

International Airlines Group and British Airways plc - Response to Consultation

Draft guidance on the functions of the CMA after the end of the Transition Period

1. This response sets out the views of International Airlines Group and British Airways plc (**IAG/BA**) on the draft guidance on the functions of the CMA after the end of the Transition Period.
2. IAG/BA welcomes the opportunity to comment on the draft guidance, noting the need for the guidance to be clear as acknowledged in question 3.1 of the questions for consideration in the consultation document.
4. To this end, IAG/BA considers that the draft guidance should make clear when the monitoring and enforcement of UK elements of merger or antitrust commitments given to the European Commission may be transferred to the CMA.
5. As the draft guidance notes, at paragraphs 3.33 and 3.34 for mergers and 4.13 and 4.14 for antitrust cases, the European Commission and CMA may agree that the European Commission transfers responsibility to the CMA for monitoring and enforcing the UK elements of commitments, under the Withdrawal Agreement.
6. What is unclear in the guidance is
 - a. Whether the CMA intends proactively to seek that certain commitments will be transferred to its oversight, or would consider requests from affected parties to seek such a transfer; and
 - b. If so, what factors the CMA would use to decide if it was appropriate for it to take responsibility for monitoring and enforcing the UK elements of commitments given in a merger or antitrust case.
7. More clarity on these points would improve legal certainty for parties currently subject to merger or antitrust commitments monitored and enforced by the European Commission where there is a UK element.