

GOV.UK CPI: Environmental Sustainability and the Competition and Consumer Law Regimes

Background

Sustainability is a broad concept, encompassing a range of objectives beyond the need to address climate change. The United Nations Sustainable Development Goals identifies the three core elements of sustainable development as economic growth, social inclusion, and environmental protection.

Similarly, the BEIS Secretary of State's request for advice focuses on 'the CMA's contribution to meeting our shared goals to deliver a Net Zero and more environmentally sustainable economy.' This CFI therefore focuses on environmental sustainability (hereafter, we will use interchangeably environmental sustainability and sustainability).

The CMA believes that regulation and government policy are the primary means to achieve the UK's Net Zero and sustainability goals. However, the CMA also believes that other public bodies and businesses can play an important role through a wide range of initiatives (including cooperation agreements and unilateral initiatives), translating into more sustainable supply chains and more environmentally friendly products and services for consumers.

Competition and consumer law exists to ensure that markets are working effectively and efficiently to meet the needs of consumers. They play an essential role in a productive economy. By examining the extent to which competition and consumer regimes are sensitive to sustainability considerations, we can help ensure they complement wider government policy and regulation in this area. For example, market studies can look at competition and consumer concerns that may exist in nascent sectors which are important to the UK's Net Zero objectives. Consumer law can help us tackle conducts that are harmful both to consumers and the environment, such as misleading 'green' marketing and planned obsolescence.

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This CFI is structured around the CMA's main functions in these areas: (a) competition law enforcement; (b) merger control regime; (c) consumer protection law; and (d) markets regime.

Competition law enforcement

Competition law is designed to protect businesses and consumers from anti-competitive behaviour. The law safeguards effective competition to deliver open, dynamic markets and enhanced productivity, innovation, and value for customers.

Relationship between competition law enforcement and sustainability

Many forms of sustainability agreements are unlikely to restrict competition and so would not be prohibited by Chapter I CA98 of the Competition Act (1998). Indeed, beneficial forms of cooperation – such as grouping together to purchase common inputs or for research and development – are unlikely to harm competition, provided the businesses do not have market power.

The CMA guidance on Environmental sustainability agreements and competition law includes a 'framework for assessment' flowchart to help businesses quickly identify how to make their agreements competition law compliant and thus exploit all the possibilities already available to them under the current framework.

There may however be a tension between competition considerations and sustainability goals in certain circumstances. This can be the case for example where:

- (a) Competitors agree to phase out particular products or technologies in pursuit of sustainability objectives. This could, in some circumstances, amount to a collective boycott that restricts competition.
- (b) Competitors seek to impose new industry-wide standards which go beyond national laws or regulations to meet sustainability objectives (for example, in relation to the environmental performance of products). This could, in some circumstances, give rise to restrictive effects on competition, for example where other companies do not have fair access to the standard.
- (c) Competitors exchange competitively sensitive information as part of a sustainability initiative or during the course of discussions about establishing a possible initiative. This could include, for example, sensitive information about new technologies such as carbon capture technologies.

(d) Businesses making significant investments in unproven, innovative technologies, may wish to mitigate associated risks by entering into long-term agreements for cooperation between actual or potential competitors (or exclusive supply or purchasing). These agreements may have the effect of restricting existing competition or preventing new players or technologies from entering the relevant market.

(e) Competitors agree a common roadmap concerning the increased use of recycled raw materials or phasing out existing unsustainable modes of production and make binding commitments to adhere to the roadmap, which could potentially increase the cost of the final product.

Where a business (or businesses) with market power enters into sustainability initiatives or agreements, this may give rise to a Chapter II infringement risk if the initiative or agreement involves an abuse of this power.

For example, Chapter II infringement risk may arise where:

(a) A business with market power changes its pricing policies in connection with a sustainability initiative to incentivise customers to purchase more sustainable products and/or to use the relevant products or services in a sustainable way.

(b) A business with market power seeks to ensure it can recoup the cost of significant environmental investments through increasing prices or entering into long-term exclusive arrangements.

(c) A business with market power changes the terms on which it sells its products or services in connection with a sustainability initiative, for example making the purchase of one product or service conditional on the purchase of another sustainable product.

(d) A business with market power refuses to deal with suppliers or customers who do not meet sustainability criteria that the business with market power has set, and which are not required by law.

If a business with market power conducts or takes part in a sustainability initiative that might otherwise be considered an abuse of dominance, this conduct may fall outside of the Chapter II CA98 prohibition if it can demonstrate that the conduct in question is objectively justified and proportionate. This would need to be considered on a case-by-case basis and evaluating whether the conduct is 'proportionate' may, in practice, present challenges like those mentioned above.

Competition law enforcement questions

- (a) Are you aware of examples where the CA98 regime has constrained or frustrated actual or potential agreements or initiatives that could support the UK's Net Zero and sustainability goals? Please explain the issue faced and any solutions identified.
- (b) Are there changes to the CA98 regime that would help to achieve the UK's Net Zero and sustainability goals? If so, what changes should be made to the regime, and what would they achieve?
- (c) To the extent not already covered by your responses to the previous questions, are you aware of examples of potential environmental sustainability initiatives which, in your view, would benefit from further CMA guidance or direct engagement with the CMA on the possible application of CA98? If so, please explain what further guidance would be necessary and why.
- (d) While the CMA is concerned primarily with public enforcement, we would also welcome any comments you may have in relation to private enforcement in this sphere. For instance, if you have suggested changes in response to previous questions, what impact, if any, do you think this could have on private actions?

Merger control regime

The CMA has sole responsibility in the UK to investigate mergers between enterprises to ensure that they do not result in a substantial lessening of competition (SLC).

If a merger does give rise to an SLC, the CMA is required to consider remedies.

The CMA has a two-phase merger review process. Most mergers that the CMA reviews are resolved at phase 1, including resolutions via remedies (known as 'undertakings in lieu of reference') offered by the merger parties. Cases that have a realistic prospect of resulting in an SLC (and are not resolved via phase 1 remedies) are subject to an in-depth phase 2 review.

At phase 2, the CMA decides whether the merger is more likely than not to lead to an SLC (that is, on the 'balance of probabilities'). If the CMA finds at phase 2 that a merger is expected to result in an SLC, it will decide what action should be taken to remedy, mitigate, or prevent that SLC, and can impose remedies by order if it is not able to agree them with the businesses, including prohibiting the merger.

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The CMA views competition as a process of rivalry between firms seeking to win customers' business over time by offering them a better deal. Rivalry creates incentives for firms to cut prices, increase output, improve quality, enhance efficiency, or introduce new and better products.

The CMA will consider any merger in terms of its effect on rivalry over time in the market or markets affected by it. When levels of rivalry are reduced, firms' competitive incentives may be dulled, to the detriment of customers.

However, some mergers will benefit customers, either through greater competition in the market ('rivalry-enhancing efficiencies') or through some other benefits to customers ('relevant customer benefits' or 'RCBs').

Rivalry-enhancing efficiencies change the incentives of the merging firms and induce them to act as stronger competitors to their rivals because of the merger. Rivalry-enhancing efficiencies therefore must be relevant to the process of rivalry in the particular market in which the CMA is considering the possibility of an SLC. The CMA may decide not to find an SLC in a merger if the rivalry-enhancing efficiencies outweigh any anticompetitive effects. Benefits to the environment could therefore potentially be considered as rivalry-enhancing efficiencies in appropriate cases to the extent that they impact competition in the relevant market.

RCBs are defined in statute as being lower prices, higher quality or greater choice of goods or services in any market in the UK, or greater innovation in relation to the goods or services.

What constitutes higher quality, greater choice or greater innovation will depend on the facts of individual cases. It might be, for example, that benefits in the form of environmental sustainability and supporting the transition to a low carbon economy are RCBs in some circumstances.

RCBs can be considered in two scenarios:

(a) In some cases, if a merger is likely to result in RCBs and it is likely to lead to an SLC, the CMA will consider those remedy options that preserve the RCBs. In rare cases the CMA may decide that no remedy is appropriate.

(b) In other instances, if the CMA believes that the RCBs will outweigh the SLC, and any adverse effects caused by the merger it can decide not to refer the merger for an in-depth phase 2 review.

Relationship between merger assessment and sustainability

The CMA considers that there may be aspects of the UK's Net Zero and sustainability goals which could affect competition and may therefore be relevant to the CMA's review of mergers, and which can therefore already be considered within the CMA's existing merger control framework. The CMA considers that these are likely to arise in one of three areas of its merger investigations.

First, where firms compete on factors directly relevant to environmental sustainability (eg more sustainable innovative technologies, or their 'green' credentials), a merger between two firms may result in a substantial lessening of this competition.

Second, a merger may result in a rivalry-enhancing efficiency which contributes to the UK's Net Zero and sustainability goals; for example, in moving to a more efficient and sustainable production process or enabling better innovation and R&D.

Third, a merger may result in RCBs which, as discussed above, might include benefits in the form of environmental sustainability and supporting the transition to a low carbon economy.

The CMA however recognises that weighing up an SLC and adverse effects on the one hand against rivalry-enhancing efficiencies or RCBs on the other will present challenges (see above). For example, it may be that quantification of an efficiency or RCB relating to environmental sustainability is very challenging or not feasible. Even if quantification were feasible, the CMA notes that it would be weighing up two very different sets of considerations.

A related challenge is that the 'weighing up' exercise is likely to involve value judgements between competition and sustainability outcomes. While the CMA's assessment does sometimes incorporate certain value judgements, there is not an established framework for doing so in relation to environmental sustainability. In addition, there is not a clear independent body or sectoral regulator whom the CMA could consult on such matters (as it has done with NHS Improvement to assess potential benefits of hospital mergers, for example).

There may also be a challenge in assessing and establishing the merger specificity of a claimed environmental benefit. For example, merging parties may argue that they need the scale and scope of operation that only a merger can bring about to achieve their green objectives. However, when assessing RCBs, the CMA will need to be satisfied that there are no other feasible, less anti-competitive ways of realising the claimed benefits.

Merger control regime questions

- a) If, and how, does the current merger control framework constrain or frustrate initiatives or transactions that might support the UK's Net Zero and sustainability goals? If possible, please provide examples.

A. If the concentration of competition narrows due to mergers taking place, this will negatively impact the consumer as they will face fewer choices, potentially higher prices, and from a business point of view, there is less incentive to innovate and improve since there are very little threats to their position. We fear that less competition could result in business complacency and potentially standards falling as a result. For instance, one area we have been concerned about is with regards to greenwashing techniques businesses are using to sell their products. If low levels of competition exist, there is less incentive to ensure that high standards are met with developing greener products (since no other business can compete to pressure and encourage them to innovate), and therefore complacency could result in poor inaccurate green claims being made.

- b) More specifically, are you aware of any examples of cases reviewed under the current merger regime where environmental factors have not been able to be fully considered? Please provide details.

- c) Do you consider that the CMA's merger control regime could better contribute to protecting the environment and support the UK's Net Zero and sustainability goals? If so, please explain how.

A. Yes – We believe that legislation which encourages competition is a positive outcome for businesses and consumers alike. We agree that merger laws should apply to sustainability goals as less competition will lead to poor innovation which therefore encourages reduced standards and can in turn affect consumers (e.g. facing higher prices, poorer quality goods/services, etc).

- d) Do you consider that the CMA is an appropriate body to assess environmental sustainability factors in relation to merger control, for example, where it is a basis on which firms compete? Do you consider there would be a benefit in having an additional or alternative body or regulator being available to provide advice on such matters? Please explain the reasons for your response.

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A. Yes – We believe that the CMA should hold responsibility for this as they already govern the broader area of competition law and are therefore experienced in this field. This gives them a good understanding of implications can arise should a problematic merger be in the making, and they currently wield enforcement powers to deal with poor business practices. However, on the specific issue on environmental sustainability, it would be sensible for the CMA to consult advice from other key bodies and stakeholders regarding the environmental implications may have from business practices. This would allow them to be fully informed of the facts and help them make better decisions.

e) To the extent not already covered by your responses to previous questions, are you aware of examples of potential environmental sustainability initiatives which, in your view, would benefit from further CMA guidance and/or direct engagement with CMA on the possible application of the merger regime? If so, please explain what further guidance would be necessary and why.

A. We would encourage the CMA to continue focussing their efforts on tackling issues which is currently affecting consumers such as greenwashing. If businesses engage in this practice, the CMA should be equipped with the relevant powers to stop this.

Consumer protection law

Consumer protection law has the fundamental aim of ensuring that consumers can make informed decisions about the products and services which they purchase, and that businesses cannot take advantage of them.

The Consumer Protection from Unfair Trading Regulations 2008 make unfair commercial practices unlawful. This includes:

(a) Misleading actions - a commercial practice which contains false information, or which is deceptive in its overall presentation.

(b) Misleading omissions (omission of information which the average consumer needs to take an informed decision).

In the case of both misleading actions and misleading omissions, for a breach to occur, the action or omission must cause, or be likely to cause, the average consumer to take a different transactional decision than they would otherwise have taken.

The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 mandate the provision of certain information (including information about the main characteristics of goods or services) prior to the conclusion of certain contracts, including those made online.

The Consumer Rights Act 2015 provides that goods sold must be of satisfactory quality and services must be performed with reasonable skill and care.

In addition to consumer protection law, there are also rules protecting businesses. The Business Protection from Misleading Marketing Regulations 2008 are designed to protect businesses from misleading marketing. It applies where a business is a customer of another business and where it is a competitor.

The CMA has powers to enforce these different pieces of legislation. It shares these powers with a wide range of other enforcers, including trading standards services and sectoral regulators.

Relationship between consumer protection and sustainability

The current consumer protection law framework is silent on issues relating to the climate crisis, Net Zero and sustainability goals. It does not, for example, necessarily require businesses to give consumers information about environmental matters (unless, for example, not doing so would be a misleading omission). However, consumers have a significant impact on the environment through the things they buy, and the ways they use and dispose of those things.

Consumer protection law therefore has an important role to play in supporting the transition to Net Zero and the attainment of sustainability goals, by helping to ensure that consumers can make an informed choice about what to buy, and what not to buy. By protecting consumers and business from the provision of misleading environmental information, it can also encourage businesses to invest in and advertise green innovations.

Under the current framework, there are several ways in which consumer protection law can be applied to tackle consumer harm, and shift business and consumer behaviour to support the transition to Net Zero. These include tackling poor quality home efficiency services, greenwashing, planned obsolescence, dark patterns, and 'sludge'.

Based on our previous experience, and information gathered recently as part of our investigation on misleading environmental claims, we have identified several ways in which the consumer protection framework could be further strengthened to support sustainable consumption. These improvements relate to:

- (a) environmental information requirements;
- (b) obsolescence; and

(c) over-consumption.

‘Dark patterns’ and ‘sludge’ refer to businesses providing misleading information or placing excessively difficult constraints on consumers to acquire information needed to make an informed decision. This can involve misleading website design, publishing fake reviews or manipulating review scores, applying pressure to consumers, or trapping them into subscriptions.

Environmental impact information

As already noted, consumer protection law typically protects consumers from misleading actions. It is designed to prevent businesses from supplying consumers with false information, presenting themselves or their products or services in a way which could deceive consumers.

However, one of the practical difficulties faced by consumers (and indeed by businesses) is a lack of a consistent set of definitions for key environmental terms. One of the most frequent requests in response to the consultation on the CMA’s Making Environmental Claims guidance was for a common glossary of terms to ensure that all businesses were consistent in their meaning. Terms such as ‘biodegradable’ and ‘compostable’ were frequently mentioned, along with phrases like ‘carbon neutral’, ‘carbon negative’ and ‘net zero’.

Introducing standardised definitions into consumer protection law would improve the comparability of products and enable consumers to make better decisions on which products to choose. It would also create a level playing field for businesses.

Consumer protection law also prevents businesses from omitting ‘material information’ which a consumer might need to make an informed decision. Material information includes, among other things, information about the main characteristics of the goods or services being sold. 55. In the CMA’s view, the omission of information about the environmental impact of a product or service may, in some cases, amount to a breach of consumer protection law. This can be particularly problematic if products have a range of environmental impacts across their life cycle from production to disposal, but consumers are only given information about one aspect, or limited aspects, of those impacts.

However, the obligation not to omit material information does not equate to a positive obligation to disclose environmental information in every case.

The most direct and effective means of ensuring that information is disclosed to consumers would be to create specific obligations to do so. There are already several private enterprises exploring means of determining and disclosing the carbon footprint of goods. The European Union is also trialling standardised ‘Product Environmental Footprints’ for 19 specified categories of goods.

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Disclosure of the information could also be achieved by amending the definition of material information that people must be given under consumer protection law, to include specified aspects of environmental information, such as the carbon footprint of the product concerned.

Placing obligations on businesses to provide information necessarily means that businesses must have access to the information that they are required to share. At present, however, while there are obligations on businesses further up the supply chain not to mislead the businesses to whom they sell goods and services, there is no proactive obligation to provide information.

During the CMA's investigation on misleading environmental claims, we have heard frequently from businesses who struggle to obtain environmental impact information from those further up the supply chain. Manufacturers may have difficulty in obtaining information from those supplying raw materials. Manufacturers may also refuse to provide retailers with information that substantiates claims, particularly because, in some cases, those retailers may also be competitors.

Improved supply chain transparency would seem likely to have a positive effect both for businesses further down the supply chain, and for consumers. In turn, this could support better consumer decision-making, as well as incentivising improved environmental performance from companies.

Obsolescence

It is generally accepted that, to meet Net Zero and other sustainability goals, we need to reduce the consumption of resources. 62. One means of reducing the consumption of resources is to extend the useful life of products, by repairing, refurbishing, or reselling them, rather than sending them for recycling or incineration, or to landfill.

The CMA has previously acted for failure to provide information about updates which affect a product's performance.

Although not specifically focused on sustainability, such action does have the benefit of extending the life of products which might otherwise be thrown away.

There are further opportunities to modify consumer protection legislation to ensure that consumers can make informed decisions about, for example, the likely life of a product they are thinking about purchasing. It is already arguable that information about the repairability and durability of a product is 'material information' for the purposes of consumer protection law, and that this information should be provided to consumers prior to purchase. Those requirements could, however, be clarified and strengthened.

It is worth noting though that purely informational remedies based on current patterns of production and consumption are unlikely to move things far enough or fast enough. Indeed,

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it could be seen to endorse the idea that it is acceptable to produce resource-intensive and polluting products provided this is made clear to consumers. Increasing the information available to consumers as a way of changing consumer purchasing habits is therefore only part of the solution to reducing consumption of environmentally damaging products.

Over-consumption

The CMA has already acted in relation to dark patterns which can ‘nudge’ people in to buying the wrong things. Dark patterns, and indeed other online choice architecture not currently prohibited by consumer protection law, can also result in people buying more than they need.

In extreme cases, vulnerable people can be targeted by online advertising making it more likely that they will over-spend and over-consume.

Even in cases where there is no underlying vulnerability, people can be tempted to over-consumption because of marketing practices. These can include practices such as businesses sending follow-up emails to ecommerce site visitors, social norming practices (‘15 people have bought this item today’), and even multi-buy offers.

While the role of consumer protection law has always been to protect consumers from unscrupulous businesses, if the UK is to shift patterns of consumption to meet sustainability goals, further consideration may have to be given to what, until now, have been considered legitimate forms of marketing.

Consumer protection law questions

- a) Does the current consumer protection law framework constrain or frustrate initiatives that might support the UK’s Net Zero and sustainability goals?
- A. Yes – We believe that the existing framework does hinder attempts made to achieve sustainability goals. This is because many guidelines including key environmental definitions are missing from the this so there are no standards set out clearly for businesses to follow. By introducing standardised definitions into consumer protection law, this would improve the comparability of products and enable consumers to make better decisions on which products to choose. It would also create a level playing field for businesses.

- b) What changes to business-to-business protections are required, to address the current issues of supply chain transparency?
- A. Ensure that all actors in the supply chains are held accountable and must abide by rules which requires them to publish details about their products and materials in a clear manner. This will benefit all those concerned in this process as businesses would be able to inform the customer fully about any implications or factors to be aware of with their products. This in turn gives consumers more clarity over how their products were made and reassures them they are safe to use.
- c) What other opportunities are there to develop the consumer protection law framework to help to achieve the UK's Net Zero and sustainability goals?
- A. Ensure that the framework is appropriately equipped to tackle issues such as poor-quality home efficiency services, greenwashing, planned obsolescence, dark patterns, and 'sludge' more effectively.
- d) To what extent should the consumer protection law framework be prescriptive, for example, by mandating provision of particular forms of information, or by prohibiting particular types of conduct, in order to help to achieve the UK's Net Zero and sustainability goals?
- A. We agree with the point raised about modifying consumer protection legislation to ensure that consumers can make informed decisions about, for example, the likely life of a product they are thinking about purchasing. We also agree that information about the repairability and durability of a product being 'material information' for the purposes of consumer protection law should be provided to consumers prior to purchase. This could encourage them to be more efficient with products and resources and potentially reduce wastage.
- e) How far should the consumer protection law framework go to address: (i) the planned obsolescence of products; and/or (ii) commercial practices which promote over-consumption?

- i) A. We believe that the consumer protection law must ensure that all attempts to encourage consumers to make better and more efficient use of their products and resources are sought.
- ii) A. We believe that the legislation must also be updated and strengthened to help tackle certain business practices which are negatively influencing the welfare of consumers. For instance, targeting people with products they do not need or encouraging them to buy more when they do not require can be detrimental to consumers in terms of the negative financial and mental health effects.

Markets regime

Market studies and market investigations are among several statutory tools that the CMA can use to fulfil its role to promote competition in the UK.

Collectively, these tools are referred to here as the 'Markets regime', as set out in the Enterprise Act (EA02) as amended by the Enterprise and Regulatory Reform Act 2013).

Through the Markets regime, the CMA can consider wider competitive conditions in UK markets including barriers to competition, such as customer behaviour, market structure and the impact of regulations. The CMA's Markets tools enable it to conduct an in-depth analysis of how a market is working, identify and examine possible issues and publish its conclusions. This includes considering practices across a range of goods and services and looking at developing markets.

The CMA has a wide range of options for remedial action using its Markets tools to address the issues identified and to help make markets work well, including issuing guidance to businesses; providing information or guidance to consumers; taking enforcement action and/or making recommendations to government. Through a market investigation, the CMA can use its order-making powers to introduce legally enforceable remedies.

The CMA board is responsible for key decisions relating to market studies (including whether to launch) and whether to make a market investigation reference. The CMA draws on a range of sources to help identify possible markets to assess, including research and intelligence gathering using existing evidence, complaints data, and engagement with government, regulatory and consumer bodies among others. In determining whether to undertake potential Markets work, the CMA board will assess it against the CMA's prioritisation principles to consider its potential impact, strategic significance, risks, and resource implications.

The discretionary nature of Markets work can provide the CMA board with flexibility to determine whether to intervene in a particular market, having considered relevant factors – such as the CMA’s strategic objectives.

As set out in its 2021 – 22 Annual Plan, the CMA has committed to prioritise work across several key strategic themes to help deliver significant positive outcomes for consumers, businesses, and the economy. This includes a focus on supporting the UK’s transition to a low carbon economy, in line with the UK’s wider climate change goals.

Relationship between the markets regime and sustainability

The CMA considers that the existing Markets regime provides a broad and flexible mechanism to ensure markets are working well. Through these tools, the CMA can consider and address a broad range of potential competition and consumer issues arising now or in future, and which may be impacting the development of effectively functioning markets. This includes markets which support wider sustainability goals.

Notably, the CMA’s Markets functions enable it to examine new or emerging markets which are evolving at pace, which is particularly relevant to emerging markets that are arising to support the UK’s sustainability agenda, as well as more established relevant markets. For example, earlier this year the CMA completed its market study into electric vehicle charging – a nascent but critically important sector in helping to achieve the UK’s Net Zero commitment, given that transport, in particular cars, is the largest source of emissions in the UK.

While recognising that there are still many uncertainties, the electric vehicle charging market study identified a number of challenges for the sector as it continues to develop and set out a significant package of remedies to help address these. This included recommendations to government to increase the pace and scale of charging roll-out across the UK (including through supporting local authorities to play a more active role in their areas) and to help build consumer trust in the charging sector – by helping to make charging as simple as filling up with petrol or diesel and tasking a public body with overseeing this. The CMA also acted itself by launching a CA98 investigation into long-term exclusivity arrangements for charging along motorways.

Using its Markets tools the CMA can examine and remedy economic harms to consumers arising from poor competition – for example in terms of price, quality, range, or service. The CMA considers that within the existing Markets regime it can, where appropriate, consider environmental sustainability to the extent that it leads to economic harm to consumers.

Notwithstanding the importance and flexibility of the current Markets regime in supporting the UK’s sustainability agenda – as noted above – the CMA considers that there is scope to strengthen the regime. The CMA has previously identified several areas to help bolster the

effectiveness and speed of its Markets tools, including for example the ability to address issues more quickly and review remedies.

The CMA notes that these reforms would be particularly beneficial when examining fast-paced, developing markets such as those related to environmental sustainability – where competition and consumer issues are likely to continue to evolve after the CMA’s work has concluded. In this regard, the CMA welcomes the government’s current consultation on reforming competition and consumer policy, which includes proposals to take forward a number of these areas of reform for the Markets regime.

Markets regime questions

- (a) How should the CMA use its Markets powers to support the government’s strategic priorities on environmental sustainability and Net Zero?
 - A. It should use the powers available to provide the government with evidence that instances of bad business practice including anti-environmentally friendly policies are occurring and seek action to mitigate and tackle such issues. The CMA’s useful powers which can help to highlight the current level of consumer detriment and what actions have been taken to deal with it is vital in helping protecting them against such bad practices occurring.
- (b) How can the CMA identify markets that may be particularly relevant and important in supporting the UK’s strategic goals on environmental sustainability and Net Zero? Are you aware of specific examples?
 - A. One example would be to focus their attention upon the energy sector. It is an area that has seen significant progress upon working towards greener technology and products for consumers as well as targeting more sustainable outputs. We urge the CMA to keep a close eye on this sector to ensure that sustainability goals are be sought and issue which is violates key environmental standards is tackled appropriately.
- (c) Are there changes to the Markets regime, other than those highlighted above, which would better allow it to support Net Zero and environmental sustainability objectives? Please be as concrete as possible in your answers.

- A. Should the CMA find from their market regime investigations that certain businesses are engaging in practices which abuses environmental standards and protections, they should be equipped with the relevant enforcement powers to stop this. The main aim behind these powers is to act as a deterrent to prevent bad practices from happening.

Other considerations and questions

- (a) What other considerations should the CMA consider in responding to the Secretary of State's request for advice?

- A. Ensure that their priorities are clearly defined so that resources can be more efficiently targeted towards serious emerging issues.

- b) How should the CMA apply its wider policy tools to support the UK's Net Zero and sustainability goals?

- A. Ensure that the consumer's welfare is protected as their top priority especially in the light of businesses beginning to operate differently in a changing world.

Source used - [Environmental sustainability and the competition and consumer law regimes: Advice to the Secretary of State for BEIS \(publishing.service.gov.uk\)](#)