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Sarah Cardell
Chief Executive
Competition and Markets Authority
The Cabot
25 Cabot Square
London E14 4QZ
[by email]

Dear Ms Cardell:

Re: IBM's response to the CMA's consultation on '4Ps' updates to Mergers Guidance (CMA2) and Merger Notice Template

IBM welcomes the opportunity to respond to the CMA's consultation on the changes to its mergers guidance on jurisdiction and procedure, as set out in the consultation launched on 20 June 2025.[1] IBM is a leading global technology provider with proven practical experience of delivering complex technology solutions across industries. We have extensive experience in cross-border transactions, and the CMA's approach to merger reviews directly affects IBM, given the global nature of the markets in which we operate.

IBM supports the CMA's objectives of embedding improved pace, predictability, proportionality, and process into its merger review regime. We believe these principles are essential to ensuring that the UK remains an attractive jurisdiction into which we can invest, while safeguarding competition and consumer interests. The signal of intent to make rapid and meaningful change based on the "4 Ps framework" is to be commended.

Overall, the proposals to enhance the mergers guidance on jurisdiction and procedure (CMA2) are a positive step in the right direction. Our comments below address three key areas of the consultation: (1) the CMA's approach to global mergers, (2) speed and predictability of pre-notification, and (3) enhancements to engagement with merger parties.

The CMA's approach to global mergers

We welcome the recognition that for some businesses, including IBM, proposed mergers are almost always global in nature (or involve more than just the UK market). Reviews by multiple authorities can create unnecessary regulatory burdens, increase costs, and delay beneficial transactions. As such, efforts to streamline the regulatory process and minimise duplicative reviews is something that we encourage and support. We particularly welcome the CMA's

[1] "'4Ps' changes to the CMA's mergers guidance (CMA2) and mergers notice template", published on 20 June 2025 ("Consultation Document").

clarification that it is less likely to prioritise for review those transactions involving global firms where the implications of the merger extend beyond national markets. IBM encourages the CMA to continue its efforts to streamline the regulatory process for global mergers and welcomes the CMA's commitment for this to also be reflected in its mergers intelligence function.

Speed and predictability of pre-notification

IBM welcomes the CMA's desire to enhance its processes to ensure that pre-notification is conducted as efficiently as possible.[2] While the average time for pre-notification has reduced, pre-notification for specific cases can be lengthy and unpredictable with tangible and quantifiable financial and operational impacts on merging parties. The open-ended nature of the process creates significant uncertainty to deal timelines, which impacts transactions right from the very early stages of negotiating the transaction documents through to eventual closing. IBM therefore welcomes the CMA's desire to enhance its processes and we believe there are significant opportunities to improve the efficiency of the pre-notification process.

The proposal to introduce a 40 working day pre-notification KPI is a positive step, in tandem with streamlining pre-notification activities by identifying and prioritising areas for further investigation as early as possible, towards the CMA's goal of transparency and faster case resolution. However, the effectiveness of the KPI will depend on how it is implemented. To deliver genuine improvements in pace and predictability, the KPI should as far as possible apply to the pre-notification period as a whole. It will be important to avoid inadvertently creating a two-phase pre-notification process resulting from delays to the formal start of the review clock.

While the CMA must have access to a reasonable amount of necessary information during prenotification period, delaying the 40-day period until all information is received does not meet the proportionality principle the CMA has committed to. Since the 40 working days allocated to pre-notification provides the CMA with a substantial period to refine its analysis before formal notification, it would be more proportionate and pragmatic to initiate the 40-day KPI from the moment the CMA has gained substantive access to relevant information. This approach would help ensure that the pre-notification period is both meaningful and efficient. We believe that there are safeguards to manage the risk that the CMA does not have access to sufficient information within the 40-day period as the CMA retains the possibility of extending the prenotification period (including at the request of the party). Where a merger party fails to comply with an information request in a timely manner and the lack of compliance increases the probability of a full market investigation the incentive would be on the party themselves to seek an extension.

[2] Consultation Document, paragraph 5.2.

Enhancements to engagement with merger parties

We particularly welcome the proposed changes in relation to the CMA's engagement with the merger parties - particularly in the pre-notification period.

Teach-ins

IBM agrees that pre-notification is most effective with full and frank engagement between the CMA and the merger parties with a focus on understanding the market and the proposed transaction. In our experience, case teams with deep exposure to technology and specialist knowledge in the specific market(s) in which a merger occur are better placed to act swiftly, efficiently and in a more proportionate way to those without the same market exposure and technical understanding. Therefore, plans to specify that the CMA will hold teach-ins, including early in the process are welcome, but we would encourage the CMA to go further by considering how individuals involved in the mergers process build and maintain the necessary understanding of specific technologies and markets outside of the proposed teach-ins linked to specific casework.

Informal update calls

We further note the CMA's commitment to hold an update call during pre-notification and just before the formal review period begins. Access to the case team through update calls and informal contacts can also help to clarify issues and expedite the review both for the CMA and for merging parties, and we are pleased to see increased engagement forming a part of the CMA's revisions.

It is not clear how early in the process teach-ins will be accepted, and IBM encourages the CMA to be open to holding teach-ins before the new 40 working day pre-notification period begins. In our experience, an early opportunity to hear about the relevant products and/or services to establish the context for the transaction and the draft merger notice, particularly in software segments.

It is important that case teams do not limit themselves to only these calls, and are flexible in accepting further engagement, as the consultation document mentions. We would encourage the CMA to remain flexible and open to additional engagement (as the CMA acknowledges may be necessary[3] beyond the informal update calls now envisaged (i) during pre-notification and (ii) shortly prior to the CMA commencing its formal investigation. Case teams should be empowered to hold further discussions as needed, in line with the consultation document's recognition of the value of ongoing dialogue. This flexibility will help ensure that issues are identified and addressed early, reducing the risk of surprises and/or delays later in the process. In particular, the nature of what can be communicated in such calls is important. Clear

[3] Consultation Document, paragraph 5.19.

communication on next steps, along with firm commitments to future timeframes for the remainder of the process, is essential to managing the issue of perception at the heart of the challenge that these proposals aim to resolve.

Conclusion

IBM appreciates the CMA's commitment to embedding the '4Ps' into the UK merger review regime. The reforms could significantly improve the merger review process in the UK, depending on the way they are implemented in practice. We look forward to continued dialogue with the CMA and are happy to provide further information or clarification as needed.

Sincerely,

Blake Bower
Director of Government and Regulatory Affairs
IBM UK