

Prioritisation Principles

CMA188

30 October 2023



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Contents

	<i>Page</i>
1. Introduction	3
2. How we use the principles	4
3. The Prioritisation Principles	5

1. Introduction

- 1.1 The CMA's purpose is to help people, businesses, and the UK economy by promoting competitive markets and tackling unfair behaviour.¹ The CMA has a statutory duty to 'promote competition, both within and outside the UK, for the benefit of consumers'.
- 1.2 By promoting competition, we drive innovation, productivity, and growth across the UK economy and across all 4 nations of the UK. Competition gives businesses the incentive to offer greater choice, value, and quality. We focus our efforts and resources on matters that deliver the greatest beneficial impact to people, businesses, and the UK economy, in line with the strategic priorities set out in our Annual Plan.
- 1.3 Our purpose, ambition and medium-term priorities guide our actions, and our Annual Plan describes what we intend to do. We also have regard to the Government's Strategic Steer to the CMA.²
- 1.4 Within this framework, the CMA's Prioritisation Principles (the principles) help to guide our choice of work where we have discretion to act, particularly as the CMA does not have the resources to act in all instances where intervention would bring benefits. The principles consist of five key considerations:
- (a) **Strategic significance:** does CMA action in this area fit with the CMA's objectives and strategy?
 - (b) **Impact:** how substantial is the likely positive impact of CMA action?
 - (c) **Is the CMA best placed to act:** is there an appropriate alternative to CMA action?
 - (d) **Resources:** does the CMA have the right capacity in place to act effectively?
 - (e) **Risk:** what types of risks are associated with CMA action, and how significant are they?

¹ [CMA ANNUAL PLAN 2023-2024.pdf \(publishing.service.gov.uk\)](#)

² [Government's strategic steer to the Competition and Markets Authority \(CMA\) - GOV.UK \(www.gov.uk\)](#)

2. How we use the principles

- 2.1 We will use the principles when deciding which new projects and programmes of work to take forward, in areas where we have discretion to do so. We will also have regard to the principles at certain points in the life cycle of a project, when deciding whether it still warrants the continued commitment of resources.
- 2.2 The CMA will generally prioritise according to the strategic significance and impact of the work. We balance this against the risks and resources involved, and whether the CMA is best placed to act.
- 2.3 The factors set out below which we take into account in relation to the different principles are illustrative and not exhaustive. We will not apply the principles in a mechanical way: judgement and a reasoned balancing exercise are required for each case, which necessitates that we consider the principles in the round and on a case-by-case basis. Where appropriate, we may also have regard to other relevant factors. In other words, prioritisation will not take place in isolation but will always be a relative question which necessitates consideration of the CMA's overall portfolio and resources available at that time. It is therefore not possible to give guidance such as to allow an advance external assessment of whether a particular case would or would not be taken on by the CMA.
- 2.4 Where necessary, the CMA will update the principles to ensure they remain appropriate and reflect changes to the landscape within which the CMA operates. In some circumstances, for example, if the CMA is given new statutory powers, we may publish separate guidance in relation to the prioritisation principles which will inform our decisions in relation to specific functions.
- 2.5 The CMA has issued separate guidance setting out how it discharges its functions under the Subsidy Control Act 2022³ and the United Kingdom Internal Market Act 2020.⁴ These include the prioritisation principles which inform the CMA's decisions, where it has discretion, in relation to its exercise of these functions.

³ Operation of the subsidy control functions of the Subsidy Advice Unit - GOV.UK (www.gov.uk).

⁴ Guidance on the Operation of the CMA's UK Internal Market Functions - GOV.UK (www.gov.uk).

3. The Prioritisation Principles

Strategic significance: *does CMA action in this area fit with the CMA's objectives and strategy?*

- 3.1 When prioritising our work, we look at alignment with our strategy and priorities, as set out in our Annual Plan. This includes the effect of specific projects on our portfolio of work as a whole and against our medium-term priorities and annual areas of focus. We will also have regard to the Government's Strategic Steer to the CMA⁵ when considering the strategic significance of work.
- 3.2 Our Annual Plan⁶ describes our purpose, ambition, and the outcomes we want to help deliver over the medium and long-term. Our ambition is that:
- (a) **People can be confident they are getting great choices and fair deals:** When people are buying goods and services, they should be able to rely on the competitive process and trust that businesses are dealing with them on fair terms. The CMA's work should ensure that competitive markets provide choice and variety and drive lower prices. We will use our powers to ensure that people are empowered to make the choices that are right for them.
 - (b) **Competitive, fair-dealing businesses can innovate and thrive:** The CMA's actions should empower competitive, fair-dealing businesses to compete, including by addressing the behaviour of a small minority of businesses that try to harm consumers, restrict competition, or prevent markets from functioning properly.
 - (c) **The whole UK economy can grow productively and sustainably:** The CMA's work to promote competitive markets and tackle unfair behaviour should support productivity, innovation, and growth across the whole of the UK economy. We will focus particularly on ensuring that competition supports a resilient economy that can grow sustainably. Our work should drive benefits across all 4 nations of the UK.

⁵ Government's strategic steer to the Competition and Markets Authority (CMA) - GOV.UK (www.gov.uk)

⁶ CMA Annual Plan 2023 to 2024 - GOV.UK (www.gov.uk)

- 3.3 Our Annual Plan⁷ further sets out underpinning foundational requirements which we take into account when we take decisions about when and how to act. Our foundational requirements are that our work:
- (a) delivers tangible and demonstrable benefits;
 - (b) is executed as rapidly as possible consistently with rigour and procedural fairness; and
 - (c) uses the full range of our toolkit.
- 3.4 When considering the strategic significance of our work, we will additionally seek to enhance the long-term ability of both the CMA and its partners in the UK consumer and competition regimes to target intervention and deliver better outcomes. This could include, for example, taking forward work that improves the skills and experience of our staff.

Impact: how substantial is the likely positive impact of CMA action?

- 3.5 The CMA wants to achieve real-world impact for the people we serve. The impact we can expect to have is a key factor in our prioritisation. When considering the likely effects of our work, we look at both direct and indirect effects. Our work also has broader, systemic benefits, which are important in supporting the UK economy. We touch on each of these briefly below.
- 3.6 The direct effect of CMA work is the benefit arising as a result of CMA intervention, for example where CMA action leads to preventing or terminating harmful business practices that negatively affect people.⁸ Harmful business practices, including breaches of competition or consumer law, can lead to poor value for consumers in terms of price, quality, service or the range of products and services available, and may cause physical harm, emotional distress or online harms (such as the misuse of personal data).
- 3.7 Where the CMA acts to ensure effective competition or prevent consumer harm, this benefits people directly, but also benefits competitive and fair-dealing businesses, who should not be put at a disadvantage for doing the right thing.
- 3.8 We may prioritise work because the direct effects would specifically benefit people who need help the most. Vulnerability can be context-specific and can

⁷ [CMA Annual Plan 2023 to 2024 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/111111/CMA_Annual_Plan_2023_to_2024.pdf)

⁸ The direct effect will also include, where applicable, the CMA obtaining direct redress for consumers (using 'enhanced consumer measures', pursuant to the Consumer Rights Act 2015).

take a range of forms. When targeting our interventions, we will therefore look at specific contexts in which people may need particular help to protect them from harm and get a fair deal.

- 3.9 Sometimes action by the CMA will in turn prompt another body to act (for example, the findings of a Market Study may include recommendations for Government). We will have regard to the potential effect of the CMA's intervention, regardless of whether it is due to action by the CMA or by others (for example, the courts or the Government) pursuant to a CMA intervention. We will also consider the potential impact of CMA action in clarifying how the law is applied.
- 3.10 Indirect effects arise from changes to the behaviour of those other than the direct subjects of the CMA's intervention. Indirect effects could result, for example, from the deterrence effect of civil or criminal enforcement, the securing of redress by consumers or businesses through follow-on actions relating to CMA decisions, or improved consumer confidence in the correct functioning of the markets.
- 3.11 We take account of the broader, systemic benefits of our work in driving innovation, productivity, and growth across the economy and across all 4 nations of the UK. In markets where competition is weak or absent, substantial inefficiency may arise (for example, because each supplier has weaker incentives to win customers by offering better-value products, and thereby weaker incentives to control costs through greater productivity). An initial action that increases competition in the market may deliver further benefits over time resulting from the improved competitive process.
- 3.12 Indirect effects and systemic benefits of a specific action can be particularly difficult to gauge. Our work will be informed by the evidence available on deterrence and other indirect effects.
- 3.13 When considering the impact, we take into account how long we expect it will take for our work to deliver the anticipated benefits. We also consider the form any CMA intervention may take, including whether to use a combination of the tools available to us.

Is the CMA best placed to act: is there an appropriate alternative to CMA action?

- 3.14 Before initiating projects, we examine whether work is best carried out by the CMA, having regard to whether there are alternative ways of achieving the desired result. The CMA works in partnership with a number of bodies with which it shares responsibilities, such as sector-specific regulators and Trading Standards, including through the UK Competition Network, UK Regulators

Network, and the Consumer Protection Partnership. It may be more appropriate for these partners to lead in some cases. Other alternatives to CMA action could include private enforcement, market developments, self-regulation, new regulatory or legislative developments, or changes in government policy.

- 3.15 When considering whether the CMA is best placed to act, we take into account the full range of our toolkit, including our formal powers and more informal interventions (for example advocacy, informal engagement, and information campaigns), or a combination of these. We are also mindful of the scope for cooperation with other international jurisdictions, particularly where there is benefit in coordination or avoiding duplication.

Resources: does the CMA have the right capacity in place to act effectively?

- 3.16 The CMA will consider the resources required over the life of proposed projects, and whether the resource requirements are proportionate to the expected benefits from doing the work. We will take into account the timing and resource requirements of other work going on across the CMA at that time. Over the course of a project, the resource allocated to it may change, depending on its requirements and the requirements of other projects being undertaken by the CMA.
- 3.17 The CMA will also be mindful of the resource availability of other parties, including our enforcement partners.

Risk: what types of risks are associated with CMA action, and how significant are they?

- 3.18 Risks are inherent in everything that the CMA does. Consequently, good risk management at all levels is a critical success factor, including when making decisions about the CMA's work programme. The CMA has in place a strong risk management framework that requires the pro-active assessment of risk levels. We assess risk against a number of important themes such as litigation, financial / value for money, operational, legal compliance, reputational and strategic.
- 3.19 The risks associated with a project or programme of work include how likely it is to achieve its desired result. In some cases, recognition of there being only a relatively small likelihood of achieving the desired outcomes could be a reason not to proceed with the project (although the possibility of a significant impact may justify a higher level of risk).