

# Consumer protection: enforcement guidance

**CMA58**

**Consultation on draft guidance**

11 December 2024



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## 1. About this consultation

- 1.1 The Competition and Markets Authority (CMA) has produced draft guidance (Draft Guidance) on the CMA's role and powers in relation to consumer protection. The Draft Guidance updates and, once finalised, will replace the existing guidance, which was first published in 2016 ([Consumer protection enforcement guidance: CMA58](#)). The CMA is inviting comments on the Draft Guidance. The specific questions on which the CMA is seeking respondents' views are listed in section 3 of this consultation document.
- 1.2 The Draft Guidance provides a summary of CMA consumer investigatory and enforcement powers and functions. It describes:
- (a) the principal consumer legislation under which the CMA has enforcement powers,
  - (b) the way it cooperates with partners domestically and internationally to gain compliance,
  - (c) how it decides whether to take enforcement action and what prioritisation principles it applies,
  - (d) the use of civil consumer enforcement powers by the CMA and other enforcers,
  - (e) the use of criminal consumer enforcement powers by the CMA, and
  - (f) the powers available to the CMA and other enforcers to investigate civil and criminal breaches of consumer law.
- 1.3 While the Draft Guidance is intended to help traders, their advisers, enforcement authorities and others in understanding the CMA's consumer investigatory and enforcement powers and functions, it is non-exhaustive and is not a substitute for, or definitive interpretation of, the law and should be read in conjunction with it.

## 2. Consultation process

- 2.1 The CMA is consulting for 6 weeks with a closing date of 22 January 2025.
- 2.2 Responses should be submitted by email to [consumerguidance@cma.gov.uk](mailto:consumerguidance@cma.gov.uk) or through the [CMA's consultation portal](#). Any queries about this consultation should be sent to [consumerguidance@cma.gov.uk](mailto:consumerguidance@cma.gov.uk).
- 2.3 When responding to this consultation, please state whether you are responding as an individual or are representing the views of a group or organisation. If the latter, please make clear who you are representing and their role or interest.
- 2.4 In pursuance of the CMA's policy of openness and transparency, the CMA will publish a non-confidential version of responses on its webpages. If your response contains any information that you regard as sensitive and that you would not wish to be published, please provide a non-confidential version for publication on the CMA's webpages which omits that material. You should at the same time explain why you regard the omitted material as sensitive.

### **Use of information and personal data that is supplied in consultation responses**

- 2.5 Any personal data that you supply in responding to this consultation will be processed by the CMA, as controller, in line with data protection legislation. This legislation is the General Data Protection Regulation 2016 and the Data Protection Act 2018. 'Personal data' is information which relates to a living individual who may be identifiable from it.
- 2.6 The CMA is processing this personal data for the purposes of its work under section 6 of the Enterprise Act 2002 (providing the public with information or advice on matters relating to its functions). This processing is necessary for the performance of the CMA's functions and is carried out in the public interest, in order to take consultation responses into account.
- 2.7 For more information about how the CMA processes personal data, your rights in relation to that personal data, how to contact the CMA, details of the CMA's Data Protection Officer, and how long the CMA retains personal data, see the [CMA's Privacy Notice](#).

- 2.8 The CMA's use of all information, including personal data, that it receives is also subject to Part 9 of the Enterprise Act 2002.<sup>1</sup>
- 2.9 The CMA may wish to refer to comments received in response to this consultation in future publications. In deciding whether to do so, the CMA will have regard to the need for excluding from publication, so far as practicable, any information relating to the private affairs of an individual or any commercial information relating to a business, where the CMA considers that disclosure might significantly harm the interests of that individual or business.
- 2.10 Please note that information, including personal data, provided in response to this consultation may be the subject of requests by members of the public under the Freedom of Information Act 2000. In responding to such requests, the CMA will take fully into consideration representations made by you in support of confidentiality. The CMA will also be mindful of its responsibilities under the data protection legislation referred to above and under the Enterprise Act 2002.
- 2.11 If you are replying by email, this statement overrides any standard confidentiality disclaimer that may be generated by your organisation's IT system.

## **After the consultation**

- 2.12 Following this consultation, the CMA will publish a non-confidential version of responses received during the consultation on its webpages.
- 2.13 Taking into account feedback received as part of this consultation, the CMA will publish its final guidance on its consumer investigatory and enforcement powers and functions, known as CMA58.

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<sup>1</sup> Part 9 of the EA02 imposes a general restriction on the disclosure of information which the CMA obtains during the exercise of any of its functions (referred to as 'specified information') to other persons. Guidance on the application of Part 9 EA02 and when disclosure of specified information may be permitted is set out in [CMA6: Updated CMA transparency and disclosure statement](#).

### 3. Consultation questions

In responding to these questions, please have regard to the Draft Guidance. Please give your reasons and any relevant supporting information or evidence in relation to your response.

- Q1. Do you have any comments on the structure or clarity of the Draft Guidance?
- Q2. Does the guidance offer sufficient clarity about how the CMA proposes to carry out its enforcement functions?
- Q3. Do you have any other comments on topics not covered by the specific questions above? If so, the CMA requests that respondents structure their responses to separate out their views in relation to each of the Draft Guidance's chapters.