

# CMA Annual Plan 2023/24 consultation

## Summary of responses

23 March 2023

CMA170resp



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## Contents

	<i>Page</i>
1. Overall summary.....	2
2. Summary of general responses .....	3
3. Summary of events held in Belfast, Cardiff and Edinburgh.....	6
4. Medium-Term Priorities.....	8
5. Areas of Focus for 2023/24.....	10
Appendix A: Organisations with whom the CMA engaged .....	11

## 1. Overall summary

1. This document provides a high-level summary of feedback received from external organisations during the consultation period for the Competition and Markets Authority's (CMA) 2023/24 Annual Plan. This was the most extensive Annual Plan consultation we have undertaken - we engaged around 80 organisations and held in person events and meetings in all 4 nations. We are very grateful to everyone who participated. The feedback has not only helped us enhance on our initial proposals, but also increased our confidence that our new strategy is the right one to enable us to deliver positive outcomes for people, businesses and the whole UK economy, in the year ahead and beyond
2. It was also vital for us to speak with our own colleagues to understand the views of those whose work will be directed and affected by the priorities set out in the Annual Plan. We spent the consultation period engaging with teams across the organisation, including at our offices in Belfast, Cardiff, Edinburgh and London.
3. The feedback received has shown strong support for the draft plan and the wider strategy on which it is based. Respondents generally supported the medium-term time horizon, the outcomes based approach and the focus on who the CMA is here to serve.
4. We have divided this document into: a summary of general responses; a summary of what we heard at events in Belfast, Cardiff and Edinburgh; and specific feedback on the medium-term priorities and areas of focus. The organisations that attended our events or provided formal responses to the consultation are listed at Appendix A.

## 2. Summary of general responses

5. The majority of respondents welcomed the medium-term time horizon described in the 2023/24 draft Annual Plan and were in broad agreement with the approach outlined in the consultation document.
6. While most respondents welcomed the focus on people, businesses and the whole UK economy in the CMA's revised outcomes-based ambition, some respondents queried the reference to 'people' rather than 'consumers', with one commenting that 'consumers' better reflects the economic role of people and the CMA's primary statutory duty.
7. Others thought the plan might benefit from being more explicit about the fact that the CMA is acting on behalf of businesses 'of all sizes'. One respondent commented that current wording in relation to businesses could be read as being primarily focused on big business or businesses with the potential to break new, innovative ground. Some stakeholders we met in Manchester also commented on the importance of small businesses and asked if there is more the CMA could do to support smaller firms.
8. Respondents we met across the UK urged the CMA to recognise the differences that exist in England, Scotland, Wales and Northern Ireland and wondered if it could take on more specific work in the different 4 nations.
9. Some respondents called for more information about the use of the CMA's new consumer administrative enforcement model, for example an indication of the scale of use and whether there is any scope for interaction with cases from other agencies such as Trading Standards.
10. Several stakeholders noted how important it is for the CMA to work with other regulators where possible to solve common problems. One respondent commented that markets seldom operate in isolation and it is incumbent upon the UK Government, the CMA and other regulators to deliver regulatory alignment and connectivity. Generally, respondents urged more co-ordination between regulators with concurrent powers in order to address issues arising in the core areas of consumer spending and time.
11. Some respondents questioned how the CMA plans to operationalise and measure the priorities over the next 12 month and next three years.

## The CMA's view

12. We thank respondents for their engagement with the consultation on our 2023/24 Annual Plan and the new organisational strategy.
13. We started the Plan by setting out a clear statement of the CMA's purpose: to help people, businesses and the UK economy by promoting competitive markets and tackling unfair behaviour. Using 'people' rather than 'consumers' was a deliberate choice. The CMA's work should benefit people not only in their capacity as consumers but also as taxpayers and stakeholders in our society. For example, our competition law investigations into pharmaceutical companies has led to benefits for the NHS and people in their capacity as taxpayers, and not just for consumers. The use of 'people' is also consistent with the addition of UK labour markets as a further area of focus. This area of focus will be added to our final Annual Plan to reflect the CMA's growing work in this area. For example, our Microeconomics Unit's research strategy includes work on labour market power – that is the extent to which employers are able to keep wages or working conditions below competitive levels.
14. One of the CMA's outcomes outlined in its ambition is to create an environment where competitive, fair-dealing businesses can innovate and thrive. There is no size limit on this outcome; we are here to serve businesses of all sizes and we will endeavour to make this point even clearer in the final Annual Plan.
15. As we explain in the Plan, the CMA is committed to working for people and businesses across all 4 nations of the UK. Our work should support productivity, innovation and growth across the whole of the UK economy, with a particular focus on ensuring that competition supports a resilient economy that can grow sustainably.
16. With regard to the CMA's new powers, along with legislation to provide the CMA with powers to operate a statutory pro-competition regime for digital markets through its Digital Markets Unit (DMU), we will also be preparing for new consumer protection and competition law powers under the proposed legislation, including moving to an administrative enforcement model, with fining powers, for consumer protection. The shape of the legislation is for Parliament to decide, but we are supporting the Government and Parliament and will continue to do so throughout the legislative process. Once this legislation is passed, we will be in a position to explain more about how the new powers will be used by the CMA.
17. The CMA recognises how vital it is for regulators to work together on common issues. Our participation in the Digital Regulation Cooperation Forum, alongside the Information Commissioner's Office (ICO), the Office of Communications

(Ofcom) and the Financial Conduct Authority (FCA), provides an example of what is possible, with the forum allowing for enhanced cooperation between different regulators seeking to address the unique challenges posed by regulation of online platforms in a joined-up fashion. On competition matters, the CMA and concurrent sector regulators cooperate extensively and work together on various issues, including in relation to competition cases and markets work in the regulated sectors. We also lead the UK Competition Network and participate in the UK Regulators' Network. At a consumer law level, the CMA works across the regulatory landscape, leading the Consumer Concurrence Group and playing a key role in the Consumer Protection Partnership. In the final version of the 2023/24 Annual Plan, we will more explicitly acknowledge the role played by other bodies and how we cooperate with them.

18. The ambition and priorities set out in the Annual Plan will inform the CMA's choices. The CMA currently relies a set of [Prioritisation Principles](#) to guide its choice of work. The Prioritisation Principles should be read through the lens of the Annual Plan, which gives more specificity to the Strategic Significance principle and reinforces or underlines the other 3 principles

19. When it comes to measuring our success, the CMA's senior leadership team and the Board will monitor the overall shape of our portfolio of work as the year progresses, considering our mix of cases and ensuring they align with the areas of focus we have identified in the Annual Plan. We also want to be more systematic in looking back on a regular basis at historic decisions, considering what happened and what we can learn from them.

### 3. Summary of events held in Belfast, Cardiff and Edinburgh

1. During the consultation period, the CMA held events in Belfast, Cardiff and Edinburgh to hear from stakeholders in Northern Ireland, Wales and Scotland. These events were well attended, with 59 organisations represented. The CMA Chair and CEO were involved in all 3 events and were able to engage directly with stakeholders.

#### **Belfast**

2. In Belfast, representatives from 22 organisations attended the CMA's Annual Plan event on 16 January 2023. Overall, attendees commented positively about the new strategy, priorities and areas of focus. Attendees also welcomed the CMA's presence in Northern Ireland, but reiterated the differences that exist compared to Great Britain and emphasised a desire to work with the CMA on relevant issues.
3. There was some discussion around specific issues such as the degree of choice of power suppliers in Northern Ireland and the cost of connecting to the grid for small businesses, with the role of sector regulators also being mentioned in this regard. There was also some discussion and clarification of the CMA's advocacy and subsidy advice roles. Finally, some attendees indicated how well they had worked with the CMA in the past and hoped to see that continuing.

#### **Cardiff**

4. In Cardiff, representatives from 15 organisations attended the CMA's Annual Plan event on 17 January 2023. Attendees commented positively about the proposed strategy, priorities and areas of focus and welcomed the growing presence of the CMA in Wales, expressing a keenness to work with the CMA moving forward. Key talking points included sustainability, accommodation, public procurement and working together in the regulatory space.
5. Some attendees asked about the list of 'areas most important to people' included in the proposed medium-term priorities, and wanted to know where that idea had come. Participants also emphasised the importance of working with other regulators and stakeholders to identify the issues that matter the most to people.



6. There was a discussion about the accommodation sector, identified as an area of focus by the CMA for 2023/24. One attendee expressed a keenness to join in discussions regarding housing. Another attendee commented in advance of the meeting that affordability in the housing sector is a key issue in Wales.

## **Edinburgh**

7. In Edinburgh, representatives from 22 organisations attended the Annual Plan event on 24 January 2023. Again, attendees commented positively on the proposed strategy, priorities and areas of focus. Key talking points included emerging markets, the CMA's Subsidy Advice Unit and the importance of Scotland-specific work.
8. Some attendees discussed the importance of regulators working together. One attendee commented that it can be difficult for regulators to get information to ensure compliance in emergent markets and so it is important for bodies to work together.
9. With regard to the proposed area of focus in relation to accommodation, another attendee commented that while the majority of consumer law is reserved, rules around the private accommodation sector and some tenants' protections are devolved, and this should be reflected in the CMA's work where possible.
10. Some attendees questioned how the strategy would work in practice and whether there is the potential to pick up cases from other agencies. There were also questions about the new consumer protection and competition law powers.

## **The CMA's view**

11. We are grateful to everyone who attended one of our annual plan events and for engaging with us on the proposals contained within the Annual Plan.
12. The CMA, as a UK-wide body, is committed to delivering positive outcomes for people across the whole of the UK. With a growing presence in Scotland, Northern Ireland, Wales, and new offices in Manchester and Darlington, we are developing our understanding of how different parts of the UK are affected by the issues that we work on. We will continue to ensure that our work reflects the different experiences of businesses and consumers, wherever they are located in the UK.
13. Other points raised by attendees have been addressed elsewhere in this document.

## 4. Medium-Term Priorities

1. The majority of respondents welcomed the CMA's proposed priorities for the next three years.
2. With regard to the medium-term priority to focus action on areas where people spend the most money and time, one respondent commented that non-consumer facing markets may indirectly, through their role in the supply chain, have a significant impact on the prices consumers ultimately pay. The respondent asked the CMA to consider alternative or additional measures (other than direct consumer spend) in its prioritisation.
3. Another respondent queried whether the CMA is still interested in areas where some consumers only spend relatively modest sums of money but may nevertheless be ripped off. They also stressed that vulnerability is not necessarily defined by wealth but actually by access to information and being able to understand it.
4. One respondent commented that we could focus on minority communities, and one way of doing that is to collect and segment data along various axes. The respondent claimed this would help identify missing data or gaps in the data collection as well as highlight discrepancies that may otherwise go unnoticed and identify potential areas of harm for minority communities.
5. In relation to the medium-term priorities of enabling open access to markets for innovating businesses and helping emergent sectors to develop into high growth, innovative and competitive markets, one respondent asked the CMA to take a holistic assessment of the barriers to competition and innovation, including consideration of whether interventions would reduce incentives to invest in a market. The same respondent commented that the CMA should take care not to overly burden small businesses in emergent sectors with information requirements.
6. Several respondents asked why 'deterring anti-competitive behaviour' only appeared in the people medium-term priority and wondered if should at least sit across the people and businesses priorities.
7. In relation to the core enabler of upgrading our employee value proposition, one respondent commented that the current global tech downturn presents a unique opportunity for the CMA to encourage the recruitment of tech professionals, who might be enticed by the prospect of job stability along with the opportunity to shape the course of the industry.

## The CMA's view

8. We are grateful to respondents for their comments on the medium-term priorities.
9. With regard to the focus on areas of consumer spending and time, our new strategy aims to focus on outcomes for people, businesses and the whole UK economy. We want to achieve real impact for people across the UK in the areas that are most important to them. We will still be alert to potential problems in areas that are, for example, further up a supply chain. We want to deliver tangible, demonstrable benefits for people, businesses and for the whole UK economy and prioritising areas of core consumer spend is a key way of pursuing that objective.
10. With regard to enabling open access to markets for innovating businesses, we note the comments about making a holistic assessment of the barriers to competition and innovation and the plea not to over-burden small businesses. We recognise the importance of supporting competitive markets and fostering innovation, but well-designed intervention, particularly in concentrated markets, can have a beneficial effect.
11. On helping emergent sectors to develop into high-growth, innovative and competitive markets, our work in relation to electric vehicle charging is a good example of where timely intervention by the CMA can help markets develop in a pro-competitive manner. Our market study prompted a competition law investigation that went on to create new opportunities for competition and increase choice of electric vehicle chargepoints on motorways for drivers. Open Banking is another example of a CMA intervention that has prompted further competition following the putting in place by the CMA of a legal order requiring the nine largest banks in Great Britain and Northern Ireland to develop and adopt a standard to share information securely. The initiative has been emulated across the world and has made a significant contribution to the UK's dynamic FinTech sector.
12. On whether we include deterrence across our people and businesses medium-term priorities, one of the CMA's roles is to tackle anti-competitive behaviour to benefit both people and businesses. We will therefore revisit this wording in the final Annual Plan to ensure that is clearer.
13. We have noted the suggestion around encouraging recruitment of tech professionals as we recruit into the DMU.

## 5. Areas of Focus for 2023/24

1. The majority of respondents welcomed the areas of focus set out in our consultation document.
2. In relation to enabling innovating businesses to access digital markets such as mobile browsers and the distribution of cloud gaming services, e-commerce and digital advertising, one respondent commented that the CMA should carry out studies of public attitudes towards AI with a focus on key sectors and communities, on the basis that this would help to identify potential misuses of the technology.
3. With regard to areas of focus around sustainability, one respondent commented that it will be important to help businesses understand what is possible and expected and that the enforcement approach works first from the standpoint of education.
4. Several respondents highlighted specific work that they felt it important for the CMA to consider or continue to work on, such as online marketplaces, the needs of off-grid energy consumers, legal services in Scotland, rollover consumer contracts, accommodation and 'greenwashing' by businesses.

### **The CMA's view**

5. We thank respondents for their feedback on the proposed areas of focus for 2023/24 set out in our consultation document.
6. We note the suggestion of research into public attitudes towards AI and we will pass it on to the teams responsible for work in this area.
7. With regard to green claims, the CMA has already provided guidance for businesses making environmental claims in the UK. The Green Claims Code is designed to help businesses understand and comply with their existing obligations under consumer protection law when making environmental claims.
8. We thank respondents for their suggestions of work the CMA should undertake, some of which - like green claims and online choice architecture - we are already examining. We will continue to consider any new intelligence or evidence of competition issues in markets.

## Appendix A: Organisations with whom the CMA engaged

### Organisations that either responded in writing or provided verbal comments

1. Federation of Small Businesses (FSB)
2. Confederation of British Industry (CBI)
3. Tony Blair Institute for Global Change
4. British Retail Consortium
5. Consumer Council (Northern Ireland)
6. Consumer Scotland
7. Ombudsman Services
8. The Society of Chief Officers of Trading Standards in Scotland (SCOTSS)
9. KPMG
10. Thermal Storage UK
11. Global Infrastructure Investor Association
12. International Corporate Partner Resource 1200
13. A number of Greater Manchester Chamber of Commerce members

### Organisations represented at CMA's Annual Plan events

#### Belfast

1. A&L Goodbody
2. Advice NI
3. Age NI
4. Arthur Cox
5. Bank of Ireland UK
6. BDO Ireland
7. Carson McDowell
8. CO3 – Chief Officers Third Sector
9. Construction Employers Federation
10. Consumer Council for Northern Ireland
11. Northern Ireland Department for the Economy
12. Federation of Small Businesses Northern Ireland
13. Law Society of Northern Ireland
14. Manufacturing NI
15. Mineral Products Association Northern Ireland
16. Northern Ireland Electricity Networks
17. Northern Ireland Assembly
18. Northern Ireland Food and Drink Association
19. Ofcom
20. Private Healthcare Information Network
21. Trading Standards Service Northern Ireland
22. Utility Regulator Northern Ireland

## **Cardiff**

1. Bevan Foundation
2. CBI Wales
3. Centrica
4. Development Bank of Wales
5. Department for International Trade, Wales
6. Financial Conduct Authority, Wales
7. Food Standards Agency in Wales
8. Institute of Directors Wales
9. National Trading Standards Wales
10. Older People's Commissioner for Wales
11. Ombudsman Services
12. Rhondda Cynon Taf
13. Solicitors Regulation Authority
14. Wales Trades Union Congress
15. Welsh Government

## **Edinburgh**

1. Advice Direct Scotland
2. Arnold & Porter
3. Citizens Advice Scotland
4. Chartered Trading Standards Institute
5. Consumer Scotland
6. Convention of Scottish Local Authorities
7. Dentons
8. Financial Conduct Authority
9. HM Revenue and Customs
10. Information Commissioner's Office
11. Law Society of Scotland
12. Ofcom
13. Office for Statistics Regulation
14. Scottish Trade and Investment Hub, Department for International Trade
15. Society of Chief Officers of Trading Standards in Scotland
16. Scottish Government
17. Scottish Legal Complaints Commission
18. South of Scotland Enterprise
19. The Highland Council
20. UK Regulators Network
21. Which?