

Empowering drivers and boosting competition in the road fuel retail market: consultation on open data scheme and ongoing monitoring function for road fuel prices – Response from the Competition and Markets Authority (CMA)

Overview

1. The CMA is the UK’s principal competition and consumer authority. It is an independent non-ministerial government department, and its responsibilities include carrying out investigations into mergers and markets and enforcing competition and consumer law. The CMA helps people, businesses and the UK economy by promoting competitive markets and tackling unfair behaviour.¹
2. The CMA has a role in providing information and advice to government and public authorities.² The CMA’s advice and recommendations are made with a view to ensuring that policy decisions take account of the impacts on competition and consumers.
3. In response to high petrol and diesel prices, the UK [government asked](#) the CMA to undertake an urgent review of the road fuel market in June 2022. Following the conclusions of this review, the CMA then undertook a [market study](#) into this market, which concluded in July 2023. As part of this, we made two recommendations to government, first, to set up a new open data fuel-finder scheme and second to establish a new public monitoring function with formal price monitoring powers. Both recommendations reinforce each other in their main aim of increasing the incentives on retailers to price fuel more competitively. Both need to be underpinned by statute.

¹ The CMA’s statutory duty is to promote competition, both within and outside the UK, for the benefit of consumers.

² Under Section 7(1) of the Enterprise Act 2002, the CMA has a function of making proposals, or giving information and advice, “on matters relating to any of its functions to any Minister of the Crown or other public authority (including proposals, information or advice as to any aspect of the law or a proposed change in the law).”

4. The UK government accepted our recommendations in full and asked for the CMA's advice in developing and implementing them in the interim whilst progressing legislation.³ We have been happy to assist the UK government with this important work. The government committed to delivering the mandatory open data scheme backed by legislation, as soon as possible.⁴
5. Following the market study, and at the government's request, CMA has developed a temporary scheme for the major retailers to make available their daily prices on a voluntary basis.⁵ This temporary scheme will not deliver all the benefits of the full open data statutory scheme, but the CMA is committed to do all it can to help drivers as swiftly as possible, whilst waiting for the government's consultation and subsequent legislation. The CMA is grateful to fuel retailers for their contributions to the voluntary open data scheme and interim monitoring function. The CMA has also worked to produce its first [interim monitoring update](#) in November 2023. However, since both the permanent monitoring function, which will be established within the CMA, and the open data fuel-finder scheme require a legislative basis to gather information, progressing rapidly with legislation to put these functions on a statutory footing is essential. We have been engaging closely with officials at the Department for Energy Security and Net Zero (DESNZ) on the implementation of permanent versions of both the open data scheme and monitoring function.
6. This work has required significant resource during the urgent review, our market study and through standing up and delivering the temporary scheme and the interim monitoring function. As government sees the CMA as playing a role in this market going forwards, this will require a permanent increase in CMA resources through operationalising the permanent scheme. We therefore recommend the government: (a) presses ahead with implementing relevant legislation as soon as possible so as to fulfil our market study recommendations; and (b) ensures appropriate resourcing for any new functions which the CMA will be taking on in this market.
7. This policy should keep in mind drivers across the UK. Access to retail fuel is not even everywhere in the UK and the competitive conditions between different geographic locations vary, as we found in our market study. We welcome the UK government's ambition to support competition in the interests of drivers right across the UK, including in remote areas and within the Devolved Administrations. Additionally, the government should keep in mind that the transition to net zero and uptake of Electric Vehicles (EVs) will impact

³ [Letter from Secretary of State to Sarah Cardell, CMA, regarding fuel prices](#), DESNZ.

⁴ [Letter from Secretary of State to Sarah Cardell, CMA, regarding fuel prices](#), DESNZ.

⁵ [Letter to Shapps on road fuels recommendation](#), CMA.

differently on households across the UK, depending on location and income factors.⁶

8. This response, having recapped the CMA's ongoing interest in the road fuel market, now provides the CMA's views on two particular aspects of the consultation, enforcement of the open data scheme and the permanent monitoring function.

Enforcement of the scheme (Questions 22 & 23)

9. We note that the government wishes to appoint a public body as the enforcer of the open data scheme. Under the third-party aggregator model as proposed, we would expect the third-party aggregator itself to do most of the work ensuring compliance with the scheme. Only when non-compliance required enforcement, should cases be passed to the public body.
10. Related to this, there should be effective gateways and channels established, preferably through legislation, to allow information sharing between the third-party aggregator and the public body charged with enforcement. Such formal gateways are necessary to allow timely enforcement against breaches of the scheme.
11. For enforcement to be a credible incentive for compliance, and deterrent against breaches of the scheme, the public body charged with enforcement should be appropriately resourced. The government should provide sufficient additional resources to the public body to enable it to discharge its enforcement responsibilities effectively and in a timely way.

Monitoring function (Questions 33-37)

12. The monitoring function will report on the state of the UK road fuel market and will provide the UK government with an ongoing assessment of competition as the UK transitions to net zero. This will provide additional competitive pressure on the road fuel retail market whilst complementing the open data scheme which is aimed at increasing price transparency.
13. The interim monitoring function within the CMA is primarily monitoring changes to margins and prices and using this information to produce reports around every four months. However, we have had to rely on the voluntary provision of information, which may limit the depth and breadth of reporting and the robustness of conclusions. Any monitoring body could not monitor a market effectively without compulsory information-gathering powers which

⁶ Final report road fuel market study, CMA, Paragraphs 9.21 – 9.27

specify the format, consistency and timeliness of information-sharing. The CMA therefore welcomes government's intent to grant the CMA formal information-gathering powers in relation to road fuel price monitoring.

14. DESNZ has sought views on whether the monitoring function should take into account the transition to net zero and the impact of this transition. Our market study recognised that the transition to net zero will have a “transformational impact on the road fuel industry”, both through the sale of vehicles and through the impact on fuel retailers.⁷ We think there is merit in the permanent monitoring function considering these wider changes in the market over time. We note that the formal information-gathering powers set out in the Digital Markets, Competition and Consumers (DMCC) Bill are principally focused on information-gathering in relation to competition in UK retail petrol and diesel markets.
15. We support DESNZ's proposal of an annual report with two or three focused updates during the year. Given the short-term movements prevalent in this market, more frequent reporting would limit the quality of the analysis and the insights needed to allow us to comment on trends. Less frequent reporting means that the reports soon become out of date and are a less useful resource if there are issues or events occurring in the market. This has been the feedback we have received from international counterparts, such as the Australian Competition and Consumer Commission who have tried different frequencies of reporting and found every four months to be the optimal frequency.
16. We anticipate the road fuel monitoring function's two outputs to be:
 - (a) **an annual report on the state of the sector** covering:
 - (i) price and margin trends;
 - (ii) national and local price variations;
 - (iii) analysis of changes in local market concentration;
 - (iv) commentary on the progress of the open data remedy and how this remedy is affecting the market; and
 - (v) assessment of the impact on competition in UK retail petrol and diesel markets from the development of net-zero transport technologies and markets.

⁷ [Final report road fuel market study](#), CMA, Paragraphs 2.20 – 2.26.

- (b) **an update report every four months in the period between annual reports** covering:
 - (i) prices, costs and margins;
 - (ii) retail and refining spreads for both UK petrol and diesel markets; and
 - (iii) information on price trends across the UK and over time.

- 17. The above outputs will allow the CMA to monitor developments in UK retail petrol and diesel markets, both nationally and locally, as we move through the net-zero transition. We anticipate we will provide ongoing scrutiny of prices and consider whether further action may be needed to protect drivers. The function will provide advice to government on whether further intervention is required.

- 18. We anticipate monitoring the accuracy and timeliness of the provision of data to the CMA pursuant to CMA requests for information (using the information-gathering powers set out in the DMCC Bill), and where necessary and appropriate, enforcing any non-compliance with the requests. However, we will consult on the underlying principles surrounding information requests, ultimately publishing guidance that should support businesses to comply with our requests in order to minimise the need for enforcement action.

Conclusions

- 19. The CMA expresses its gratitude for the constructive engagement by DESNZ officials and Ministers in this market. The UK government's willingness to accept and act on the recommendations from the CMA's market study will help to ensure competition in the interests of drivers. However, this is predicated on putting the recommendations from the market study onto a statutory footing as soon as reasonably possible and ensuring appropriate funding to facilitate the effective exercise of those functions. We would be happy to discuss further details of this response with DESNZ officials.

Competition and Markets Authority

March 2024