

Industrial Strategy Green Paper

CMA response

21 November 2024



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Overview

1. **Our response to the Green Paper is under-scored by our commitment to working with government on an industrial strategy that achieves the most productive and sustainable growth across the UK economy.** We will support the industrial strategy by:
 - (a) Providing advice to government on how it can harness the power of competitive rivalry to maximise the long-term impact and value of its industrial strategy across the whole UK economy.
 - (b) Using our powers directly to promote growth, including through market studies and investigations, enforcement against illegal anticompetitive conduct and breaches of consumer protection law, and our approach to mergers.
2. **Effective competition is a proven route to a higher growth economy.** Evidence and history show us that where competition is stronger, innovation, productivity and wage growth will be higher. We have also seen firsthand through our case work that competition and contestability are catalysts for innovation and promoting an entrepreneurial environment – which is at the heart of growth for any modern economy.
3. **Successful long-term industrial strategy should have competition policy at its core.** Just as skills, trade, tax or energy policy are key levers to support sectoral growth, so too is competition policy.
4. **The CMA’s response to the Green Paper focusses on driving investment; the role of the CMA; the sectoral focus of the industrial strategy and creating a pro-business environment.**

Driving Investment

5. **A dynamic economy, which rewards innovation and productivity, is a magnet for entrepreneurs with a keen eye for opportunities to found and grow businesses, and for the investors and capital which back them.** When competing on a level playing field, firms are spurred on to invest so that they can out-perform their rivals. Where markets are not contestable, incumbents are safe from challenge, and everyone’s incentives are reduced. Incumbents worry less about losing their position, so invest less to improve their offer. Firms and entrepreneurs will not invest to enter new markets with innovative new products, if they don’t have a fair chance of success.

6. **The government’s focus on increasing investment to drive economic growth is well founded.** Evidence shows that the most important contributor to the UK’s recent low productivity growth relative to other countries is weaker investment.
7. **Competition is a critical requirement, but not sufficient on its own; investment ultimately depends upon a broad set of conditions.** This is reinforced through our engagement with business and investors, who describe cross-economy and sector specific barriers to investment. To make investments, businesses need not only a level playing field, but access to workers with the right skills and quality infrastructure. They need a degree of policy certainty, so they can plan ahead. They also need clear and proportionate regulation. Competitive rivalry alone cannot overcome barriers such as skills shortages or planning delays. But when coupled with the wider set of conditions, competition works to ensure that higher investment leads to long-term growth.
8. **In some markets, weak competition is the major barrier to investment and needs to be addressed.** Levelling the playing field for all firms can make a major contribution. We have seen in practice the transformative effect of competition, including in the fintech sector following the introduction of Open Banking, or through actions to promote competition in the airport sector, which resulted in a more dynamic and innovative market.



Example of tackling barriers to competition: Open Banking

The banking sector had long-standing barriers to competition. The CMA found that older and larger banks did not have to compete hard enough for customers’ business, and smaller and newer banks found it difficult to grow.

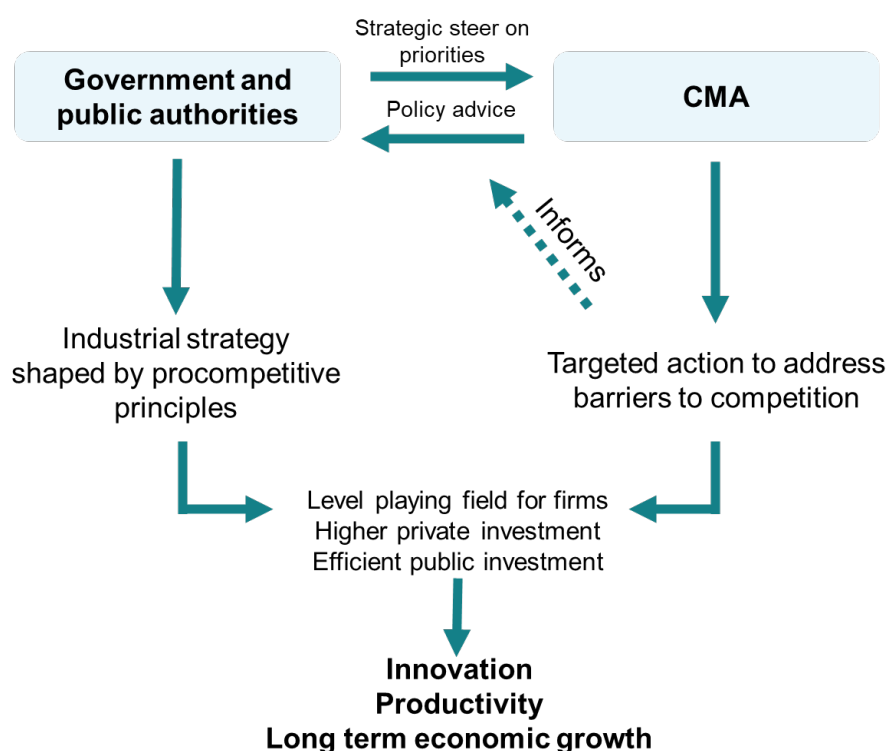
Open Banking was central to the package of reforms introduced by the CMA to address these issues. Open Banking has since become a major success, spurring data-driven innovation, investment and growth in financial services, contributing to the growth of the UK’s fintech sector, both domestically and internationally.

9. **The CMA plays a key proactive role in providing an environment which encourages investment.** We work to promote investor confidence in the UK, including as the UK’s merger review body, through proportionate, evidence-based decision making, and through engagement and dialogue so we can understand, and address, concerns where they arise.

The CMA's role in the industrial strategy

10. The CMA contributes to the industrial strategy in two broad ways:

- (a) We will provide advice to government and public authorities, to help ensure that policies, investment support, and procurement harness the power of competition.
- (b) We will use our powers directly to promote open, competitive markets, to drive innovation, productivity and investment and therefore long-term economic growth.



11. As an adviser to government, we support the integration of pro-competitive principles into the industrial strategy. Through a pro-competitive industrial strategy government can:

- (a) Design policies to maximise the ability and incentives for firms to compete.
- (b) Use competitive processes to drive efficiency and value in the use of public resources, including through procurement.
- (c) Better target interventions to promote competition to unlock productivity and growth, such as through measures focussed on smaller and younger firms.



Example of CMA advice to government: EV charging

The CMA completed a market study in 2021 into electric vehicle charging. We made eight recommendations to promote competition to unlock investment in this key market. This included recommending to government that subsidies to help the market grow should be used to open up competition, through requiring interoperability across EVs. This went beyond traditional approaches of minimising distortions to competition, and instead saw subsidy design as a potential pro-active tool to make investments pro-competitive.

12. We can also play a direct role in supporting the industrial strategy through targeted action to address barriers to competition using our competition and consumer protection powers:

- (a) We carry out in-depth reviews when particular markets are not working well, to open up opportunities for innovation and growth.
- (b) We tackle illegal practices that undermine competition, empowering fair-dealing businesses to compete and grow.
- (c) We enforce consumer protection law, so that consumers can engage confidently in markets, spurring innovation and growth.
- (d) We perform the UK's merger control function in a highly targeted way, enabling the vast majority of M&A to go ahead, whilst looking more closely at the small number of cases which present a risk for competition and growth.

Example of direct CMA action to address barriers to competition in construction

Construction is a critical sector on which almost every other part of our economy depends. Tackling illegal anticompetitive practices in the construction sector has been a priority for the CMA in recent years. For example, the CMA fined three suppliers of essential concrete products for roads and railways and large infrastructure projects for participating in a secret cartel, which fixed prices and promised not to compete for each other's customers on some projects. This is one of a number of cases where the CMA has taken enforcement against cartels in the sector.



13. We recognise that competition is part of a wider policy landscape. Our approach, including through our advice to government and our casework, is shaped by seeing competition in context. We are strong advocates for the benefits competition can bring, but also recognise that competition is a means to an end. In pursuing long-term growth, it needs to be considered alongside other policy considerations. Parliament has designed the competition regime around exactly that principle. The legislative framework provides levers for the CMA to balance competition objectives alongside other considerations.

Targeting growth driving sectors

- 14. The CMA welcomes the government's strategic focus on eight key sectors.** We agree with the proposal in the Green Paper for the industrial strategy to take a targeted approach, focussing on the specific subsectors where the evidence is strongest that policy can address barriers to long-term growth.
- 15. The CMA can support government in assessing competition in specific sectors and markets.** Our State of Competition report analyses trends in competition across the economy, at broad industry levels. The CMA's Microeconomic Unit will be building on the analysis in this report through its programme of work focussed on growth and industrial strategy, which will support and inform the government as it looks to address long-standing challenges holding back the UK's economic performance.
- 16. We welcome the government's focus on supply chain dependencies for the key sectors.** Addressing supply chain dependencies are key to building resilience. The CMA will be carrying out further work to examine the impact of upstream market power on downstream markets, as part of our wider programme of research on growth and industrial strategy.

Creating a pro-business environment

17. Competition policy is one of many important levers that will have a bearing on the policy areas identified by the Green Paper as important for growth. Our views on some of these areas are set out below.

Innovation policies

18. **Different market structures will incentivise different levels and types of innovation.** Support which is focused only on larger incumbents may have a lower propensity to bring about more disruptive innovations or sustain innovation over a longer period of time.

19. **The adoption and diffusion of ideas across the economy is key to innovation, growth and productivity.** Our State of Competition report identified evidence that productivity improvements may not be spreading as quickly through the economy. We are therefore taking forward research on the factors affecting the diffusion and adoption of technologies across different industries, as part of our programme of our work on growth and industrial strategy.

People and skills

20. **Well-functioning labour markets are key to a dynamic economy.** Well-functioning labour markets support workers to realise the full value of their work and ensure that they can easily move to more productive firms, speeding up the process of productivity growth across the economy. As highlighted in our work on labour markets, the government may wish to consider how the use of non-competes affects labour markets in the UK, as well as how other issues such as transport infrastructure or skills policies may contribute to labour market frictions.

Data in the industrial strategy

21. **Access to data is crucial to enable businesses to innovate and grow into new and adjacent markets.** This is particularly important in the growth of AI. Our work on foundation models identified key market conditions required for business in the AI space to prosper, including access, diversity, choice, fair dealing, transparency and accountability.

22. **Smart data schemes can harness data to promote competition, support consumers and create new markets.** We are well placed to continue providing the government with practical advice on how to design effective smart data schemes, based on our experience with Open Banking.

Energy and infrastructure

23. **We welcome the government’s focus on planning as part of the industrial strategy.** Our housebuilding market study observed issues in the planning process as a barrier to the delivery of new housing and better economic outcomes, placing a disproportionate burden on SME housebuilders.
24. **Infrastructure investments require a long-term commitment of very significant capital.** This can result in sole providers, rather than a normal competitive market. However, there are opportunities to ensure that public investments in infrastructure use competition to get the best value from investments, and that the terms of investment help drive competitive market structures in the long term, including in upstream or downstream markets.
25. **Pro-competitive public procurement offers major opportunities for efficiency and resilience.** We will continue to support the harnessing of competition for more effective public procurement. This includes through the use of new AI tools to aid detection of illegal bid rigging, which drives the cost of procurement up and diminishes value for the taxpayer.

Response Structure

26. Our response to the Green Paper is structured as follows:

- (a) **Section 1 – Driving investment:** we respond to the government’s request for evidence on the barriers to private investment; and the place of competition alongside other factors in driving private investment.
- (b) **Section 2 - Competition and regulatory institutions in the industrial strategy:** we set out how the CMA can support the industrial strategy and the wider growth mission; and the role played by regulation.
- (c) **Section 3 – A targeted industrial strategy:** we respond to the Green Paper’s questions on the government’s proposed areas of focus on parts of the economy with the greatest capacity to produce long term growth.
- (d) **Section 4 – Creating a pro-business environment:** The Green Paper seeks views on policies to create a pro-business environment. The CMA provides views on these areas of policy, drawing from our experience as a competition and consumer protection authority.

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1. Section 1: Driving investment

- Question 7: What are the most significant barriers to investment? Do they vary across the growth-driving sectors? What evidence can you share to illustrate this?
- Question 18: Where you identified barriers in response to Question 7 which relate to competition, what evidence can you share to illustrate their impact and what solutions could best address them?
- Question 21: What are the main factors that influence businesses' investment decisions? Do these differ for the growth-driving sectors and based on the nature of the investment (e.g. buildings, machinery & equipment, vehicles, software, RDI, workforce skills) and types of firms (large, small, domestic, international, across different regions)?
- Question 22: What are the main barriers faced by companies who are seeking finance to scale up in the UK or by investors who are seeking to deploy capital, and do those barriers vary for the growth-driving sectors? How can addressing these barriers enable more global players in the UK?

Summary

- 1.1 A dynamic economy that rewards innovation and productivity is a magnet for entrepreneurs with a keen eye for opportunities to found and grow businesses, and for the investors and capital that back them. When competing on a level playing field, firms are spurred on to invest so that they can out-perform their rivals. Where markets are not contestable, incumbents are safe from challenge, and everyone's incentives to invest are reduced. Incumbents worry less about losing their position, so invest less to improve their offer. Firms and entrepreneurs will not invest to enter new markets with innovative new products, if they don't have a fair chance of success.
- 1.2 The government's focus on investment is well founded. Evidence shows that the most important contributor to the UK's recent low productivity growth, relative to other countries, is weaker investment and a more significant slow-down in capital intensity than its peer economies.¹ Our response to the above questions draws on our case work, our economics research expertise and our broad and diverse engagement with businesses and investors.

¹ Reenan, JV, Yang, X (2024) 'Report Cracking the Productivity Code: An international comparison of UK productivity' POID Special Report. Accessible at: <https://cep.lse.ac.uk/pubs/download/special/cepsp41.pdf>.

- 1.3 Competition is a critical requirement for investment, but not sufficient on its own. Investment depends upon a broad set of conditions. Our engagement with business and investors reinforces how businesses need not only a level playing field, but access to workers with the right skills and quality infrastructure. They need a degree of policy certainty, so they can plan ahead. They also need clear and proportionate regulation. Competitive rivalry alone cannot overcome barriers, such as skills shortages or planning delays. But when coupled with the wider set of conditions, competition works to ensure that higher investment leads to long-term growth.
- 1.4 In some markets, weak competition is a major barrier to investment and needs to be addressed. Levelling the playing field for all firms can make a major contribution. We have seen in practice the transformative effect of competition, including in the fintech sector following the introduction of Open Banking, or through actions to promote competition in the airport sector, which resulted in a more dynamic and innovative market. We have also seen that where firms face little competition, their incentives to invest are diminished, such as in our recent market investigation into key communication networks for the emergency services.

Cross-economy drivers of and barriers to investment

- 1.5 In our experience, there is relatively strong consensus around a broad set of conditions that encourage private investment. Some are relevant across all markets, and some relatively market specific:
- (a) **Political and policy environment, including taxation and support for R&D:** A stable political and policy environment for businesses is essential for attracting an in-flow of capital by minimising uncertainties regarding returns.
 - (b) **Workers and skills:** Maximising the productive potential of investment demands that capital be met with a ready supply of workers with the skills and talent to employ it.
 - (c) **Regulation:** Proportionate, clear, and well-designed regulation.
 - (d) **Infrastructure, planning and energy:** The availability of efficient, cost-effective infrastructure (such as transport, energy and communications services), as well as the speed and ease with which this is facilitated by planning processes, underpins the productivity of firms across the economy, and therefore the returns on investments.
 - (e) **Access to capital and risk appetite:** Firms with significant capacity to make investments need the risk appetite (sometimes, but not always, shaped by

regulation) to make a range of different types of investment across the economy.² The difference between the UK and some other jurisdictions in this regard is noteworthy.

- (f) **Global markets:** Much investment is internationally mobile and increasingly so. As a result, additional factors relate to the UK's 'investment offer' compared to other jurisdictions, including tax and the relative availability of public investment.³

1.6 We have observed, and had described to us in detail by a range of senior members of the investment community, a set of challenges and barriers businesses face in relation to investment decisions in the UK, which are reflected in the Green Paper:

- (a) **The British Private Equity & Venture Capital Association** has surveyed its members, who report the main barriers to investment as: (i) policy uncertainty, (ii) complexity around regulation and incentives, (iii) planning delays, (iv) poor public infrastructure, (v) domestic skills shortages and challenges recruiting global talent, and a (vi) a lack of regulatory agility in innovative sectors.⁴
- (b) **The Startup Coalition** has identified key areas to support the startup and scaleup ecosystem as: (i) the ability to attract and retain talent, (ii) access to funding, (iii) the regulatory environment and (iv) barriers to innovation (including unlocking smart data).⁵
- (c) **The CBI** has identified measures to create a competitive environment for businesses to scale in the UK, including: (i) the use of pro-innovation regulation supported by the Regulatory Innovation Office (ii) reforms to financial regulation including the regulation of pensions to increase investment (iii) partnering with business to harness national assets, including

² See, for instance, the remarks of the CEO of the FCA earlier this year where he asked whether the UK pensions system supports the risk appetite needed for the economy: FCA, Rathi, N (2024) 'The future of pensions: act today to plan for tomorrow'. Accessible at: <https://www.fca.org.uk/news/speeches/future-pensions-act-today-plan-tomorrow>.

³ Department for Business and Trade, HM Treasury (2023) 'Harrington Review of Foreign Direct Investment'. Accessible at: https://assets.publishing.service.gov.uk/media/655f62310c7ec8001195bd5f/231123_Harrington-Review-Report-FINAL-2__HH_Global_.pdf.

⁴ BVCA, (2024) 'Adding Value, Delivering Growth. Final Report of the Public First/BVCA Investment Commissions'. Accessible at: <https://www.bvca.co.uk/Portals/0/Documents/Research/2024 Reports/BVCA Investment Commission Report.pdf>.

⁵ See: Start Up Coalition, Foster, M, (2024) 'The Startup Manifesto'. Accessible at: <https://startupcoalition.io/news/the-startup-manifesto>.

data and research and technology organisations (iv) providing access to the best talent through the performance of the Home Office.⁶

- 1.7 These are all issues that potentially limit the viability or attractiveness of organic growth or a UK listing for companies we wish to succeed and thrive here; and which impact the attractiveness of the UK as a destination for capital. It is welcome that the government is facing into many of these issues, from planning reform and homegrown clean energy to a full and frank discussion about risk appetite.
- 1.8 Fair and open competition works together with this broader set of foundational conditions to create the right environment for investment. The following section considers in more detail the relationship between competition and investment.

Competition and investment

- 1.9 Competition drives investment through two mechanisms:
- (a) **A static effect:** where firms have market power, they can raise their prices and reduce their outputs. The reduction in output means firms have less need for capital and therefore, their investments will be lower.
 - (b) **A dynamic effect:** where markets are competitive, firms are spurred on to invest so that they can maintain and build market share by providing consumers with better, or lower cost, products. Conversely, where markets are not contestable, and incumbents enjoy protection from challengers, the incentives of both challengers and the incumbent to invest are reduced. Absent fair competition, challengers will be unable to reap the value of investments which, in turn, provides no impetus to incumbents to invest to maintain their position.⁷
- 1.10 A number of studies demonstrate an overall relationship between measures of competition and investment.

⁶ See: CBI, (2024) 'Growth Engines: The UK Scale-up Playbook'. Accessible at: <https://www.cbi.org.uk/media/0dmp1v2j/growth-engine-the-uk-scale-up-playbook.pdf>.

⁷ For an account of this relationship, see Shapiro, C, (2012) 'Competition and Innovation: Did Arrow Hit the Bull's Eye?', in Lerner, J and Stern, S (eds) (2012) *The Rate and Direction of Inventive Activity Revisited*, University of Chicago Press, pp 361 – 410.

Alesina, Alberto, et al (2005) found that regulatory reforms, especially those that liberalise entry, are very likely to spur investment.⁸

A recent **European Commission** study based on macroeconomic modelling found that measures to reduce market power would appear to have significant positive effects on economic performance. The report estimates that implementation of measures to decrease mark-ups by around 8% in the EU would have positive impacts on real GDP, and increase investment by 2.1% after five years, contributing to a 0.5% increase in labour productivity, and 1.7% after ten years, contributing to a 0.8% increase in labour productivity.⁹

Gallardo and Philippon (2017) provide evidence that declining competition is partly responsible for declining investment in the US economy.¹⁰

IMF (2019): An IMF study of a broad sample of firms across 27 countries found that a 10-percentage-point increase in a firm's markup is associated with a statistically significant 0.6 percentage point decrease in its physical capital investment rate. The IMF analysis was that the decrease in investment in physical capital did not appear to have been replaced by investments in intangibles (for which there was no significant relationship with mark-ups).

- 1.11 A number of studies have also demonstrated the positive relationship between measures of competition and productivity, which is consistent with a positive relationship between competition and investment.¹¹
- 1.12 Examining the relationship between competition and investment at an aggregate, cross-economy level is however complex. Investment takes many forms. Business can invest in physical or intangible capital to cut other types of costs (like labour, energy or materials). They can invest in innovation activities or formal R&D to increase their product range or production efficiency. They might even invest directly in other businesses, to increase scale economies or remove a competitor. Competition is likely to have different relationships to different types of investment, which an aggregate analysis risks missing.
- 1.13 CMA analysis drawing on our most recent State of Competition report illustrates the complexity.¹² Our analysis indicates that investment rates across industries are not correlated with cost markups – an important measure of market power. This analysis dispels the notion that higher investment can be fostered simply by

⁸ Alesina, A, et al (2005) 'Regulation and Investment', Journal of the European Economic Association, vol 3, no 4, pp 791–825.

⁹ European Commission (2024) 'Protecting Competition in a Changing World. Evidence on the evolution of competition in the EU during the past 25 years'. Accessible at: https://competition-policy.ec.europa.eu/system/files/2024-06/KD0924494enn_Protecting_competition_in_a_changing_world_staff_report_2024.pdf.

¹⁰ Gallardo, GG and Philippon, T, (2017) 'Declining Competition and Investment in the U.S', CEPR Discussion Paper.

¹¹ See further economic evidence cited: CMA [Productivity and Competition: A Summary of the Evidence](#) (2015).

¹² CMA [The State of UK Competition Report](#) (2024).

encouraging the growth of dominant firms. Firms enjoying greater market power do not, on average, invest at higher rates than those with less.

- 1.14 However, even when weaker competition analysed at a sector level is not associated with weaker investment, barriers to competition can still act to stifle investment in individual markets (discussed further below at paragraph 1.17 to 1.20). Where weak competition is a major barrier to investment, other policy measures alone will not suffice to incentivise the full potential deployment of private capital without tackling obstacles to competition.
- 1.15 Furthermore, where investment may still flow despite weak competition, the benefits of this investment could be markedly more diffuse and long-lasting if competition were stronger. This is because competition has an important role to play in ensuring long-run allocative market efficiency and can help to ensure that the proceeds of growth underpin greater shared prosperity.
- 1.16 There is clearly scope for further research examining the relationship between competition and investment, in different contexts. As part of the CMA Microeconomic Unit's Growth Programme, we have launched a priority piece of work to bring greater clarity to what existing evidence has to say on these questions. We intend to publish the results of that analysis early in 2025.

Competition and investment in specific markets

- 1.17 Barriers to competition can arise from a number of sources, including (but not limited to):
- (a) Anti-competitive agreements and practices.
 - (b) Consolidation through mergers to a small number of players.
 - (c) The leveraging of monopoly power to restrict competition in adjacent markets.
 - (d) Disempowered or misinformed consumers, who do not switch suppliers.
 - (e) Regulation or other government measures that restrict the ability and incentive for firms to compete.
 - (f) Distortions introduced in global markets, through the actions of overseas governments.
 - (g) Natural monopoly features, such as in network infrastructure (e.g. water networks) which involve particularly high fixed costs.

- 1.18 Where one or several of the remaining barriers are present, effective competition policy has been shown to help unlock investment and growth by tackling them.¹³ This has been demonstrated through our own case work:
- (a) **BAA Airports:** In 2009, the Competition Commission (one of the predecessor bodies to the CMA), found that there were substantial competition problems in relation to the seven UK airports owned by BAA. BAA was required to sell three airports, to introduce greater competition into the market. In 2016, the CMA carried out an evaluation to understand the impact of introducing greater competition into the market, supported by quantitative research undertaken by independent consultants. The evaluation found evidence of increased investment in facilities, with Stansted reporting that a routine maintenance spend of around £20m per year had increased to £60m per year for both maintenance and new facilities. Investment was also becoming more efficient, with a greater focus on the needs of airlines and passengers.¹⁴
 - (b) **Open Banking:** Open Banking is a key measure to reduce long-standing barriers to competition in the banking sector. Through its retail banking market investigation, the CMA found that older and larger banks did not have to compete hard enough for customers' business, and smaller and newer banks found it difficult to grow. Central to the package of reforms introduced by the CMA to address these barriers was Open Banking. Open Banking has since become a major success, spurring competition and digital and data-driven innovation in financial services and contributing to the growth of the UK's fintech sector, with the open banking ecosystem now valued at over £4 billion to the UK economy.¹⁵
- 1.19 Looking forward, the government has identified digital technologies as a 'growth driving sector' in the industrial strategy. Digital technologies have delivered a very broad range of benefits, and large tech firms have played an important role in driving innovation and investment, along with a multitude of bold and highly innovative startups. However, as digital markets have developed, there has been a concentration of market power among these large tech firms across a number of markets. This can lead to behaviours that stymie innovation and growth, as well as

¹³ With regards to distortions introduced in global markets (f), trade policy plays an important role in facilitating competition, ensuring that UK firms have access to global markets and can compete on fair terms with foreign competitors. With regard to natural monopoly (g), there is a clear role for regulation to drive firms to make investments, in the absence of ordinary competitive pressure (see further the response to question 20 on regulation at paragraph 2.31 to 2.35).

¹⁴ CMA (2016) [BAA Airports: Evaluation of the Competition Commission's 2009 Market Investigation Remedies](#).

¹⁵ See [CMA confirms full completion of Open Banking Roadmap, unlocking a new era of financial innovation - Open Banking](#)

detering startups and challengers from entering markets. For example, the CMA regularly hears concerns from small firms seeking to scale and succeed regarding the terms large platforms dictate for them to access customers.

- 1.20 Given the well-documented harms in some of these markets (which themselves can hamper growth for UK businesses), the CMA considers digital markets to represent a key area where weak competition risks depressing future investment from a broad range of sources. Whilst large players will continue to play a critical role, fair, open and effective competition will at the same time allow start-ups and challenger firms to bring forward disruptive innovations, challenging market incumbents to continue to invest and innovate themselves. The fertile and diverse technology ecosystem this will create for the UK will build confidence for investment amongst a broad range of industry players.
- 1.21 The new pro-competition regime for digital markets has been established precisely to achieve this effect. The CMA considers that promoting competition in digital markets should be seen as an essential part of the wider industrial strategy for promoting investment in this sector.

Investor confidence

- 1.22 The relative attractiveness of the UK economy to inward investment is shaped by a broad mix of government policies, reflecting the broad set of conditions for investment described at paragraph 1.5 above. As part of the UK's overall policy framework, the Green Paper recognises that the UK's regulatory and competition institutions are a strength. They have been cited as such by many parts of the business community over many years.¹⁶ Empirical studies also highlight the strong relationship between foreign direct investment and the even-handedness and transparency with which decisions are made by government.¹⁷ It is thus well-established that a track record of consistent, transparent, evidence-based decision

¹⁶ For example, see UK Finance's response to the House of Commons European Scrutiny Committee's inquiry (2022) '*Regulating after Brexit*' commented that "*Regulation is an important determinant of the UK's success in financial services. Indeed, our reputation for strong, predictable regulation and high standards gives firms the stability and certainty they need to invest and do business with confidence*" para 3. Accessible at: <https://committees.parliament.uk/writtenevidence/110200/html/>.

¹⁷ For example, a survey of senior executives of multinationals found that a strong rule of law (including lack of corruption, stability and transparency) was the third most important consideration when multinationals make FDI decisions, after the ease of doing business, and the stability of the political environment. 88% of respondents reported that a strong rule of law was 'essential' or 'very important' to FDI decision making. See: Economist Intelligence Unit on behalf of Hogan Lovells, (2015) '*Risk and Return. Foreign Investment and the Rule of Law*' p 6. Accessible at: https://binghamcentre.biicl.org/documents/49_risk_and_return_fdi_and_the_rol_compressed.pdf.

making is a national asset and an important driver of confidence in investing in the UK.

- 1.23 With respect to the CMA, the fact we make independent and impartial decisions, focused on the facts, even in relatively heated debate, can act as a powerful draw for investment into the UK, as businesses have certainty on how decisions that affect them will be taken. This does not imply that all parties will be content with individual decisions. But a divergence of views on substantive outcomes is distinct to the established value of transparency, independence and fairness of process.
- 1.24 Investor confidence will be key to the growth mission. It is important that where the CMA finds concerns about how we carry out our work, we fully explore their provenance and factual basis and consider how to address them. We describe in further detail our role in promoting investor confidence in the UK economy, in the following section.

Conclusions

- Levels of private investment are affected by a range of factors – both across the economy and at a sector level.
- Within specific markets, competition spurs firms to invest to maintain and build market share by providing consumers with better or lower cost products.
- Where there are barriers to competition in specific markets, these often present barriers to investment. Experience has shown how removing barriers to competition as unlocked investment.

2. Section 2: The CMA's role in the industrial strategy, and the role of regulatory institutions

Summary

2.1 The CMA has a key role to play in the industrial strategy:

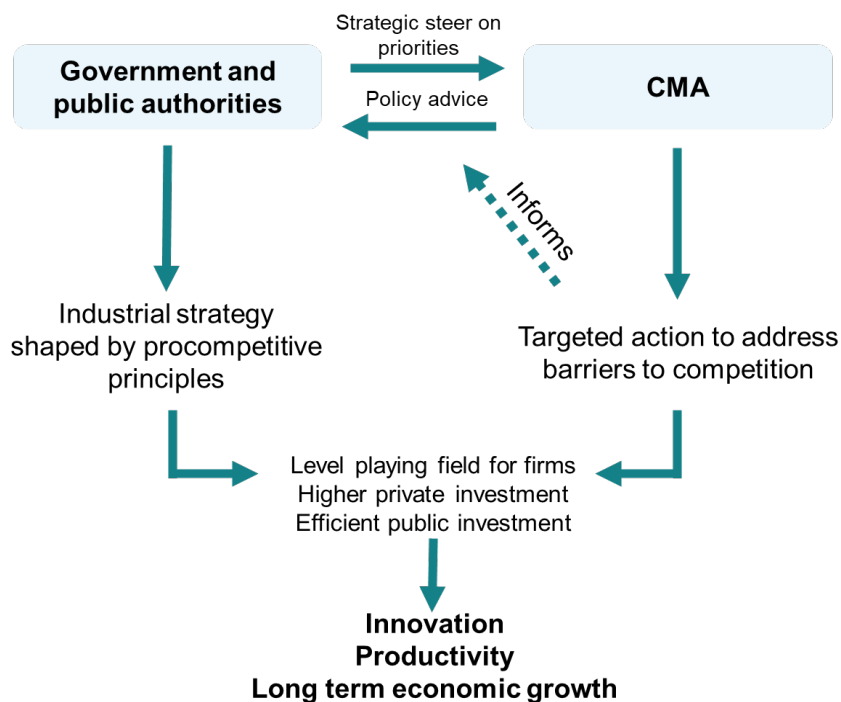
- (a) We will provide advice to government and public authorities, to help ensure that policies, investment support and procurement harness the power of competition.
- (b) We will use our powers directly to promote open, competitive markets to drive innovation, productivity and investment and therefore long-term economic growth.

2.2 Other regulatory institutions will also be important in shaping competition and the incentives businesses have to invest. The CMA will continue to play its part in identifying pro-competitive regulatory reforms, which is a longstanding focus of our work.

The role of the CMA

- Question 19: How can regulatory and competition institutions best drive market dynamism to boost economic activity and growth?

Figure 2.1 CMA direct role as part of a whole of government approach to industrial strategy



2.3 Beyond our direct role, the industrial strategy and growth mission prompt a timely challenge for all UK institutions to evaluate how the ways in which they operate could be further enhanced to maximise their contribution to investment and growth.

2.4 The CMA considers this on an ongoing basis as part of our continuous progress and evolution as an organisation. We welcome the opportunity to explore ways that we can reinforce, expand and accelerate these efforts (as discussed further at paragraph 2.24 to 2.28).

Supporting the industrial strategy as an adviser to government

2.5 It is a key part of the CMA’s role to provide independent policy advice to government on the impact of different policy measures on competition. In recent years we have invested heavily in this area, both through our specific advocacy function and through market studies and investigations in areas where government plays a key role in shaping market outcomes, and through establishing a new microeconomics research function within the CMA.

- (a) **Advocacy:** As part of our advocacy function, the CMA works with officials across government, across the UK, to identify pro-competitive policy reforms, and to understand and take into account the impact different policies will have on how competition works in particular markets. The existing advocacy

function has recently been supplemented by a public policy function, to enable CMA to apply its expertise to support the government on broader policy issues.

- (b) **The Subsidy Advice Unit:** The Subsidy Advice Unit offers independent advice to public authorities through publicly available reports that evaluate public authorities' assessment of compliance against the requirements of the Subsidy Control Act 2022. The Subsidy Advice Unit's reports assist authorities in supporting important public objectives, such as becoming a low carbon economy, through subsidies.
- (c) **Microeconomics Unit:** The Microeconomics Unit (MU) conducts economic research focusing on issues of competition, innovation and productivity to support growth in the UK economy. In October, we announced a focused Growth Programme of work to be conducted by economists in the MU that will focus on critical drivers and blockers of growth. The programme will consider in further depth:
 - (i) A review of the evidence on the role of competition in driving and directing investment towards productive uses, and subsequent empirical analysis to address any evidence gaps identified.
 - (ii) Barriers to the spread of new technology and knowledge across the economy. As set out in the Green Paper, increasing the adoption and diffusion of ideas, technologies, and processes is an essential step for growing the productivity of our growth-driving sectors. This research will support targeting policies to promote faster adoption and diffusion.
 - (iii) The strength of competition along supply chains, and the impact of 'upstream' market power on downstream sectors – reflecting the importance of competitive markets for key inputs to UK economic performance and resilience.
 - (iv) Evidence on pro-growth industrial policy interventions, and lessons from past experience and other countries, to help inform the UK's strategy.

2.6 The value of the CMA's policy advice function is underscored by the government's plans for a modern industrial strategy, which will involve more active engagement with markets to shape and secure long term growth for the economy.

2.7 Academic studies have shown how the effectiveness of industrial strategy is enhanced through the integration of pro-competitive principles.

Aghion et al (2015) examined Chinese industrial policy between 1998 and 2007. The study illustrates the potential benefits of what it terms ‘competition-friendly’ industrial policies, finding that:

- (a) Sectoral state aid fostered productivity growth to a larger extent than when it targets sectors that displayed greater levels of competition, particularly where the aid was not concentrated on a small number of firms in a sector.
- (b) Additional benefits were achieved where state support was directed to younger firms.¹⁸

2.8 The CMA therefore stands ready to provide advice to government on where the impact of the industrial strategy can work with, and be amplified through, harnessing competition:

- (a) **Opening up markets:** Interventions that catalyse more effective competition and promote homegrown business ecosystems through lowering barriers to entry or focussing support on smaller innovative business. For instance, recent subsidies provided by the US government in the meat-packing industry specifically targeted smaller meat-packing producers to promote competition and resilience in a highly concentrated domestic industry;¹⁹
- (b) **Using competition to target support:** Using competitive processes for the allocation of support can help drive efficiency between recipients (see paragraph 4.58 to 4.61 below on the role these mechanisms in infrastructure investments) and extract the maximum value from investments.²⁰
- (c) **Targeting support so competition increases its impact:** Subsidies to firms operating in more competitive markets can ensure that the discipline of competition maximises the impact of the public investment.
- (d) **Procompetitive access to key national assets:** Access to national assets (such as data and energy) should be negotiated through leveraging competitive forces to ensure that access achieves maximum value for UK

¹⁸ Aghion, P, et al (2015) ‘Industrial Policy and Competition’, American Economic Journal: Macroeconomics 7(4), pp 1–32.

¹⁹ OECD (2024) ‘Pro-competitive Industrial Policy’ OECD Roundtables on Competition Policy Papers, p 25.

²⁰ A recent example of a subsidy scheme using competition to allocate support is the Life Sciences Innovate Manufacturing Fund (LSIMF). The scheme will be an open competition as opposed to a direct award and therefore, the scheme will not disadvantage firms as all eligible projects will be assessed on their merits. See, CMA (2024) ‘[Subsidy Advice Unit Report on the proposed Life Sciences Innovative Manufacturing Fund](#)’.

consumers and businesses and generates maximum value across the whole economy.

- 2.9 The CMA's advice on measures adopted as part of the industrial strategy is guided by the same broad principles and evidence-based approach that we apply when we provide advice to other government interventions.²¹ We will consider whether interventions impact on the ability and incentives for suppliers to compete, and the impact this may have – in both the short and long term - on the benefits for the UK flowing from that competition. In broad terms, policies that provide support to particular firms, either directly or more indirectly (e.g. through providing support to a particular location), are more likely to distort competition. However, in acting as an adviser to government, we recognise that competition may not be the overriding policy objective in every case.
- 2.10 Where a policy may negatively impact competition, the CMA will work with government to support its evaluation of the balance of different considerations to achieve the best overall outcome for UK consumers and businesses.²² This includes whether weaker competition risks inadvertently undermining policymakers' objectives in either the short or longer term; or where it results in trade-offs that nonetheless merit careful assessment (such as increased costs, lower quality, loss of innovation or resilience, disincentives to invest, difficulty growing or succeeding as a smaller business or challenger).

Supporting the industrial strategy through targeted, direct action to address barriers to competition and support growth

- 2.11 The functions entrusted to us by Parliament empower the CMA to take targeted direct action to address barriers to competition and prevent them from arising.
- 2.12 We welcome the government's commitment in the Green Paper to robust and independent enforcement of competition and consumer protection law, as part of its industrial strategy.
- (a) **Market studies and market investigations:** We carry out in-depth reviews when particular markets are not working well, to open up opportunities for innovation and growth.

Example: The CMA concluded a market study into Electric Vehicle charging in 2021, identifying issues hindering the roll-out of EV charge points, and

²¹ See further: CMA (2023) [Competition Assessment: Guidelines for Policymakers](#).

²² This includes the CMA's Subsidy Advice Unit role in providing advice to public authorities on their Assessment of Compliance with the Subsidy Control Act 2022. See further: Subsidy Advice Unit, accessible at <https://www.gov.uk/government/organisations/subsidy-advice-unit/about>.

making recommendations to regulators and government to encourage investment in the sector.

- (b) **Antitrust enforcement:** We tackle illegal practices that undermine competition, empowering fair-dealing businesses to compete and grow.

Example: The construction industry is a major part of the UK economy and is also essential to delivering public services including schools, hospitals, housing, roads and infrastructure. In recent years, detecting and preventing illegal cartels in this sector has been a priority for the CMA. Across 2019 and 2020, the CMA fined 12 firms providing construction services or materials for illegal conduct, including price-fixing and market sharing.²³ The CMA currently has two open investigations in the sector.

- (c) **Consumer protection law:** We enforce consumer protection law, so that consumers can engage confidently in markets, spurring innovation and growth.

Example: The CMA has focused extensively on ensuring markets for sustainable products and services work well for people and businesses, ultimately supporting the growth of the green economy and the UK's transition to Net Zero. This includes an investigation into concerns that claims made by Worcester Bosch about their boilers, which resulted in the CMA securing formal commitments.

- (d) **Merger control:** We carry out the UK's merger control function in a highly targeted way. This enables the vast majority of M&As go ahead, whilst looking more closely at the small number of cases that present a risk for competition and growth.

Example: In 2019, the CMA provisionally found that a merger of the leading providers of free credit score checks - Experian and ClearScore - could stifle product development and negatively impact consumers. Instead of consolidation, ClearScore grew as an independent UK business now serving over 21 million users on 4 continents. ClearScore have continued to innovate for their users, launching new offerings and integrating open banking data into their products, among other positive changes. Without effective merger control, these investments to serve consumers may not have been made and a homegrown UK success story would look quite different.

²³ The CMA fined firms £68m over four cases for breaching competition law, including through price-fixing and market-sharing. Eleven company directors were disqualified.

- (e) **The new digital markets regime:** In early 2025, the CMA expects to put into operation a new regime to promote competition in digital markets. We expect that regime will be a step change in driving competition and creating opportunities for growth in the UK tech sector. This includes creating opportunities to harness the benefits of continued investment and innovation by the very largest firms. At the same time, creating opportunities to create a level playing field for start-ups and scale-ups (many UK based) to succeed. The regime as designed and intended to be operated by the CMA will be bespoke, proportionate and participative, ensuring that vibrant innovation and competition drives growth in the UK tech sector in a way that benefits all companies, large and small, as well as their investors and customers.

2.13 Where the CMA has discretion regarding the markets and sectors it focuses on, it does so according to its prioritisation principles (which also have regard to the Government's strategic steer) and according to our mid to long term strategy, in which supporting productive and sustainable growth is a central pillar.

Balancing competition alongside other objectives

2.14 Within the competition regime and the existing statutory framework, scope exists to balance competition objectives alongside other considerations and the CMA has at its disposal several levers to take account of wider factors. This is true both for competition enforcement and merger review.

Competition enforcement

2.15 The Competition Act prohibits anti-competitive agreements, which may themselves inhibit growth – for example cartels that drive higher prices to business customers and exclusionary conduct that hampers the competitive rivalry that sits at the heart of a growing economy. However, cooperation between businesses can bring wider benefits, even in circumstances where it may restrict competition. UK competition law recognises this and makes provision for it in the application of the laws on anticompetitive agreements.

2.16 In that context, the CMA is empowered to consider whether the wider benefits of an agreement mean that the conduct can be justified. We do so based on the evidence, and we have also been pro-active in supporting businesses to make their own assessments:

- (a) **Business cooperation:** In 2023, we published detailed guidance to support businesses to comply with competition law when entering into cooperation agreements. This includes guidance to businesses wishing to cooperate on

the production of goods, to achieve efficiencies, or join together to purchase inputs from suppliers.²⁴

- (b) **Green agreements:** We issued Green Agreements Guidance that provides greater clarity about how businesses can collaborate on environmental sustainability goals, whilst complying with competition law.²⁵ Our approach to sustainability agreements marked a departure from a more traditional approach to the application of competition law, as we have recognised the policy imperative in combatting climate change. We also operate an ‘open-door’ policy, where businesses can approach the CMA for informal guidance on these matters. Last year, we published our first response to such a request - guidance on an initiative by the Fairtrade Foundation, which aims to enhance sustainability and resilience in food supply chains.²⁶

2.17 In certain cases, the CMA has also taken a public position that we will not prioritise enforcement action against particular agreements:

- (a) **Combination therapies:** Combination therapies combine two or more individual drugs into one treatment. They have become increasingly important to treat a range of serious conditions, most commonly cancers. In some cases, a combination will only be cost effective under NHS policy, and commercially feasible for businesses, if there is some form of co-operation between drug firms. In this area, the CMA has acted to clarify where and how competing drug firms can work together on these therapies, in close collaboration with public health bodies.²⁷

2.18 Separate mechanisms exist for the government to exclude the application of competition law in circumstances where there are exceptional reasons of public policy.²⁸

Merger control

2.19 In the field of merger control, the statutory question is whether a merger is likely to substantially lessen competition. It is important to emphasise that this is a broad question and does not require a focus only on short term effects on price. Other

²⁴ CMA (2023) [Guidance on the Application of the Chapter 1 Prohibition in the Competition Act 1998 to Horizontal Agreements](#) (CMA 184).

²⁵ CMA (2023) [Guidance on Environmental Sustainability Agreements](#) (CMA 185).

²⁶ CMA (2023) [CMA Informal Guidance: Green Agreements Guidance](#). Fairtrade Shared Impact Initiative.

²⁷ CMA (2023) [Prioritisation statement on combination therapies](#).

²⁸ See for example: CMA (2020 – 2022) [Guidance on Competition Law Exclusion Orders relating to Coronavirus \(COVID-19\)](#).

benefits flowing from competition, such as quality and innovation also play an important role in a competition-based assessment of mergers.

- 2.20 As part of our assessment, where appropriate, we can evaluate whether the merger is likely to give rise to competition-enhancing efficiencies, which might offset immediate concerns (for example, efficiencies flowing from long term infrastructure or technology investments). And we can consider whether remedies are available that lock in efficiencies or preserve relevant customer benefits (including from innovation) – which offset the impact of lost competition.
- 2.21 Pro-competitive efficiencies may arise where combining two competitors will result in efficiencies that will induce the merged firms to act as stronger competitors to their rivals. Examples of efficiencies might include cost savings; the elimination of double marginalisation through vertical integration; long term infrastructure or technology investments; greater innovation or quality arising from the combination of unique assets; or better meeting customers’ needs by enabling the integration or interoperability of complementary products.²⁹
- 2.22 It should be noted that the evidential bar is high for considering the case for efficiencies or customer benefits, reflecting our responsibility to protect consumers from harms flowing from anti-competitive mergers. Merger assessment is necessarily forward looking and thus based on inevitably incomplete evidence. We need convincing evidence that efficiencies or customers benefits are likely to arise if we are to allow a merger that, in principle, raises competition concerns. But it is clearly Parliament’s intent that these relevant factors may be taken into account in appropriate cases.
- 2.23 The mergers regime also provides a mechanism for the government to intervene in the public interest in limited and well-defined circumstances, for example in relation to media mergers and under the separate national security and investment regime. These mechanisms are transparent, predictable and set out in statute, meaning they work effectively within the rule of law for specific and well-defined circumstances in which the government (rather than the CMA) is best placed to judge the trade-off between competition and wider public interest.

Progressing and evolving as an organisation

- 2.24 The CMA is committed to continual improvements to our processes – not only to help us reach the right decisions, but also to increase the transparency, speed and efficiency of our work. As made clear in Section 1 of this response, we recognise

²⁹ See further: CMA (2021) [Merger Assessment Guidelines](#) (CMA129).

the important role we play as an institution in the UK's global competitiveness, and in promoting investor confidence. We therefore challenge ourselves on how we can progress and evolve including through:

- (a) Improving our engagement with business.
- (b) Improving our own processes, so we can work more effectively.

Business engagement

- 2.25 Listening and learning from a broad and diverse range of stakeholders was explicitly embedded into our new mid to long term strategy (launched in early 2023 under new leadership). Over the last 18 months, the CMA has conducted more open engagement, with a broader range of stakeholders, more frequently, than ever before.
- 2.26 We have been particularly focused on direct engagement with the business and investment community on the topic of economic growth, and the role of competition within that. We are also committing to a new, permanent programme of outreach with startups, and their investors, akin to the regular outreach series we conduct with the legal and competition community.

Merger control and investor confidence

The impartiality, certainty and transparency of the UK merger control process is a powerful attraction to investing in the UK and stands up well to global comparisons. When considering investor confidence, perceptions can matter, and it is therefore important to address the concerns sometimes expressed around merger control.

Over 50,000 M&A deals are announced annually.³⁰ Last year (23/24), the CMA conducted 54 phase 1 investigations. Of the nine we took to an in-depth phase 2 investigation, five were cleared unconditionally and a further two with remedies. Only one was subject to a prohibition decision at the end of phase 2. Comparisons would indicate that the CMA is not more interventionist than the European Commission. Out of the 11 mergers reviewed in parallel in 2023, both agencies cleared six at phase 1, and four of the five that each referred to phase 2.

The UK's voluntary merger control regime (unlike many others) operates on a voluntary filing basis, in which companies can self-assess whether the deal has potential competition issues and then opt not to alert the CMA if it does not. The benefit of the voluntary system is that it filters out the need to submit filings or the CMA to carry out a formal investigation in nearly all transactions. The CMA only carried out 54 phase 1 reviews last year through the formal route as opposed to over 250 investigations opened in France³¹ and around 800 in Germany³² as well as high numbers in many other countries.

Pace is important for businesses carrying out M&A. Businesses tell us the protracted uncertainty of a lengthy investigation can be tough, especially for startups and smaller companies. The UK has statutory time limits for different phases of the process, which the CMA must comply with. Direct comparisons with international agencies' procedures are difficult, given varying rules, but the time we take to investigate the most complex cases (including pre-notification, Phase 1 and Phase 2) is broadly comparable with US and European counterparts.

Improving our processes

2.27 The CMA is constantly seeking to improve the speed and efficiency of our work. A number of tangible improvements have recently, or will very shortly, be coming into force. These include:

³⁰ PWC (2024) 'Global M&A Industry Trends'. Accessible at: <https://www.pwc.com/gx/en/services/deals/trends.html>.

³¹ Autorité de la Concurrence, (2023), 'Rapport Annuel', in French. Accessible at: <https://www.autoritedelaconcurrence.fr/sites/default/files/2024-07/2023rapportannuel-planche.pdf#page=12>.

³² Bundeskartellamt, (2024) 'Annual Report for 2023/2024'. Accessible at: https://www.bundeskartellamt.de/SharedDocs/Meldung/EN/Pressemitteilungen/2024/26_06_2024_Jahresbericht.html.

- (a) **A new duty of expedition:** A new ‘duty of expedition’ will require the CMA to have regard to the need for making a decision, or taking action, as soon as reasonably practicable.³³ The CMA advocated for establishing this new duty, on the basis it would help speed up our work, providing the courts greater grounds to support actions and decisions aimed at more efficient investigations.
- (b) **Reforms to merger investigations:** In 2023, the CMA developed a set of reforms to the process we follow in our in-depth phase 2 merger investigations, following a wide-ranging consultation, including with businesses, legal and economic advisors. These reforms will ensure the UK merger regime has “best in class” procedures that are clear, transparent, agile and efficient.³⁴ This includes evolving to a more participative, less adversarial approach, with better opportunities for the independent CMA Inquiry Group to engage constructively with the parties, including encouraging the parties to bring forward remedies for discussion at an earlier stage, which could support speedier resolution. It will take time for the benefits to be felt but the CMA is confident the incoming reforms will be a step change in the experience of the CMA process for businesses.

2.28 The CMA has also considered other areas of the regime where review may yield improvements. A key area is the CMA’s assessment of remedies in merger cases raising competition concerns, for which the analytical framework should be as clear as possible, and the process to design and test should work for all parties. We will be launching a review of our approach to mergers remedies in the new year. The full scope will be set out in due course, but we expect it to include consideration of the circumstances that behavioural remedies may be appropriate (including any distinction for regulated sectors), the scope for remedies that lock-in genuine rivalry-enhancing efficiencies, and the role for remedies that can preserve relevant customer benefits that may offset anti-competitive effects.

The role of regulatory institutions

- Question 20: Do you have suggestions on where regulation can be reformed or introduced to encourage growth and innovation, including addressing any barriers you identified in Question 7?

³³ The [Digital Markets, Competition and Consumers Act 2024](#), section 327.

In relation to merger control, the CMA was already subject to a statutory duty of expedition under the Enterprise Act 2002, section 103.

³⁴ CMA (2023) press release, [CMA sets out changes to Phase 2 merger processes](#).

2.29 Regulation has a role to play in addressing market failures, creating economic certainty, and driving innovation to stimulate growth, while protecting consumers and businesses. At the same time, poorly designed regulation and regulatory rules can also distort the competitive process, limiting the ability and incentives for firms to compete.

2.30 The impact and role for regulation in specific markets is often a key focus of CMA market studies, market investigations and other types of market review. In recent years, the CMA has made a number of recommendations on how regulation can better support competition, and therefore support growth and innovation. These include recommendations in the sectors identified by the government in the Green Paper. For example:

- (a) **Artificial intelligence.** The CMA believes AI holds transformative economic and societal promise. We have been exploring the potential of powerful foundation models to generate potentially significant benefits for UK consumers and businesses, as well as growth for our economy. At the same time, AI may present new risks and challenges.
 - (i) The CMA is conscious that, in fast-moving, innovation-led markets such as AI, heavy handed regulation may stymie growth. We have been supportive of the government's strategy of leveraging existing regulatory regimes to achieve a proportionate and context-specific approach to regulation. The CMA also considers the government's development of narrow legislation to focus on the most serious risks, to be the right one.
 - (ii) Our own approach has been to publish a set of principles to help guide these markets toward positive outcomes for UK businesses and consumers.³⁵ These principles relate to: AI input access, diversity of options and choice in AI products and services, fair dealing AI markets, transparency on risks and limitations, and accountability of firms.
 - (iii) AI is a complex policy and regulatory area, and the CMA continues to work with government and other regulators (particularly through the DRCF), to collectively ensure that AI's opportunities are fully realised and that, where possible, regulation is rationalised and streamlined.

³⁵ CMA (2023) [AI Foundation Models: initial review](#).

- (b) **Audit.** The CMA made recommendations in 2019 to reform the regulation of audit firms to address inadequate choice and competition for the audit of big businesses, and the vulnerability of the industry to the loss of one of the ‘Big Four’ auditors.³⁶ Healthy competition is critical to raising audit quality and building a more resilient industry, strengthening a sector where the UK has a strong history. The CMA therefore welcomes the Government’s plans to publish a Draft Audit Reform and Corporate Governance Bill.
- (c) **House building:** The CMA’s market study into house building found that planning rules across England, Scotland and Wales had played a role in the persistent under delivery of homes.³⁷ These are discussed further at paragraph 4.53 to 4.55 below, in our response to the questions asked by the Green Paper on infrastructure.

Wider regulatory reform

- 2.31 As discussed in paragraph 1.22 above, consistent, predictable regulatory decision-making, supported by an appropriate degree of independence from shorter-term political pressures, is a powerful mechanism to support long-term investment.
- 2.32 The decisions taken by economic regulators are highly consequential, raising issues of acute public interest that people and businesses will have different interests and views. The delegation of decisions to these regulators does not ‘de-politicise’ or render the issues concerned purely technical.
- 2.33 Stability in the UK’s regulatory framework – with the benefits this provides for investment – therefore requires careful management of how these decisions are delegated to regulators. In particular, effective delegation requires clarity and transparency on the objectives that regulators should pursue through their decisions. In broad terms, the more separate objectives a regulator is given, the less clear its task becomes. With that lack of clarity, it becomes harder to unpick whether the concerns about outcomes are the result of poor performance by the regulator, or regulators being set the wrong objectives by Parliament and

³⁶ These included: a) Internal separation between auditing functions and consultancy within audit firms, to prevent the larger consultancy parts of the business unduly impacting the quality of audits; b) mandatory ‘joint audit’ to enable firms outside the Big Four to develop the capacity needed to review the UK’s biggest companies, through working on these audits alongside the established player; and c) the introduction of statutory regulatory powers to increase accountability of companies’ audit committees.

³⁷ CMA (2023) [Housebuilding Market Study](#).

government. This concern has been raised recently by Parliamentarians in the House of Lords Industry and Regulators Committee.³⁸

2.34 In recent years, concerns have grown about the performance of economic regulators in carrying out functions that are critical for the economy, and the CMA has contributed to recent debates on potential reforms to regulatory policy.³⁹ Services provided in the regulated sectors are critical inputs for businesses in the key growth sectors, and across the economy. A stable regulatory system that is simple for businesses to engage with, with clear accountability between regulators and government, will therefore underpin an effective industrial strategy.

2.35 The CMA will continue to play its part in the overall institutional landscape by:

- (a) Working with regulators and government where we identify to remove regulatory barriers to competition through our case work, or where we see a role for regulation to improve the functioning of markets.
- (b) Working with regulators where we have shared powers and responsibilities, such as in relation to consumer protection and competition law enforcement through the concurrency arrangements. This includes working with regulators as we put into operation the new framework for consumer law enforcement, which will shortly commence under DMCCA, so that consumer protection is joined-up.

³⁸ House of Lords Industry and Regulators Committee (2024) 'Who watches the watchdogs? Improving the performance, independence and accountability of UK regulators'. Accessible at: <https://publications.parliament.uk/pa/ld5804/ldselect/ldindreg/56/5601.htm>.

³⁹ See, for instance: A speech by the Secretary of State for Environment, Food and Rural Affairs, Steve Reed MP, on the introduction of the Water (Special Measures) Bill to Parliament. [Steve Reed speech on the Water \(Special Measures\) Bill - GOV.UK](#). The 2022 report of the House of Commons Public Accounts Committee: '*Regulation of Energy Suppliers*' <https://committees.parliament.uk/publications/31575/documents/177114/default/>. For recent contributions by the CMA to wider regulatory policy, see: CMA (2024) [CMA consultation responses and evidence regarding regulation and the role of regulators in the UK](#).

Conclusions

- The CMA will support the industrial strategy both through advice to government on how policy can harness the benefits of competition to maximise the long-term value of its interventions for the UK, and through our own targeted actions to prevent or remove barriers to competition.
- Where a policy may negatively impact competition, the CMA will work with government to support its evaluation of the balance of different considerations to achieve the best overall outcome for UK consumers and businesses, recognising that competition may not always be the sole, or primary, policy objective.
- Within the competition regime and the existing statutory framework, scope exists to balance competition objectives alongside other considerations and the CMA has at its disposal several levers to take account of wider factors.
- The CMA will continue to play its part in identifying pro-competitive regulatory reforms, which is a longstanding focus of our work.

3. Section 3: A targeted industrial strategy

- Question 1: How should the UK government identify the most important subsectors for delivering our objectives?
- Question 2: How should the UK government account for emerging sectors and technologies for which conventional data sources are less appropriate?
- Question 3: How should the UK government incorporate foundational sectors and value chains into this analysis?

Summary

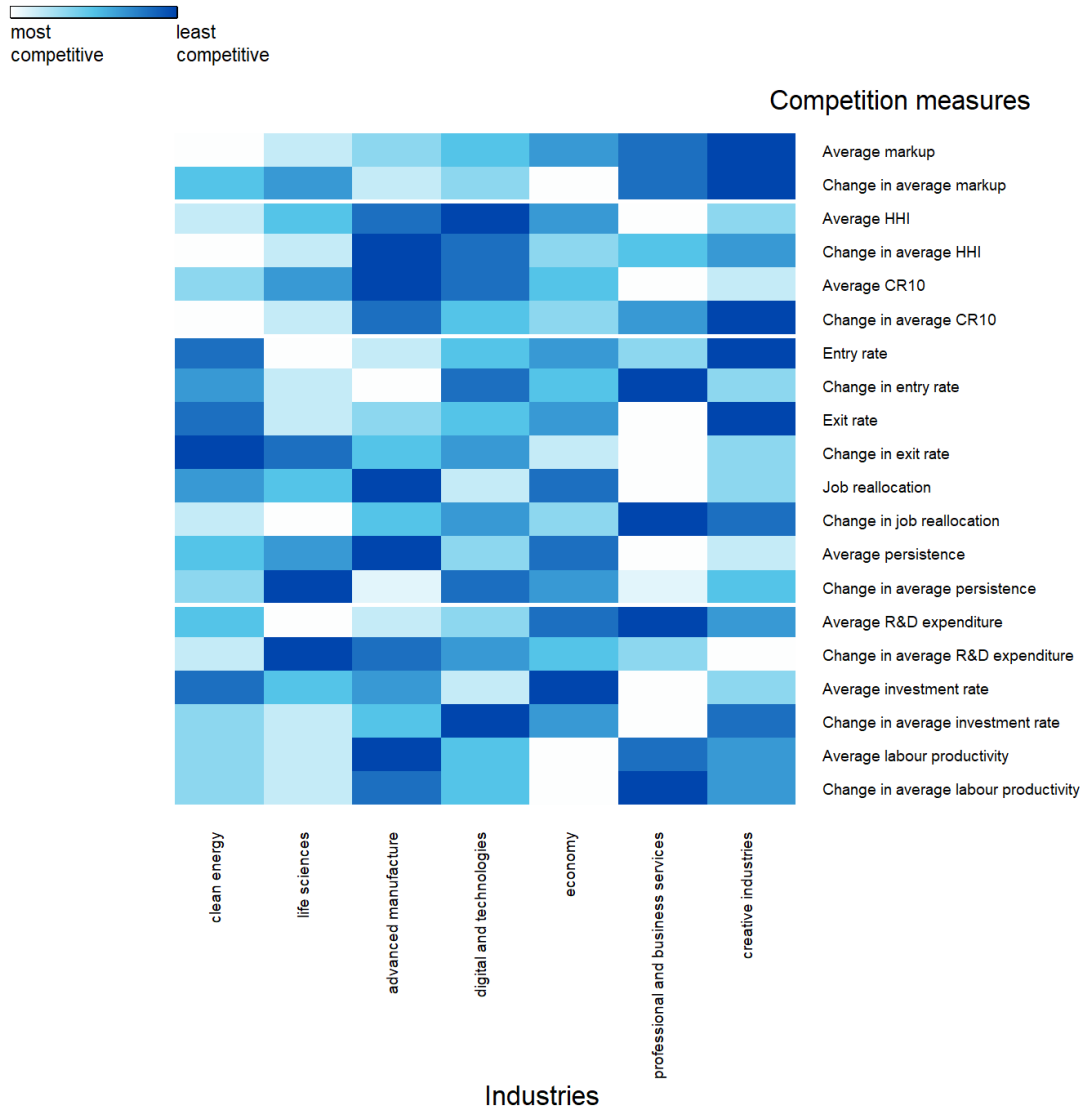
- 3.1 The CMA supports the government's strategic focus on eight key sectors. In addition, we agree with the proposal in the Green Paper for the industrial strategy to take a targeted approach, focussing on the specific subsectors where the evidence is strongest that policy can address barriers to long-term growth.
- 3.2 The CMA can help the government to identify subsectors where intervention to promote competition will generate the biggest growth dividends.

How the CMA can help

- 3.3 For the industrial strategy to contribute most effectively to building prosperity, it will also be important for the government to consider where the value of investments will be captured in the UK economy, to build prosperity at home.
- 3.4 As noted above at paragraph 2.5(c), the CMA's Microeconomics Unit is taking forward a programme of microeconomic analysis specifically to support the industrial strategy. The outputs of this work can be used to support the government in the selection of subsectors as part of the industrial strategy.
- 3.5 In preparing a response to the Green Paper, the CMA has carried out an initial analysis of the individual subsectors that may form part of the eight key sectors. The below heatmap at Figure 3.1 is an example of the CMA's initial analysis of the indicators of the competitive dynamics in each of these broad industrial sectors.
- 3.6 The initial analysis prepared for the purpose of this response to Green Paper indicates how microeconomic analysis of this kind can help guide further analysis and inquiry. For example, the heatmap indicates that competition in the eight key sectors operates quite differently. For instance, clean energy is characterised by

low markups and concentration, high job reallocation, and growing investment and labour productivity. The creative industries, on the other hand, have been highlighted in the CMA’s State of UK Competition 2024 report as an area of potential concern, and are characterised by high and growing markups, moderate concentration, low entry and exit rates, and low investment and labour productivity. Even within key sectors, competitive conditions vary widely.

Figure 3.1: Heatmap of main competition metrics in selected macro-sectors



Each cell gives the intensity of competition in each selected measure for a given cluster of sectors and for the economy average for comparison. Darker shades indicate less competition. The analysis is done for the period 2005-2020 with the exception of R&D measures that refer to 2009-2017 for SIC industry 60 and 2005-2017 for all the others. The average for each cluster is obtained as a non-weighted mean of each SIC code in the cluster. Markups are calculated following our baseline approach described in the SoC report. Sectors are ranked by their average markup over that period. Data are from the Annual Respondents Database, (1997-2020) the Annual Business Survey (2021), the Business Expenditure on Research and Development Database (1995-2021), the Business Structure Database (1997-2022), the Longitudinal Business Database (1997-2021) and the ONS Industry Level Deflators (1997-2023).

3.7 Competition takes place between firms in particular markets as opposed to in wider sectors. However, the CMA will carry out further and more focused research

on how competition is working in particular industries and sectors, to help complement the analysis already carried out through our state of competition reports. This current and future work will support the government as it develops its industrial strategy.

Supply chains and resilience

- 3.8 The government has set out in the Green Paper that in addition to key sub-sectors, it will focus on critical inputs to these subsectors, including critical technologies and infrastructure.
- 3.9 The CMA supports this approach. As set out in our work on competition and resilience, considering supply chain dependencies is key to building resilience.⁴⁰ The combination of policy levers needed to build supply chain resilience illustrates the interdependency of effective trade, industrial and competition policy.
- 3.10 From a competition policy perspective, although larger firms can be better prepared to weather shocks and crises, it does not follow that a more concentrated market is more resilient in general. That is particularly the case where firms become ‘too important to fail’, which can reduce incentives to operate with adequate levels of resilience, in the knowledge that the government is likely to step-in to provide support.
- 3.11 Recent examples of supply chain disruptions illustrate these issues:
- (a) **CO2:** When natural gas prices rose in 2021, the single firm owning two UK plants for producing CO2 shut down its facilities and, with them, 60% of the UK’s CO2 supply. The UK’s dependence on this firm was such that the government stepped in to subsidise production, and the presence of a single supplier is likely to have impacted on the government’s bargaining position. Competition policy can inform measures to address these issues, including assessing:
 - (i) the incentives or barriers facing alternative producers of CO2 based on different industrial processes, or in the longer term, the potential for currently unused sources of supply such as carbon capture;

⁴⁰ Coscelli, A and Thompson, G, CMA (2022) ‘Economic Working Paper: Resilience and Competition Policy’. Accessible at: https://assets.publishing.service.gov.uk/media/62447a30d3bf7f32aa54d6fe/Resilience_and_competition_policy_-_AC.pdf. See also a subsequent 2023 discussion paper on market resilience: <https://www.gov.uk/government/publications/market-resilience-discussion-paper>

- (ii) the infrastructure necessary to import larger volumes of CO2 to provide alternative sources of supply; or
- (iii) whether there are alternative products that could be substituted for CO2 in industrial processes, to decrease exposure to shocks in CO2 supply.

(b) **Advanced chip fabrication:** Where the underlying cause of supply chain fragility is the specialisation of suppliers in a particular global location, rather than an issue of market structure (such as, the concentration of advanced chip fabrication in certain global locations), industrial and trade policy will be required to provide the appropriate mitigations. However, for a government seeking to support resilience by creating sources of supply closer to home, care should be taken not to replace a dependency on overseas suppliers with a concentrated domestic market structure, which could create the type of issues observed in the case of CO2.

3.12 The CMA will be examining as part of its programme of microeconomic analysis the strength of competition along supply chains and the impact of ‘upstream’ market power on downstream sectors. The CMA aims for this work to build our collective understanding of where there are opportunities to build greater resilience, including the through a strengthening of competition.

The role of the Industrial Strategy Council

- Question 30: How can the Industrial Strategy Council best support the UK government to deliver and monitor the Industrial Strategy?
- Question 31: How should the Industrial Strategy Council interact with key non-government institutions and organisations?
- Question 32: How can the UK government improve the interface between the Industrial Strategy Council and government, business, local leaders and trade unions?
- Question 35: How would you monitor and evaluate the Industrial Strategy, including metrics?

3.13 The Industrial Strategy Council (ISC) can play a key role in supporting a targeted industrial strategy, where government action is agile and focussed on the greatest opportunities to drive growth.

- 3.14 Policies to promote growth in the key sectors should have clear metrics for success, alongside regular, transparent, evidence-based monitoring of their impacts by the ISC. Regular and objective evaluation will support policy makers to make the most effective interventions and will highlight where changes of policy may be required, including where the effectiveness of a policy is undermined due its impact on market competition.⁴¹
- 3.15 It is characteristic of industrial strategy interventions - such as subsidies or other forms of state support - that reversing a policy will have negative impacts on certain stakeholders. When the interests of those who will be negatively impacted in the short-run are more salient than the much wider set of stakeholders who will benefit from a policy change, there can be challenges in reversing even counter-productive policies. The use of objective metrics for success and monitoring the impact of policies is a powerful mitigation for these risks. It will help ensure the UK has an industrial strategy that is agile and focussed on performance.
- 3.16 A key part of the industrial strategy will be a close dialogue with industry, understanding where the government can take action to unlock investment. Where the government is intervening in markets, firms will have incentives to direct state support to protect their competitive position.⁴² That is a logical and widely acknowledged feature of interactions between government and business.
- 3.17 This underscores the importance of the ISC's role - working with wider government – to ensure a wide range of views are taken into account, including smaller firms, new entrants and consumers. These market participants are typically less well positioned than larger incumbent businesses to present their position to government. To ensure the industrial strategy is supported by the best evidence, consideration should be given to making sure views are received from across markets. We recommend that government ensure that trade groups that can speak for the longer tail of smaller businesses are engaged in its interactions with different sectors.

Conclusions

- The CMA supports the government's strategic focus on eight key sectors, and supports a focus on critical dependencies for these sectors. The CMA can support government in assessing the competitive dynamics in specific sectors

⁴¹ See for example, Harrison, A (2024) 'What Makes Industrial Policy Work?' UC Berkeley, NBER, CEPR, ABFER.

⁴² Aiginger and Rodrik describe industrial strategy as a 'search process' that should involve intensive dialogue between government and business, but with an awareness from government that 'information given by firms may be biased in their particular interest'. Aiginger, K and Rodrik, D (2020) in 'Rebirth of Industrial Policy and an Agenda for the Twenty-First Century' Journal of Industry, Competition and Trade, p 9.

as the government develops its industrial strategy. To support the industrial strategy the CMA will be carrying out further work, as part of our wider programme of research on growth, to examine the impact of upstream market power.

- The ISC can support an agile industrial strategy, focussed on the greatest opportunities to drive growth through regular, transparent, evidence-based monitoring of the impact of policies.

4. Section 4: Creating a pro-business environment

Summary

- 4.1 The Green Paper seeks views on certain policy areas that are key to promoting growth in the key sectors.
- 4.2 We have provided initial views in this consultation response on the following policy areas:
- (a) Innovation policies
 - (b) People and skills
 - (c) Data in the industrial strategy
 - (d) Energy and infrastructure
- 4.3 We have selected these areas on the basis of our pre-existing experience from our case work and analysis carried out as part of microeconomic research functions.
- 4.4 The government will be taking forward a broad range of policies as part of the industrial strategy and the wider growth mission. Including through policies already announced, such as the National Wealth Fund, pensions reform, GB Energy, the creation of the National Infrastructure and Service Transformation Authority. The CMA's stands ready to provide more targeted policy support to government as it develops its industrial strategy initiatives further.

Innovation policies

- Question 10: Where you identified barriers in response to Question 7 which relate to RDI and technology adoption and diffusion, what UK government policy solutions could best address these?
- Question 11: What are the barriers to R&D commercialisation that the UK government should be considering?

- 4.5 Promoting innovation in the key growth sectors should be at the heart of the industrial strategy, helping to drive increased productivity and growth. Innovation is also at the core the CMA's work, through which we aim to create the competitive conditions that innovation thrives.

Evidence on competition and innovation

- 4.6 As identified in the Green Paper, evidence shows that the UK falls behind its peers in both the early-stage generation of new innovations and the diffusion of these technologies. The relationship between market structure and innovation is complex, and an area of live economic debate. However, several studies have provided evidence that competition is an important driver for innovation, for example:

Blundell, Griffith and Van Reenen (1999) demonstrated that competition encouraged innovation at firm level, using a sample of 340 UK manufacturing firms for the period between 1972 and 1982. However, they also found that the relationship was conditional to initial high market shares.⁴³

Ganglmair et al. (2020) found that competition is a strong driver of innovation activities both in manufacturing and service sectors in Germany, based on a sample of 12,000 companies.⁴⁴

Watzinger & Schnitzer (2022) analyse the effects of the breakup of the Bell System in the USA and find the scale and diversity of telecommunications innovation increased.⁴⁵

Poege (2022) examines the breakup of IG Farben, finding that patenting increased strongly in technology areas where the breakup reduced concentration.⁴⁶

- 4.7 In implementing policies to promote innovation, government may wish to consider how firms are incentivised to focus on different types of innovation. Not all innovations are the same: some represent incremental improvements of existing technologies, while others are radical breakthroughs that reshape markets and sector.
- 4.8 Certain economic literature sheds light on how the competitive position of the innovator changes their propensity for more disruptive or drastic innovations:

Callander and Matouschek (2020) explain how new entrants in markets may pursue more innovative technologies than incumbents (although where the new entrant can be acquired by the incumbent, the new entrant may

⁴³ Blundell, R, Griffith, R and Reenen, J.V (1999), 'Market Share, Market Value and Innovation in a Panel of British Manufacturing Firms', *The Review of Economic Studies*, Vol 66 3, p 539.

⁴⁴ Ganglmair, B, Kann, A, Ilona, T (2020). 'Markups for Consumers' Centre for European Economic Research.

⁴⁵ Watzinger, M and Schnitzer, M (2022) 'The Breakup of the Bell System and its Impact on US Innovation'. Accessible at: https://www.monika-schnitzer.com/uploads/4/9/4/1/49415675/watzinger_schnitzer_breakup_of_bell.pdf.

⁴⁶ Poege, F, (2022) 'Competition and Innovation: The Breakup of IG Farben', Boston University School of Law, Research Paper Series No 22-24.

moderate its innovation, choosing a more incremental form that is closer to the incumbents existing technology).⁴⁷

Akcigit and Kerr (2018) distinguish between internal and external innovations, with internal innovations improving existing product lines, and external innovations creating new products and capturing markets from others. The authors find the relative rate of major inventions is higher in small firms, and that this is due to the innovation investment choices made by firms (rather than differences in research capabilities or technologies).⁴⁸

- 4.9 The policy implication of this research is that in developing policies to incentivise innovation related activities such as R&D, it is important to consider the competitive position of the firms targeted by the support. Support that is focussed on larger incumbents may have a lower propensity to bring about more disruptive innovations.

Further work on adoption and diffusion

- 4.10 In the CMA's most recent State of Competition report, our findings highlighted the importance of understanding the barriers that prevent smaller, younger, innovative firms from competing effectively with larger high-markup incumbents, and the value of taking corresponding measures to address these to support greater business dynamism – for example, through improving knowledge diffusion across the economy.
- 4.11 However, there is limited and inconclusive empirical evidence currently available on the relationship between levels of competition and the adoption and diffusion of innovations and technologies.
- 4.12 The CMA's Microeconomics Unit will be looking to address this important gap in the evidence available to policy makers through research into the barriers to the spread of new technology and knowledge across the economy. For example, the research areas currently being explored are:
- (a) Understanding how differences in competition between industries are associated with differences in the adoption of innovations and new technologies – both in aggregate and within a given industry.

⁴⁷ The Novelty of Innovation: Competition, Disruption, and Antitrust Policy, Steven Callander and Niko Matouschek, Management Science January 2022 Vol. 68 Issue 1 Pages 37–51.

⁴⁸ Growth through Heterogenous Innovations, Ufuk Akcigit and William R Kerr Journal of Political Economy, 2018, vol. 126, no. 4

- (b) Estimating which factors influence the likelihood of technology adoption at firm level, particularly the influence of competition and market incentives.

4.13 The CMA expects to share this work by summer 2025 and this will form part of the Microeconomics Unit wider programme of work focussing on growth and industrial strategy. This work will aim to support government to better understand these issues. It will also inform the CMA on where interventions to improve competition could be most effective in improving adoption, productivity and growth.

Conclusions

- Empirical evidence demonstrates the important role competition policy plays in driving innovation.
- In designing support for R&D, support directed at smaller firms may be more likely to yield more disruptive innovations.
- The CMA will be carrying out further work to understand the impact of competition on the adoption and diffusion of innovations across the economy

People and skills

- Question 8: Where you identified barriers in response to Question 7 which relate to people and skills (including issues such as delivery of employment support, careers, and skills provision), what UK government policy solutions could best address these?
- Question 9: What more could be done to achieve a step change in employer investment in training in the growth-driving sectors?

Labour markets

4.14 Well-functioning labour markets are widely recognised as an important driver of economic growth. Where labour markets work well, workers are able to access the right jobs for them and firms find the workers they need in the easiest, most efficient way. More suitable workers contribute more within a given hour, so the amount each worker can produce rises, which in turn boosts revenues and wages.

4.15 In 2023, the CMA published a major research report on competition in UK labour markets and labour markets will continue to form a key part of the CMA's focus.⁴⁹

⁴⁹ CMA Microeconomics Unit, (2024) '[Competition and market power in UK labour markets](#)'.

For example, the CMA is currently investigating suspected anti-competitive conduct in relation to rates for workers in the sports and non-sports TV production and broadcasting sectors.^{50 51} It also recently broadened its investigation into the fragrances industry to cover suspected unlawful coordination on the hiring of staff.⁵²

Wages and labour market concentration

- 4.16 Consistent with other academic research in the area, our labour market report found that where there is labour market power, workers receive less than the full value of their contribution to revenue.⁵³ This is true for workers in any major economy.
- 4.17 We found that higher levels of labour market concentration are associated with lower wages, even after comparing similar workers in similar businesses. For comparable workers working in comparable firms, a move from a market with many employers (in the least concentrated 10% of labour markets) to a highly concentrated labour market with few employers (in the most concentrated 10% of labour markets) is associated with a roughly 10% decrease in a worker's wage.
- 4.18 We also found that labour market concentration might also be related to other labour market outcomes, such as the number of hours worked, the unemployment rate and the working conditions faced by workers.

Regional disparities

- 4.19 The report also shows that labour markets are much more concentrated outside of London and the South-East. For example, labour markets are around 4 times more concentrated in Scotland and Wales than they are in London. This means that, for a given occupation, fewer businesses account for a larger share of jobs within an area most people consider their relevant job market, a so-called Travel-to-Work (TTWA) area.

⁵⁰ CMA (2022) '[Suspected Anti-competitive Behaviour relating to Freelance Labour in the Production and Broadcasting of Sports Content](#)'.

⁵¹ CMA (2023 – 2024) '[Suspected anti-competitive behaviour relating to freelance and employed labour in the production, creation and/or broadcasting of television content, excluding sport](#)'.

⁵² CMA (2023-2024) '[Suspected anti-competitive conduct in relation to fragrances and fragrance ingredients \(51257\)](#)'.

⁵³ CMA Microeconomics Unit (2024) '[Competition and market power in UK labour markets](#)', section 5.

Also, speech by Cardell, S, CEO of the CMA (2024) '[The CMA's research on competition and UK labour markets](#)'.

Sectoral variation

4.20 Turning to variations across different sectors, the report found that workers in managerial and professional jobs have faced roughly constant concentration, while concentration for workers like plant operatives, skilled trade and care professionals has decreased on average since 2012 as relative labour demand has outstripped supply, sometimes by around half. There is substantial industry variation in labour market concentration. Manufacturing, transport and storage and financial services are particularly concentrated. And in the last 20 years, labour market concentration has risen significantly in administration and support services, utilities, and mining and quarrying.

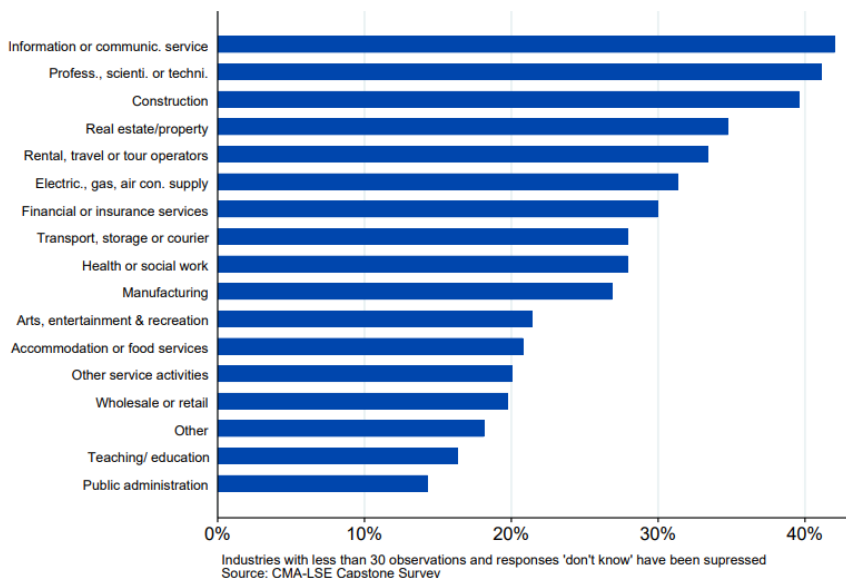
Labour mobility and productivity growth

4.21 The growth of more efficient, better managed firms is a key mechanism through which productivity is improved across the economy. For this process of reallocation (or 'market sorting') to occur, it is essential that workers can move freely across the economy, and between firms.

4.22 'Non-competes' – contractual restrictions on where employees can work – was an area of focus of the CMA's labour markets research. Some non-competes may support employers making investments in their employees skills, so that the value of their investments is not realised by their competitors. However, the CMA found that non-competes are prevalent across the economy, including in many jobs where workers are unlikely to receive much training.

4.23 'Non-compete' clauses impact around 30% of UK workers, stopping employees from working at a competitor firm for a set amount of time after their employment ends. However, this percentage increases to over 40% in ICT and professional and scientific services. Approximately 24% of employees with a non-compete agreement have reported that they were to some extent prevented from leaving their current employer to join a competitor, whereas 19% reported they were prevented from leaving to start a competing business.

Figure 4.1 Proportion of workers with a non-compete agreement by industry, from the 2023 YouGov CMA-LSE Capstone Survey, UK



4.24 The government may wish to give consideration to the role of non-competes in the UK labour market, and the extent to which they can be justified given their potential impact on workers switching employer, with a knock-on impact on the reallocation of labour towards more productive firms.

4.25 Similarly, government may wish to consider the impact of other policies that can support well-functioning labour markets, such as the contribution of poor transport infrastructure in particular areas, where this restricts workers ability to move between employers. The government will also want to consider ensuring that the skills are provided to workers in a format where they can be used flexibly across different employers, rather than being unduly specific to a particular firm. As part of this, it will want to ensure that a broad range of businesses are involved in identifying future skills needs to avoid inadvertently focussing on the provision of skills, which favour the positions of particular incumbents, compared to other firms.

Management skills

4.26 Management practices have an important role to play in a firm’s productivity. Measures to improve management practices should therefore contribute to stronger productivity growth in the economy as a whole.

4.27 Recent CMA joint research with external academics at the Economic Statistics Centre of Excellence demonstrates the importance of better-quality management

in particular in supporting firms to deal with significant external changes.⁵⁴ Policies to improve management skills in the key sectors, and in the economy more broadly, can therefore support the industrial strategy and growth mission.

4.28 Several studies provide evidence on the important role competition can play in driving higher quality management.

- **Bloom and Van Reenen** (2010) find that strong product market competition appears to boost average management practices through a combination of eliminating the tail of badly managed firms and pushing incumbents to improve their practices.
- **Nickell, Nicolitsas and Dryden** (1997) identify a mechanism through which competition drives x-efficiency by adopting the idea of competition as a form of pressure on managers (or ‘disciplining device’).⁵⁵
- **Bloom, et al** (2012) also finds that there is strong evidence that tough product market competition is associated with better management practices, within both the private and public sectors⁵⁶

4.29 The policy implication is that the competitive process will, over-time, improve management practices. Measures that slow down the process of competition create risks that poor management practices will subsist for longer than would otherwise be the case.

4.30 Government may, however, want to complement the process of competition with other measures to improve management practices, to bring about faster improvements. The CMA’s research with external academics at the Economic Statistics Centre of Excellence indicate that a lack of self-awareness regarding management quality may be a significant barrier to firms taking up support to improve management practices, with firms that appear to have weaker management practices being less likely to seek support.⁵⁷ The upshot is that government policies to improve management practices (such as mentoring schemes) will need to overcome the fact that the firms in most need of support,

⁵⁴ Jones, K, et al, (2024) ‘Managing to adapt: Structured management practices and firm resilience’ Discussion Paper, Economic Statistics Centre of Excellence.

⁵⁵ Nickell, SJ, Nicolitsas, D and Dryden, N (1997) ‘What Makes Firms Perform Well?’ European Economic Review, Vol 41.

⁵⁶ Bloom, N, et al, (2012), ‘Management Practices Across Firms and Countries’, Academy Of Management Perspectives, Vol 26 1, pp 12-33.

⁵⁷ Meng, C, et al, (2023) ‘Who wants to improve their management? Evidence from a failed experiment’ Discussion Paper, Economic Statistics Centre of Excellence.

may be least likely to seek it. Policies to improve management may therefore be made more effective by including additional incentives for firms to participate.

Conclusions

- Labour markets have been a key focus of the CMA in recent years, including through a major research report and our enforcement against illegal anticompetitive practices.
- Well-functioning labour markets both support workers to achieve the full value of their work and ensure that workers can easily move to more productive firms, which speeds up the process of productivity growth across the economy.
- Labour market policies, including policies on non-competes and other policies such as, transport or skills can be used to support competition working well in these markets.

Data in the industrial strategy

- Question 12: How can the UK government best use data to support the delivery of the Industrial Strategy?
- Question 13: What challenges or barriers to sharing or accessing data could the UK government remove to help improve business operations and decision making?

4.31 The Green Paper recognises that data has a transformative power and fuels modern business. The CMA is committed to supporting the government to harness data and remove barriers to accessing data to support the industrial strategy. Policy should do as much as possible to promote open access to data and transparency of how data is being used to make sure that vital inputs are open to all firms.

4.32 Enabling greater access to data can enhance choice and the user experience and allow new entrants and smaller players to challenge larger incumbents who would otherwise benefit from significant data advantages. Similarly, ensuring data-based services can communicate freely with one another (i.e. making them interoperable) can facilitate integration of a wide range of products, services and applications, for example, allowing for cross-posting from one platform to another.

- 4.33 Government has a significant opportunity to unleash both public and private data to support the Industrial Strategy and create a step change in innovation, productivity and growth.

Unleashing public data

- 4.34 The UK has a wealth of public data, with some uniquely high-value assets. This includes scientific data like the UK Biobank that is the most comprehensive and widely used dataset of its kind. The UK also has rich, granular patient-level health data within the NHS. Access to assets like these could spur incredible advances, including in diagnosis and treatment of serious diseases.
- 4.35 The Green Paper commits to using public sector data as a driver of growth, including the proposed National Data Library. The CMA welcomes this approach. The creation of a National Data Library is a bold initiative that has potential to unlock access to rich public data driving a new era in AI-powered public services, supercharged research, and private sector investment and innovation. It has the potential to transform the UK's public data assets into a strategic national resource and an incredible magnet for global talent and investment.
- 4.36 To ensure the value will be maximised and benefits felt most widely, existing high-value public data needs to be accessed openly, fairly, and safely. This means opening access to a broad base of incumbents and challengers, and this can be done safely by leveraging privacy enhancing tech where needed to ensure protection of sensitive data.
- 4.37 Government can also proactively shape the collection and curation of public data sets and has the ability to link data where appropriate to unlock further benefits.

Unleashing private data

- 4.38 Private data sources are equally critical and can be a vital enabler for the Industrial Strategy.
- 4.39 Open Banking is an excellent case study of how opening access to data can dramatically increase innovation. Consumers and small businesses are now able to utilise a range of apps for financial insights and money management, contributing to the growth of the UK's fintech sector. This has also led to innovative disruption in markets outside of current account services, such as accounting software where providers use Open Banking to automatically classify transactions for tax and accounting purposes by utilising real-time access to business current accounts.

- 4.40 Given the potential for smart data schemes, the CMA welcomes the government's plans announced in the King's Speech this year for the Data (Use and Access) Bill, particularly the provisions relating to the smart data economy. These will support consumers and businesses to share data securely with authorised third parties, establishing a robust regulatory system that can be monitored and adapted as necessary.
- 4.41 The CMA is in a position, based on our previous work, to offer support to government and other policy makers in developing future smart data schemes in other sectors. For example, the CMA's response to the Department of Science, Innovation and Technology's 'Open Communications' consultation in 2023 provides reflections from the CMA's work on smart data, which are likely to apply across smart data schemes, drawing in particular on detailed implementation work for Open Banking.⁵⁸ Specifically, we highlighted that smart data schemes should be based on the specifics of the market to which they apply. However, design considerations and features that are likely to be important for the effectiveness of most smart data schemes include:
- (a) Regulatory foundations – mandated participation, monitoring, and oversight.
 - (b) Common and open data standards.
 - (c) Data made available that reflects the dynamics of the market and minimises the risk to competition and consumers.
 - (d) A funding model that reflects consumer interests.
 - (e) Interoperability with other smart data schemes.
 - (f) Effective representation of consumers and other end users in scheme administration.
- 4.42 The CMA encourages policy makers to consider these points as they develop smart data schemes across different sectors and is happy to engage further and discuss these recommendations with government and other public authorities.

Data in AI

- 4.43 Impactful applications of AI depend critically on access to high-quality data.

⁵⁸ CMA (2023) '[CMA response to DSIT consultation: a Smart Data scheme for the UK telecoms market](#)'.

4.44 Data remains a key input for training and developing foundation models, including for pre-training, alignment and domain or task-specific fine tuning. The CMA understands that foundation model developers are exploring a range of data types to support this training. For example:

- (a) **Publicly available data:** Web-scraped data and open-source data sets continue to be important for foundation model (FM) development. As outlined in our foundation models review, this type of data forms the bulk of the data used for pre-training FMs,⁵⁹ and some FMs only use this type of data at the pre-training stage.
- (b) **Synthetic data:** Several recently released FMs used synthetic data in pre-training or fine-tuning.⁶⁰ The CMA heard that benefits of using synthetic data may include constraining data creation costs and helping to address privacy/data protection and copyright concerns associated with proprietary or web-scraped data.
- (c) **Third party proprietary data:** There has been an increase in partnerships involving data, or agreements to licence data.⁶¹ Stakeholders raised concerns that large technology firms could use their existing strong positions in other markets and financial resources to secure access agreements to third party proprietary data sources that are not available to smaller firms, either due to their significant bargaining power or exclusivity agreements.
- (d) **First party proprietary data:** This is proprietary data possessed by firms active in FM development, including data collected from related products and services, which may be unavailable to their competitors.

4.45 The use of proprietary data may be increasing, and it is likely to be key to effectively customising a wide range of impactful AI applications. These include targeted internal productivity applications, through to tailored product recommendations that best address consumers' needs. It could also be the critical factor in driving value from personalised agentic AI systems, which are given an objective and develop strategies to execute tasks and achieve them on our behalf.

4.46 The CMA recognised data as a key input into foundation models and set out six principles that can support positive competition and consumer outcomes in AI-related markets: access, diversity, choice, fair dealing, transparency, and accountability. We consider that access, diversity and choice principles are

⁵⁹ CMA (2023) '[AI Foundation Models: Initial Report](#)' p 11.

⁶⁰ CMA (2024) '[AI Foundation Models: Technical Update Report](#)' pp 15-17.

⁶¹ CMA (2024) '[AI Foundation Models: Technical Update Report](#)' p.15-17.

particularly important. The first principle, access, relates to open access to key inputs, namely, data, compute and expertise. These factors could help avoid early movers or a small number of firms with entrenched power reducing others' ability to enter AI markets and compete effectively. Diversity and choice are also important factors that ensure that a range of models are available for businesses and consumers to choose from. These principles are reliant on firms having access to data and other inputs to allow them to innovate and compete effectively.

AI Infrastructure

- 4.47 For the UK to fully realise the transformative impact of data and AI on growth and productivity, it must ensure it has the infrastructure for the AI sector to develop. There is increasing demand for key AI infrastructure such as compute power and cloud.
- 4.48 Foundation model developers continue to access compute via cloud service providers. Compute for AI requires access to AI accelerator chips, as well as data centres that process, host and store the massive amounts of digital information that is critical for developing AI models. These require a constant and reliable source of energy to operate.
- 4.49 It is important for the government to look at how it can ensure the UK develops this infrastructure, which may include working with larger incumbents to attract private investment. It, nevertheless, remains important that any agreements made do not introduce barriers to entry or put smaller players in a worse position when it comes to competing with incumbents. Smaller players need the same access to compute to be able to compete. If they are not able to, the impact will ultimately be felt on the level of experimentation and innovation seen in the UK in the long-term, with implications for long-run UK growth and choice for consumers.

Conclusions

- Access to data is crucial to enable businesses to enter or expand in markets, innovate new products and provide choice for consumers.
- Government has significant opportunities to unleash public data (e.g. through the National Data Library) and private data (e.g. through smart data schemes).
- Access to data is particularly important in the context of AI where firms are exploring a range of data types for pre-training and fine-tuning models. It is important that both large firms and challengers can access data to be able to compete. The CMA has proactively identified key factors required for businesses in the AI space to prosper, including access, diversity, choice, fair dealing, transparency, and accountability.

Energy and Infrastructure

- Question 14: Where you identified barriers in response to Question 7 which relate to planning, infrastructure, and transport, what UK government policy solutions could best address these in addition to existing reforms? How can this best support regional growth?
- Question 15: How can investment into infrastructure support the Industrial Strategy? What can the UK government do to better support this and facilitate co-investment? How does this differ across infrastructure classes?
- Question 27: What public and private sector interventions are needed to make strategic industrial sites 'investment-ready'? How should we determine which sites across the UK are most critical for unlocking this investment?

4.50 The availability of efficient, cost-effective infrastructure (such as transport, energy and communications services), as well as the speed and ease that this is facilitated by planning processes, underpins the productivity of firms across the economy, and therefore the returns available on investments.

4.51 The CMA is committed to working with government and other public authorities, such as the new National Infrastructure and Service Transformation Authority (NISTA), to support the development and implementation of government's ten-year infrastructure strategy, through driving more effective competition.

Planning

- 4.52 As identified in the Green Paper, a key priority for long-term growth involves a strong planning system to deliver the necessary infrastructure. However, the planning process has become more lengthy and costly over time, with uncertain timescales and outcomes. There is scope to improve elements of the planning system to provide firms considering investment with the necessary certainty and speed of decision making.⁶²
- 4.53 The CMA's market study into the homebuilding market identified issues in the planning system as the key driver in the under-delivery of new housing.⁶³ The CMA identified evidence of three key concerns, which are limiting the planning system's ability to support the level of building that policymakers believe is needed, specifically:
- (a) The lack of predictability of planning decisions.
 - (b) The length, cost and complexity of the planning process.
 - (c) Insufficient clarity, consistency and strength of Local Planning Authority targets, objectives and incentives to meet housing need.
- 4.54 The CMA found that these concerns within the planning system may be having a disproportionate impact on SME housebuilders.
- 4.55 The CMA welcomes the government's positive response to the recommendations put forward in the housebuilding market study.⁶⁴ We will continue supporting the government as they take forward the proposals as housing is an essential sector for citizens and for the UK's economic growth. Based on our experience from our work on house building, the CMA strongly supports the government's focus on addressing other planning system barriers and challenges for the key growth sectors.

Public investments in infrastructure

- 4.56 Public investment in infrastructure can play an important role in an industrial strategy where investments carry risks that are outside the appetite for private

⁶² See further: CMA's response to the Ministry of Housing, Communities and Local Government consultation on planning system reform (2024) accessible at: https://assets.publishing.service.gov.uk/media/670405f83b919067bb482d8e/Proposed_reforms_to_the_national_planning_policy_framework_and_other_changes_to_the_planning_system.pdf.

⁶³ CMA (2024) '[Housebuilding Market Study](#)'.

⁶⁴ Ministry of Housing, Communities and Local Government, CMA and Pennycook M (MP) (2024) 'Government commits to addressing housebuilding recommendations'. Accessible at: <https://www.gov.uk/government/news/government-commits-to-addressing-housebuilding-recommendations>.

investors; for instance, in circumstances where returns would not be made in an appropriate timeframe or where infrastructure generates positive externalities, meaning that it risks being under-supplied through market mechanisms.

- 4.57 Where the government makes public investments in infrastructure and has a role in shaping the type of infrastructure being built, the CMA recommends that it:
- (a) Harness the power of competition in making investments.
 - (b) Ensure that investments are designed to be pro-competitive.⁶⁵

Using competition to maximise the efficiency of investment

- 4.58 Infrastructure investments require a long-term commitment of very significant capital. In some cases, this can result in a single provider building and operating the infrastructure in question, rather than having competition ‘in the market’. In these cases, competitive tendering and competitions for subsidies can be powerful devices to drive maximum efficiency from public investments.
- 4.59 The Contracts for Difference (CfD) scheme for supporting renewable energy generation provides an example of a subsidy scheme based on a competitive process. The process of allocating funding under the CfD scheme involves allocation rounds through which firms submit their applications, and auctions are held whereby the lowest bids are accepted until the budget is exhausted and successful applicants are awarded funding.⁶⁶ The use of competition in the process for allocating subsidies supports public money being allocated efficiently and cost-effectively.
- 4.60 In any future government investments in infrastructure for new technologies, such as publicly financed compute for AI, it will be important to rely on a range of different hardware providers, both to generate competition between potential suppliers, and to avoid the government being ‘locked-in’ to a particular supplier through their initial choice of tenders.
- 4.61 Where the government uses a competitive process to increase its bargaining power in procuring infrastructure investments, it will be for government to decide how it chooses to make use of its stronger position, including potentially through specifying the delivery of schemes to provide value to local communities that may be affected by the development.

⁶⁵ OECD, (2024) ‘Green Industrial Policies for the Net-Zero Transition’. Accessible at: https://www.oecd.org/en/publications/green-industrial-policies-for-the-net-zero-transition_ccc326d3-en.html.

⁶⁶ Contracts for Difference (CfD) website accessible at: <https://www.cfdallocationround.uk/about>.

Making investments pro-competitive

- 4.62 Pro-competitive conditionalities are another useful tool for public authorities to consider when designing subsidies. This involves attaching specific requirements or conditions to subsidies to ensure they promote competition rather than distort it. For example, infrastructure developments should, to the extent possible, be interoperable to different users and adaptable to new forms of business. This will help support future innovation and limit the risk of creating barriers of entry and expansion for other firms.
- 4.63 The CMA has previously advised the government and the Office for Zero Emission Vehicles on how pro-competitive conditionalities in subsidies can help develop more effective markets while supporting the green transition. Following the CMA's electric vehicle (EV) market study, we recommended that the UK government attach conditions to public investments in EV charging infrastructure, to support stronger competition between charge point operators at motorway services to build a comprehensive charging network that people can trust and easily use. The recommended conditions included, amongst others, that there should be a prohibition on long-term exclusivity arrangements between charge point operators and motorway service areas, that motorway service areas in receipt of funding should have a minimum of two charge point operators on site, and that only open-access charging networks should be eligible for funding.⁶⁷

Procurement

- 4.64 The Green Paper recognises the important role of public procurement within the industrial strategy. Public sector procurement spending represents around a third of all public expenditure and has the capacity for to boost investment and growth through facilitating competition and enabling market entry. The CMA strongly agrees on the importance of promoting access to markets through competitive procurement and tendering processes to support efficiency, encourage long-lasting private investment and improving the returns on public spending.
- 4.65 We have a track-record in advising public authorities on how to design procurement processes in a way that promotes competition and healthy markets. In the longer-term, competitive procurement processes can support the creation of markets with multiple suppliers, which reduces public authorities' risk of exposure

⁶⁷ CMA (2024) [CMA response to OZEV's consultation on the Rapid Charging Fund \(RCF\)](#). The CMA's Subsidy Advice Unit also issued a report on the pilot for the Rapid Charging Fund, following a referral of the scheme to the Subsidy Advice Unit. Under the Subsidy Control Act 2022, subsidies above £10 million must be referred to the Subsidy Advice Unit for it to evaluate the relevant public authority's assessment of compliance with subsidy control principles set out in the Subsidy Control Act 2022. See: CMA (2022) [Report on the Rapid Charging Fund Pilot Scheme](#).

to exploitation or failure by a single supplier. In some instances, a procuring public authority will have a degree of buyer-power and has the opportunity to use this to shape the market for suppliers. In those circumstances, we would encourage the authority to take a long-term view on how its procurement activity is shaping the market in question, including maintaining the viability of a range of suppliers, so it can benefit from competition. Failures of significant suppliers to the public sector such as Carillion demonstrate the risks where fragile market structures are encouraged through public procurement practices too focussed on the short run, without enough consideration for the market structure it encourages.⁶⁸

Bid rigging

- 4.66 Procurement is highly vulnerable to anti-competitive behaviour, such as bid rigging, in which competing parties collude to determine the winner of a bidding process. In recent years, the CMA has carried out enforcement in a number of cases in the construction sector and regards bid-rigging as a key risk in public sector procurement. Last year alone, the CMA issued fines totalling almost £60m to firms involved in rigging bids for both public and private sector projects. The OECD estimates that, where present, bid rigging may inflate prices by 20% or more.⁶⁹ Detecting and preventing bid-rigging is therefore capable of improving the impact of infrastructure investments, and public procurement more generally.
- 4.67 There are major opportunities to improve the detection of illegal bid-rigging through the use of data. As recommended by the OECD, governments should have consistent, digital, procurement data covering all stages from design to award, and information on successful and unsuccessful bids.⁷⁰ For example, the Portuguese Competition Authority has explained that its access to public procurement data and the use of targeted screening for cartel activity has had a positive impact on enforcement and contributed effectively to cartel investigations by: confirming evidence received through complaints; providing evidence used to obtain warrants to perform dawn raids; and providing substantiated evidence used to initiate proceedings.⁷¹

⁶⁸ See further: Coscelli, A and Thompson, G, CMA, (2022) 'Economic Working Paper: Resilience and Competition Policy'. Accessible at: https://assets.publishing.service.gov.uk/media/62447a30d3bf7f32aa54d6fe/Resilience_and_competition_policy_-_AC.pdf.

⁶⁹ Government Counter Fraud Profession, (2024) 'Bid-Rigging Risk in all Procurement: Practice Note'. Accessible at <https://assets.publishing.service.gov.uk/media/65f8292378087a001a59ebb2/3450-PSFA-Practice-Note-Bid-Rigging-Risk-in-all-Procurement-EXTERNAL-V3.pdf>, page 4.

⁷⁰ OECD Legal Instruments, 'Recommendation of the Council on Fighting Bid Rigging in Public Procurement'. Accessible at: <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0396>.

⁷¹ OECD (2023) 'Working Party No. 3 on Co-operation and Enforcement. The Future of Effective Leniency Programmes – Note by Portugal'. Accessible at: [https://one.oecd.org/document/DAF/COMP/WP3/WD\(2023\)14/en/pdf](https://one.oecd.org/document/DAF/COMP/WP3/WD(2023)14/en/pdf), para 32.

- 4.68 Using our extensive data science capability and competition expertise in bid-rigging detection, the CMA is exploring how we can support public sector organisations (both nationally and regionally) to identify and investigate suspicious activity.

Conclusions

- Drawing on our market study of the market for homebuilding, where we observed issues in the planning process as a key cause for concern, we welcome the government's focus on planning as part of the industrial strategy.
- There are opportunities to ensure that public investments in infrastructure utilise competition to get the best value from investments, and that the terms of investments help drive competitive market structures in the long term.
- The CMA will continue to support the harnessing of competition for more effective public procurement, including through the use of new AI tools to aid detection of bid rigging.

5. Conclusion

5.1 Our response to the Green Paper has set out:

- (a) Our views on how to drive higher levels of investment as part of the industrial strategy and the critical role played by competition.
- (b) The role we see for ourselves as an integrated part of the industrial strategy, both through our role as an adviser to government and through taking direct action to promote competition, innovation and growth.
- (c) Our views on how the industrial strategy should be targeted; in terms of the sectors and subsectors the government focusses on and the work of the ISC in monitoring the effectiveness of sectoral support.
- (d) Our views on policy areas that are instrumental to creating the pro-business environment for stronger long-term growth.

5.2 Our response is under-scored by our commitment to working with government on an industrial strategy that achieves the most productive and sustainable growth across the UK economy. Evidence and history show us that where competition is stronger, innovation productivity and wage growth is higher. Just as skills, trade, tax or energy policy are key levers to support sectoral growth, so too is competition policy. Successful long-term industrial strategy should therefore have competition policy at its core.

5.3 Looking ahead, the CMA will continue to support the industrial strategy by:

- (a) Providing advice to government on how it can harness the power of competitive rivalry to maximise the long-term impact and value of its industrial strategy across the whole UK economy.
- (b) Using our powers directly to promote growth, including through market studies and investigations, enforcement against illegal anticompetitive conduct, breaches of consumer protection law and our approach to mergers.