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Chair, Investment Consultancy Market Investigation
Competition and Markets Authority
Victoria House
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London WC1B 4AD

21 September 2018

Subject: Investment Consultancy Market Investigation: Provisional Decision Report and Response Hearing

I write further to our response to the CMA's Provisional Decision Report (PDR) and the related calls and correspondence over the last month between our legal advisers and the case team. Those communications concerned errors we uncovered with the data analysis used by the CMA which we consider material and which cast doubt on the credibility of key aspects of the PDR. Given the significance of this issue, I am bringing this to your personal attention.

The CMA has concluded provisionally that there is an "adverse effect on competition" in the investment consultancy and fiduciary management markets. This conclusion is underpinned by the CMA's data analysis. The most significant piece of analysis is the CMA's work on gains of engagement – where it has provisionally found that less engaged schemes pay significantly higher prices than more engaged schemes when they move into fiduciary management with their existing investment consultant. This finding is important because the CMA relies on it to demonstrate a detriment to customers and it has been used to support a conclusion that competition issues in these markets need to be addressed through the imposition of remedies.

As set out in detail in our response to the PDR, including in a confidential annex, we have several concerns about the CMA's data analysis. These include the use of incorrect data, errors in the CMA's analytical code, and reliance on unrepresentative samples. As a result, the CMA's data analysis on gains from engagement and on the relationship between quality and market shares (using the Greenwich Associates Investment Consultancy Quality Index) – and on which it has relied to reach its provisional conclusion that there is an adverse effect on competition – is flawed, and any calculations of customer detriment are not reliable. Given this, as it stands, there is not an adequate evidential basis for the imposition of remedies in these markets.

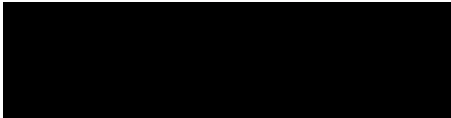
We have asked the case team to issue a corrected version of the data analysis, or otherwise bring these issues to the attention of other interested parties. Although the case team has not challenged our analysis, it has advised that it does not intend to take the corrective actions we have proposed. While Mercer has identified the errors in the non-confidential version of our submission, it is just one of over 40 responses published and may go unnoticed by other interested parties. In addition, because our detailed analysis of the errors will not be made public, we do not think this is a satisfactory position.

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All parties to this investigation need to understand and have confidence in the evidence underlying the CMA's provisional findings to comment effectively on those findings and on the proportionality of the remedies proposed. As such, we maintain that the CMA should take steps now to correct its data analysis, and offer parties a proper opportunity to comment on that revised analysis as soon as possible given the advanced stage of the investigation.

If it would be of assistance, we would be happy to arrange for our economists to speak further with the case team to work through the issues we have raised in more detail.

Yours sincerely



Fiona Dunsire