3. Online sellers price fixing case study
4. Resale price maintenance: advice for retailers
5. Open letter to schools and school uniform suppliers
6. Advertising of estate agents' fees: competition law lessons
7. Open letter to the property industry
8. Competition law: information for accountants in practice
9. Competition law: advice for company secretaries
10. Competition law: advice for internal auditors
11. Leniency: information for businesses and individuals
12. Agreements and concerted practices
13. SMEs - FILM - Abuse of Dominance
14. SMEs - FILM - Bid-Rigging
15. SMEs - FILM – What happens if you break competition law
16. SMEs - FILM – What you can do to comply with competition law
17. SMEs - FILM – How you can help fight cartels
18. SMEs - FILM – Information you shouldn't share with other businesses
19. SMEs - FILM - Market-Sharing
20. SMEs - FILM - Price-Fixing
21. SMEs - FILM – Suppliers telling retailers what to charge
22. SMEs - FILM - Why Competition Matters
23. High-strength alcohol schemes: competition law issues for retailers
24. CMA advice for alcohol retailers on competition law risks
25. Procurement E-Learning tool
26. Open letter to procurement professionals
27. Resale price maintenance case studies
28. Open letter to retailers and suppliers
29. Private medical practitioners: information on competition law
30. Competition law for private medical practitioners: cans, can'ts and maybes
31. Private medical practitioners: information about fees
32. CMA open letter to private medical practitioners
33. Competition law case studies
34. Competing fairly in business: at-a-glance guide
35. SME compliance checklist