

## CMA REVISED MERGER REMEDIES GUIDANCE

### Response from Baker & McKenzie LLP

12 November 2025

1. Baker & McKenzie LLP (“**Baker McKenzie**”) welcomes the opportunity to respond to the Competition and Markets Authority’s (“**CMA**”) consultation on its draft revised guidance on merger remedies, published on 16 October 2025 (the “**Draft Revised Guidance**”).
2. Following our submission to the CMA on 12 May 2025, in response to its initial review and Call for Evidence of 12 March 2025, we are pleased to observe that many of our suggestions have been adopted in the Draft Revised Guidance.
3. In particular, we appreciate the additional guidance around how merger parties can effectively engage with the CMA on remedies throughout the process and welcome the CMA’s (i) willingness to discuss remedies at an early stage on a without-prejudice basis, with the potential involvement of the Phase 1 decision-maker; (ii) offering parties a dedicated meeting shortly after they submit their response to the issues letter; and (iii) proposing to set out specific guidance for cases that involve a fast-track to UILs.

#### *Behavioural remedies in dynamic and innovative markets*

4. Baker McKenzie also welcomes the CMA's proposed changes in relation to behavioural remedies, including removal of the presumption against behavioural remedies at Phase 1 of a merger review and providing guidance on the factors that may help to reduce the risks associated with behavioural remedies. One of those risk-reducing factors is that “*the industry is sufficiently mature and stable such that there is a low risk that the market or competitive conditions change in ways which mean that the remedy becomes ineffective or starts to distort market outcomes*”.<sup>1</sup>
5. While we welcome the CMA’s broader consideration of factors when assessing the suitability of behavioural remedies, we reiterate that such remedies can also be appropriate in dynamic, innovation-driven markets. As explained in our response of 12 May 2025 to the Call for Evidence, such markets are more likely to change materially, making permanent structural remedies less appropriate, effective or necessary. In technology-driven sectors, access to data, applications, platforms, or intellectual property is often more critical to preserving competition than maintaining market structure through asset transfers. Accordingly, we encourage the CMA to adopt an open, fact-specific approach in innovative and dynamic markets and carefully assess whether behavioural remedies are viable.
6. Baker McKenzie thanks the CMA for the opportunity to comment on the Draft Revised Guidance and remains at the CMA's disposal to discuss any of the points raised in this response.

**Baker & McKenzie LLP**

**12 November 2025**

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<sup>1</sup> Draft Revised Guidance, paragraph 7.38(e).