

Non qualifying regulatory provisions summary (BEIS reporting template)

Table 3: Business Impact Target Reporting Period Covered 8 May 2015 – 8 June 2017

Excluded category*	Summary of measure(s) including any impact data where available**
A – EU and International	We have had no activity in this area
B – Economic Regulation	We have had no activity in this area
C – Price Control	We have had no activity in this area
D – Civil Emergencies	We have had no activity in this area
E – Fines and Penalties	<p>New guidance <i>During the reporting period, we have published 2 guidance documents relating to redress schemes which we consider fall under the exemption E ‘Regulatory provisions concerning fines and penalties, and redress and restitution’.</i></p> <ul style="list-style-type: none"> <p>• Competition law redress: a guide to taking action for breaches of competition law (03.05.16) www.gov.uk/government/publications/competition-law-redress-cma55 <i>Note:</i> this guidance reflects the changes in the law made by the Consumer Rights Act 2015 (CRA) as well as those due to be introduced by the European Damages Directive, reflected in the relevant IA: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/274799/bis-13-911-consumer-rights-bill-proposals-on-enhanced-enforcement-remedies-impact.pdf</p> <p>• Approval of voluntary redress schemes for infringements of competition law (14.08.15) www.gov.uk/government/uploads/system/uploads/attachment_data/file/453925/Voluntary_redress_schemes_guidance.pdf <i>Note:</i> this guidance is new but necessary as result of legislative changes accounted for in the relevant IA: www.gov.uk/government/uploads/system/uploads/attachment_data/file/69124/13-502-private-actions-in-competition-law-a-consultation-on-options-for-reform-final-impact.pdf</p>

F – Pro-Competition	<p>Phase 2 Market Investigation Remedies</p> <p>The following classifications are in line with the recently agreed approach, to be reflected in forthcoming guidance, on how Orders issued by CMA to mitigate specific AECs should be treated under the better regulation framework.</p> <p>During the reporting period, we made Orders as a result of 7 previous market investigations, and revoked 1 obsolete Order:</p> <ul style="list-style-type: none"> • Payday Lending Market Investigation Order 2015 (13.08.15) https://assets.publishing.service.gov.uk/media/55cc691e40f0b6137400001f/Payday_Lending_Market_Investigation_Order_2015.pdf • Revocation of Credit Cards (Merchant Acquisition) Order 1990 (15.10.15) https://www.gov.uk/cma-cases/credit-cards-merchant-acquisition-order-1990-review • Orders implementing the Supply or acquisition of aggregates, cement and ready-mix concrete market investigation (13.04.16) https://www.gov.uk/cma-cases/aggregates-cement-and-ready-mix-concrete-market-investigation • Groceries (Supply Chain Practices) Market Investigation Order (12.07.16) https://www.gov.uk/government/publications/groceries-supply-chain-practices-market-investigation-order • Private Motor Insurance Market Investigation Order (20.07.16) https://www.gov.uk/government/publications/private-motor-insurance-market-investigation-order-2015 • Orders implementing remedies under the Domestic Bulk LPG Market Investigation (03.10.16) https://www.gov.uk/government/publications/liquefied-petroleum-gas-lpg-market-orders-and-calculator • Orders implementing remedies under the Energy Market Investigation (14.12.16) https://www.gov.uk/cma-cases/energy-market-investigation • Orders implementing remedies under the Retail Banking Market Investigation (02.02.17) https://www.gov.uk/cma-cases/review-of-banking-for-small-and-medium-sized-businesses-smes-in-the-uk
G – Large Infrastructure projects	We have had no activity in this area
H – Misuse of Drugs / National Minimum Wage	We have had no activity in this area

I – Systemic Financial Risk	We have had no activity in this area
K – Industry Codes	We have had no activity in this area
L1 – Casework	<p><i>Competition and consumer enforcement work in relation to non-compliant individual businesses falls under the casework exclusion in line with ensuring operational independence.</i></p> <p>Competition enforcement During the reporting period we launched, reached a significant milestone in or closed 16 anti-trust and civil cartel enforcement cases:</p> <ul style="list-style-type: none"> • Property sales and lettings investigation (CA98 Chapter 1, Final Decision 08.05.15) https://www.gov.uk/cma-cases/investigation-into-property-sales-and-lettings-and-their-advertising • Private ophthalmology (CA98 Chapter 1, Final Decision 05.08.15) https://www.gov.uk/cma-cases/conduct-in-the-healthcare-sector • Paroxetine investigation (CA98 Chapter 1 and 2, Final Decision 12.02.16) https://www.gov.uk/cma-cases/investigation-into-agreements-in-the-pharmaceutical-sector • Bathroom fittings sector (CA98 Chapter 1, Final Decision 10.05.16) https://www.gov.uk/cma-cases/bathroom-fittings-sector-investigation-into-anti-competitive-practices • Commercial catering equipment sector (CA98 Chapter 1, Final Decision 24.05.16) https://www.gov.uk/cma-cases/commercial-catering-sector-investigation-into-anti-competitive-practices • Sports equipment sector (CA98 Chapter 1, statement of objections 09.06.16) https://www.gov.uk/cma-cases/sports-equipment-sector-anti-competitive-practices • Online sale of posters and frames (CA98 Chapter 1, final decision 12.08.16) https://www.gov.uk/cma-cases/online-sales-of-discretionary-consumer-products • Phenytoin sodium capsules: suspected unfair pricing (CA98 Chapter II, final decision 07.12.16) https://www.gov.uk/cma-cases/investigation-into-the-supply-of-pharmaceutical-products • Conduct in the modelling sector (CA98 Chapter I, final decision 16.12.16) https://www.gov.uk/cma-cases/conduct-in-the-clothing-footwear-and-fashion-sector

- **Supply of galvanised steel tanks for water storage: civil investigation** (CA98 Chapter I, final decision 19.12.16)
<https://www.gov.uk/cma-cases/investigation-into-the-supply-of-galvanised-steel-tanks-for-water-storage>
- **Suspected anticompetitive behaviour in the funfair sector** (CA98 Chapter I, statement of objections 21.12.16)
<https://www.gov.uk/cma-cases/leisure-sector-anti-competitive-practices>
- **Cleanroom laundry services and products** (CA98 Chapter I, statement of objections 20.01.17)
<https://www.gov.uk/cma-cases/cleaning-services-sector-suspected-anti-competitive-arrangement-s>
- **Light fittings sector** (Chapter I; statement of objections 09.02.17)
<https://www.gov.uk/cma-cases/light-fittings-sector-anti-competitive-practices>
- **Residential estate agency services** (Chapter I, settlement 02.03.17)
<https://www.gov.uk/cma-cases/residential-estate-agency-services-suspected-anti-competitive-arrangement-s>
- **Hydrocortisone tablets** (Chapters I & II, statement of objections 03.03.17)
<https://www.gov.uk/cma-cases/pharmaceutical-sector-anti-competitive-agreements>
- **Supply of products to the furniture industry** (CA98 Chapter I, infringement decision 27.03.17)
<https://www.gov.uk/cma-cases/supply-of-products-to-the-furniture-industry-suspected-anti-competitive-arrangements>

Consumer Enforcement

During the reporting period we launched or secured undertakings/commitments in 6 cases using our Consumer Enforcement powers:

- **Fake online reviews** (undertakings secured 04.03.16)
<https://www.gov.uk/cma-cases/potential-fake-online-reviews-search-engine-optimisation-company>
- **Groceries pricing** (commitments secured 27.04.16)
<https://www.gov.uk/cma-cases/groceries-pricing-super-complaint>
- **Misleading online practices: non-disclosure of paid endorsements** (undertakings secured 11.08.16)
<https://www.gov.uk/cma-cases/non-disclosure-of-paid-endorsements-social-media>
- **Online Gambling investigation** (launched 21.10.16)
<https://www.gov.uk/cma-cases/online-gambling>

- **Secondary ticketing websites** (launched 19.12.16)

<https://www.gov.uk/cma-cases/secondary-ticketing-websites>

- **Cloud storage** (commitments secured 17.02.17)

<https://www.gov.uk/cma-cases/cloud-storage-consumer-compliance-review>

Warning and Advisory letters

During the reporting period, we issued 42 advisory letters (relating to 20 cases and complaints) and 145 warning letters (relating to 29 cases and complaints) to businesses where we had concerns about possible law breaking and to promote compliance. A register of advisory and warning letters can be found here:

www.gov.uk/government/publications/competition-law-warning-and-advisory-letters-register

Merger control

Under the merger control regime, the CMA considers the facts and circumstances specific to the case under the relevant statutory tests. The outcome of each case is in relation to the individual companies related to the merger in question. The CMA cannot set policy for markets through our mergers work.

At **Phase 1**, we made 19 references to Phase 2, 80 unconditional clearances, 21 Undertakings in Lieu of Reference decisions. 7 were de minimis clearances and 3 were found not to qualify. One case was abandoned after an SLC finding.

At **Phase 2**, we made one prohibition, 8 clearances and 5 impositions of remedies (2 behavioural; 4 requiring divestment).

You can find our published Merger inquiry outcome statistics here -

www.gov.uk/government/uploads/system/uploads/attachment_data/file/616707/merger-inquiry-outcomes-to-31-May-17.pdf

A register of orders and undertakings that are currently in force, have lapsed and have been varied or released can be found here:

www.gov.uk/government/publications/mergers-orders-and-undertakings

Variation of undertakings

Where the CMA has found features of a market that give rise to an adverse effect on competition or where a merger situation has resulted, or may be expected to result, in a substantial lessening of competition, the CMA has a duty to remedy it. Remedies can include undertakings volunteered by parties. The CMA reviews existing market and merger undertakings to vary those that need to be updated and remove those that are no longer necessary.

During the reporting period:

- We have varied 1 and released 62 merger undertakings
www.gov.uk/government/publications/mergers-orders-and-undertakings
- We have released 2 market undertakings
www.gov.uk/government/collections/markets-orders-and-undertakings-register

Regulatory appeals

The CMA conducts regulatory appeals and references in relation to price controls, terms of licences or other economic regulatory arrangements under sector specific legislation. This consist of specific case investigations, advice to regulators or decisions including in relation to licensing and as such are covered by the casework exclusion.

During the reporting period, we have started consideration or made a determination in 5 regulatory appeals:

- **Energy price control appeal: Northern Powergrid** (29.09.15)
<https://www.gov.uk/cma-cases/energy-price-control-appeal-northern-powergrid>
- **Energy price control appeal: British Gas Trading** (29.09.15)
<https://www.gov.uk/cma-cases/energy-price-control-appeal-british-gas-trading>
- **Bristol Water plc price determination** (6.10.15)
<https://www.gov.uk/cma-cases/bristol-water-plc-price-determination>
- **Superfast broadband price control appeals: British Telecommunications and TalkTalk Telecom Group** (20.06.16)
<https://www.gov.uk/cma-cases/superfast-broadband-price-control-appeals-bt-and-talktalk>
- **Leased lines price control appeals: CityFibre and TalkTalk** (referred 17.11.16)
<https://www.gov.uk/cma-cases/leased-lines-price-control-appeals-cityfibre-and-talktalk>

<p>L2 – Education, communication and promotion</p>	<p><i>Much of the CMA’s business compliance materials have been subject of business impact assessments and submitted to the RPC for agreement. There are a number of publications and activities which we think fall under the education, communication and promotion exclusion.</i></p> <ul style="list-style-type: none"> • We published a free ‘e-learning’ tool to help procurement officers identify potential anti-competitive behaviour in their supply chains. https://www.gov.uk/government/news/public-procurers-learn-how-to-spot-bid-rigging • We published information on how companies can pay merger fees (15.01.16) and how the mergers intelligence function works (17.06.16) https://www.gov.uk/government/publications/merger-fees-payment-information https://www.gov.uk/government/publications/cmas-mergers-intelligence-function-cma56 • We published information on the CMA’s policies on data breaches (02.08.16) transparency and disclosure (02.12.16) and templates for confidentiality rings and disclosure rooms https://www.gov.uk/government/publications/competition-and-markets-authority-data-breach-policy https://www.gov.uk/government/publications/transparency-and-disclosure-statement-of-the-cmas-policy-and-approach https://www.gov.uk/government/publications/confidentiality-ring-and-disclosure-room-undertakings-templates • We published information on the CMA’s approach to its consumer protection powers (17.08.16) https://www.gov.uk/government/publications/consumer-protection-enforcement-guidance-cma58 • We published information on how the CMA will work with Ofwat during water and sewerage mergers. https://www.gov.uk/government/publications/water-and-sewerage-mergers-cma49 • We have organised a number of opportunities to speak at business-facing events across the UK on compliance issues.
<p>L3 – Activity related to policy development (including formal/informal consultation with stakeholders and ad hoc information requests)</p>	<p>Market reports <i>When conducting phase 1 and 2 markets work, the elements which engage – and potentially impose a burden on – business are evidence gathering and consultation. The CMA has no powers to make law or policy; recommendations made as a result of phase 1 markets work which could impose a burden on business would be assessed under the BIT by the implementing department or regulator. We believe these activities are covered by the policy making exclusion.</i></p> <p>During the reporting period, we launched, updated or published final reports on 11 projects:</p> <ul style="list-style-type: none"> • Commercial use of consumer data report (17.06.15)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/435817/The_commercial_use_of_consumer_data.pdf

- **Online reviews and endorsements findings report** (19.06.15)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/436238/Online_reviews_and_endorsements.pdf

- **Short term car hire in the EU report** (13.07.15)

https://assets.publishing.service.gov.uk/media/55a3cdd940f0b62889000001/Short-term_car_rental_in_the_EU.pdf

- **Response to Which? Super-complaint on grocery pricing** (16.07.15)

https://assets.publishing.service.gov.uk/media/55a6c83540f0b61562000005/Groceries_Pricing_Super-Complaint_response.pdf

- **Public Transport Ticketing Schemes Block Exemption Report** (16.09.16)

To note that the guidance relating to the public transport ticketing block exemption will be included in the QRP submission

https://assets.publishing.service.gov.uk/media/56695090ed915d0362000006/Public_transport_ticketing_schemes_block_exemption_review_-_final_report.pdf

- **Passenger Rail Services Policy document** (08.03.16)

https://assets.publishing.service.gov.uk/media/56ddc41aed915d037600000d/Competition_in_passenger_rail_services_in_Great_Britain.pdf

- **Energy Market Investigation Report** (24.06.16)

<https://www.gov.uk/cma-cases/energy-market-investigation>

- **Retail Banking Market Investigation Report** (09.08.16)

<https://www.gov.uk/cma-cases/review-of-banking-for-small-and-medium-sized-businesses-smes-in-the-uk>

- **Care homes market study launch** (2.12.16)

<https://www.gov.uk/cma-cases/care-homes-market-study>

- **Legal services market study report** (15.12.16)

<https://www.gov.uk/cma-cases/legal-services-market-study>

- **Digital comparison tool market study** (update paper 28.03.17)

<https://www.gov.uk/cma-cases/digital-comparison-tools-market-study>

L4 – Changes to management of regulator	We have had no activity in this area
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*Delete categories that do not apply in the reporting period

** For certain excluded categories – such as A, B, C, F and I – it is good practice to provide narrative description of any significant measures. This will help provide greater transparency and assurance that BIT exclusions are being applied consistently and appropriately.