

# Refining Our Competition Regime

Driving growth and enhancing competition for businesses and consumers

20 January 2026

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## Foreword

The primary mission of this government is to deliver economic growth. Effective competition in dynamic UK markets can deliver increased investment, productivity, innovation and, ultimately, growth. As set out in our Industrial Strategy, promoting competition and refining the competition regime is central to our growth mission; the Strategy sets out a commitment to “unlock the full potential of competition to increase market dynamism and growth”.

Independent competition regulation has been the bedrock of the UK’s approach for over 25 years. Government is committed to ensuring our internationally highly-regarded competition authority, the Competition and Markets Authority (CMA), has the powers and statutory framework it needs to independently deliver its important role of promoting competition for the benefit of consumers, in response to evolving markets and heightened expectations of stakeholders.

The CMA has emphatically answered this government’s call for regulators to consider how they can play an enhanced role in delivering growth. Under the leadership of CEO Sarah Cardell and interim Chair Doug Gurr, the CMA has undertaken a comprehensive programme of work to focus its work on growth and investment while protecting consumers and businesses. The CMA’s ‘4Ps’ framework to improve pace, predictability, proportionality, and process is already having tangible results in improving the experience of businesses while it fulfils its important role of promoting competition and tackling unfair behaviour.

These changes have shown that the CMA is already delivering on the aspirations set out in the Strategic Steer issued by government in May 2025. But there are areas where the government can support the CMA, by bringing forward legislative proposals to complement the CMA’s operational transformation. This will improve the pace, predictability, proportionality, and process of engagement through refinements to the legislative framework for competition and assist the CMA further in meeting the government’s own challenge in the Strategic Steer for the UK to be an international ‘best in class’ competition regime.

This consultation delivers on our commitment in the March Regulation Action Plan and modern Industrial Strategy to bring forward legislative proposals to refine the UK’s competition regime. As well as fulfilling our commitment to provide greater certainty on which transactions will be subject to UK merger control, and how market remedies should be reviewed, significantly, it proposes important refinements to how decisions are made in merger and market investigations. These refinements align closely with the objectives of the CMA’s 4Ps. They deliver pace through more efficient running of investigations; predictability through greater consistency of decision-making and direct accountability to the CMA Board; proportionality by empowering the CMA to operate in a targeted and flexible way, and an improved process for stakeholders, while safeguarding the vital independence of CMA

decision-making. The consultation also proposes a new approach to examining markets, with the potential to deliver significant benefits to consumers and businesses more quickly.

Government believes in the importance of competition and market dynamism in driving growth and the importance of an independent competition regime in promoting competition and ensuring investor confidence. These important proposals seek to ensure that the UK's competition regime meets these ambitions.

# Consultation information

This consultation seeks views on a package of reform proposals to improve the pace, predictability, proportionality and process of the UK's competition regime.

The aim is to ensure that the framework continues to promote effective competition, support economic growth, and deliver benefits for consumers and businesses, while maintaining the independence of the CMA.

## Consultation details

Responsible body: the Department for Business and Trade (DBT)

Issued: 20 January 2026

Respond by: 31 March 2026

## How to respond

You can respond to this consultation through the [online survey](#).

We strongly encourage that responses are made via the online platform. Using the online survey will assist our analysis of the responses, enabling more efficient and effective consideration of the issues raised.

If you cannot respond via the online platform, you may send your response by email to: [competitionpolicy@businessandtrade.gov.uk](mailto:competitionpolicy@businessandtrade.gov.uk).

If you are responding in writing, please make it clear which question or paragraph number each comment relates to.

Written responses can also be sent to:

Competition Policy Team  
Department for Business and Trade  
Old Admiralty Building  
Admiralty Place  
London  
SW1A 2DY

Your response will be most useful if it is framed in direct response to the questions posed, though further comments and evidence are also welcome. When responding, state whether you are responding as an individual or representing the views of an organisation.

Evidence will be reviewed thereafter by the review team. If further information or clarification is required, the review team will be in contact with you.

## Confidentiality and data protection

DBT is committed to protecting the privacy and security of your information. This notice informs you how we collect and process your personal data in accordance with data protection legislation when you respond to one of our public consultations, which we publish on GOV.UK. Dependent on the consultation, you can respond by post, by email or online.

The way in which your data is handled varies depending on how you submit your response, but all information submitted to us will be treated in accordance with data protection principles.

You can read the [public consultations privacy notice](#).

We may modify or amend this privacy notice at our discretion at any time. When we make changes to this notice, the last modified date at the top of this page will be updated. Any modification or amendment to this privacy notice will be applied to you and your data as of that revision date. If there are substantive changes to how your personal data is processed, DBT will take reasonable steps to make sure you know.

Information you provide in response to this consultation, including personal information, may be disclosed in accordance with UK legislation (the Freedom of Information Act 2000, the Data Protection Act 2018 and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please tell us, but be aware that we cannot guarantee confidentiality in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not be regarded by us as a confidentiality request.

## How to contact us

You can contact our Data Protection Officer (DPO) with any concerns about how we or our services handle your personal information:

Data Protection Officer  
Department for Business and Trade  
Old Admiralty Building  
Admiralty Place  
London  
SW1A 2DY

Email: [data.protection@businessandtrade.gov.uk](mailto:data.protection@businessandtrade.gov.uk)

## Independent advice

You can contact the Information Commissioner for independent advice about data protection issues or to make a complaint:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

Email: [casework@ico.org.uk](mailto:casework@ico.org.uk)

Telephone: 0303 123 1113

Textphone: 01625 545860

Monday to Friday 9am to 4:30pm

If you make a complaint to the Information Commissioner, it does not prejudice your right to seek redress through the courts.

## **Quality assurance**

This consultation has been carried out in accordance with the government's [consultation principles](#). If you have any complaints about the way this consultation has been conducted, email: [enquiries@businessandtrade.gov.uk](mailto:enquiries@businessandtrade.gov.uk).

## **Enquiries**

For enquiries on this consultation,  
contact: [competitionpolicy@businessandtrade.gov.uk](mailto:competitionpolicy@businessandtrade.gov.uk).

# Executive Summary

Competition drives growth by ensuring that more productive firms increase their market share and by driving firms to invest and innovate, resulting in new products (or even markets) and processes, and step-changes in lower costs or higher quality.

The UK's competition regime, and the legislation that underpins it, enables the CMA – and regulators with concurrent responsibilities – to promote competition in markets. The UK has always been at the forefront of the development of competition policy, and our legal framework sets out comprehensive powers to promote competition, with the independence of competition enforcement as a central tenet of our approach.

Key legislation:

- The Competition Act 1998 (CA98) prohibits anticompetitive agreements and abuse of dominance. It provides the powers for the CMA and the concurrent sector regulators to investigate suspected infringements, and to take direct enforcement action.
- The Enterprise Act 2002 (EA02) provides for independent investigation by the CMA of mergers which may harm competition, and powers to take action to remedy mergers which are anticompetitive. It also provides for market studies and investigations, where the CMA and, in some cases, concurrent regulators, investigate and take action where markets are not working well, and provides powers for criminal cartel enforcement.
- The Enterprise and Regulatory Reform Act 2013 (ERRA13) created a single competition authority, the CMA, to replace the Office of Fair Trading and the Competition Commission. It also created the governance and decision-making structures for the CMA.
- The Digital Markets, Competition and Consumers Act 2024 (DMCCA24) introduced a new competition regime for digital markets, applying to businesses designated with "strategic market status".

The CMA is the UK's primary competition authority with a statutory duty to promote competition, both within and outside the UK, for the benefit of consumers. At least once each Parliament, government publishes a Strategic Steer setting out its priorities for the CMA. In May last year, government published a new growth-focused Strategic Steer to the CMA which set out that the CMA can contribute to delivering economic growth across all activities where it exercises its discretion, giving appropriate consideration to the Industrial Strategy's growth-driving sectors.

In November 2024, the CMA's CEO Sarah Cardell launched the '4Ps' framework to improve pace, predictability, proportionality and process across its work and has already taken significant steps to deliver against this framework. Government is supportive of the 4Ps which has already led to operational transformation across all



areas of the CMA's work, with over 75 commitments to enhance investor and business confidence while promoting better outcomes for UK consumers, and these have included:

**Examples of CMA actions under the 4Ps framework**

- **Pace:** significant steps to streamline merger investigations with new KPIs for pre-notification cases (40 working days, compared with a previous average of 65 working days) and non-complex Phase 1 merger (25 working days, reduced from 35).
- **Predictability:** roadmaps for the CMA's work under the digital markets competition regime, laying out clearly and publicly the phased actions it might take to improve competition and market outcomes.
- **Proportionality:** clarity in new consumer protection and markets 'approach' documents that action taken under these regimes to address harms will be designed to minimise burdens for businesses – especially SMEs.
- **Process:** improved business engagement across all functions, including through establishing a new Growth and Investment Council to engage strategically with business representative bodies.

The March 2025 'Regulation Action Plan' recognised the substantial actions already undertaken by the CMA and committed to bringing forward a consultation on potential changes to legislation to further improve the pace, predictability, proportionality and process of key aspects of the UK's competition regime.

This consultation delivers on that commitment, by bringing forward proposals that will support and empower the CMA in realising the full potential of the 4Ps framework and allow it to best deliver against the ambitions government set out in the Strategic Steer. Specific proposals to refine the UK's competition regime include:

- **Changes to decision-making structures and processes for the markets and mergers regimes:** at present, Phase 2 merger investigations and market investigations are led by members of an independent panel (the Panel), meaning that while decisions are ultimately CMA decisions, the senior leaders of the organisation who are accountable to Parliament for its performance are legally prevented from engaging in two of its most significant decision-making functions. This can create confusion regarding accountability for those impacted by decisions. We propose to build on the model for the digital markets regime by replacing Panel-led Inquiry Groups with decision-making involving new sub-committees of the CMA Board, enhancing the Board's involvement and accountability while safeguarding CMA independence from government in its mergers and markets decision-making.
- **Reforms to streamline the markets regime:** the current markets model means combined market studies and market investigations can take over 3

years in some cases. Not only is this a significant period for entire markets to be under the CMA's scrutiny, but the current inflexibility of the markets regime means the CMA cannot fully tailor the process to the specific nature of the markets involved, or the specific harms and remedies that may be under consideration. We propose to replace market studies and investigations with a single-phase market review tool, which will reduce the length of time markets are under review and allow the CMA to tailor its approach, whilst ensuring procedural safeguards remain in place.

- **Changes to improve the flexibility of the concurrency framework in markets work:** building on the proposed changes to the markets regime, we propose to give the CMA discretion in determining whether to take forward market reviews under the new model when markets are referred for investigation by the concurrent sector regulators. As a cross-economy regulator, with a Strategic Steer from government and its own prioritisation principles, the CMA should be able to determine whether a reference from a concurrent regulator should be prioritised, while giving full consideration to such a request. In addition, we propose to allow concurrent regulators, by mutual consent, to take responsibility for monitoring and enforcing market remedies imposed or accepted by the CMA in their sectors. This will result in fewer regulatory touch points for businesses.
- **Regular reviews of market remedies:** market remedies have delivered substantial benefits for UK consumers, businesses and the wider economy. However, we also recognise that remedies can place significant burdens on the businesses which are required to comply with them, and that the benefits they deliver may diminish over time, as markets change. We propose requiring the CMA to consider sunset clauses when designing remedies and to review future remedies at least once every 10 years. This will ensure remedies remain fit for purpose and in place only where necessary.
- **Providing greater certainty on whether a merger will be subject to investigation in the UK:** government believes that the UK's voluntary notification system for merger control is a positive feature of our competition regime. However, government is concerned that the statutory jurisdictional tests that determine whether the CMA can investigate a transaction are too open. We propose to provide greater certainty by clarifying which factors should be considered in relation to the share of supply and material influence tests in legislation.
- **Allowing an extension of a Phase 1 merger investigation to agree remedies:** at present there is limited time for the CMA to agree remedies with parties at the end of a Phase 1 merger investigation. Where the CMA and merging parties agree, we propose to extend the period of time in which remedies to address competition concerns with a merger can be agreed

following a Phase 1 investigation. This could help avoid a more intensive Phase 2 investigation and reduce burdens, with both businesses and the CMA potentially saving the costs of up to 24 weeks further investigation.

- **Cross-cutting measures:** we propose to give stronger powers to the CMA to investigate algorithms across its competition and consumer protection responsibilities, due to the increasingly digitised nature of the economy. Government is also considering providing the Secretary of State with a formal role in a wider range of key guidance documents published by the CMA in line with the requirement for consultation on digital markets, civil penalties and international cooperation guidance.

Taken together, these measures will support the CMA's own reforms, boost stakeholder confidence in the UK as place to do business and ensure that competition is promoted and UK consumers are protected.

Government recognises that prolonged uncertainty of potential legislative change does not bring the predictability that these changes look to deliver. Accordingly, we would look to bring forward legislation that incorporates views expressed in this consultation exercise, as soon as Parliamentary time allows.

Finally, government's recent Call for Evidence on Competition Opt-Out Collective Actions has already identified common themes where changes to the regime may make it operate more effectively and deliver better for consumers. We intend to consult separately on proposals to refine the regime in the coming months.

# 1. Enhancing accountability for CMA decision-making in mergers and markets

## Summary

1. The CMA's merger and markets regimes are powerful tools for promoting open, fair and dynamic competition in markets across the UK.
2. Mergers play an important role in dynamic markets, driving efficiency, innovation, and growth. However, mergers can also harm competition leading to higher prices and reduced innovation and growth. That is why government ensures the CMA has the powers to conduct an independent review of mergers and take action to prevent or unwind deals that would harm competition in the UK.
3. Market studies and market investigations allow the CMA to conduct an in-depth analysis of how a market is working and, in the case of market investigations, impose remedies to address the harms identified. Unlike the enforcement of competition law, the CMA's markets work is not limited to investigating potentially unlawful conduct but can consider the wider competitive conditions in UK markets.
4. Government believes both regimes are working well and delivering real benefits for UK businesses and consumers. However, there is scope to refine the legislative framework, building on the CMA's '4Ps' initiative.
5. In order to further enhance the efficiency, timeliness, and predictability of decision-making in mergers and markets, and to reinforce the UK as a global 'best-in-class' regime, government is consulting on proposals to reform decision-making in the merger and markets regimes, while also ensuring that the vital independence of CMA decision-making is safeguarded.
6. The proposed changes would align the CMA's approach with that already adopted for its digital markets functions. Specifically, we propose to replace Panel-led Inquiry Groups with decision-making involving sub-committees of the Board, appointed by a Mergers Board Committee and a Markets Board Committee. These sub-committees will typically be permitted to take substantive Phase 2 merger decisions and decisions in the new single-phase market review tool (proposed in Chapter 2). This would ensure that those ultimately accountable to Parliament are directly involved in the most significant mergers and markets decisions, improving predictability and consistency, as well as reinforcing institutional accountability.
7. The reforms also aim to improve the pace of decisions. Despite the CMA's best efforts under the current statutory framework, transitions between investigation

phases can feel disjointed leading to slower decision-making which government believes could be improved under a sub-committee model.

8. The Panel traces its history back to the Monopolies and Restrictive Practices Commission, established by the Monopolies and Restrictive Practices (Inquiries and Control) Act 1948 and this commission first considered merger cases following the Monopolies and Mergers Act 1965. More recently, ERA<sup>13</sup> established the role of the Panel operating under the auspices of the CMA when the Office of Fair Trading and Competition Commission were merged. Perhaps owing to its evolution, this model is unique to the UK and is challenging to explain to international businesses and, indeed, the wider UK public when describing who is accountable for CMA Phase 2 merger and market investigation decisions.
9. Government recognises the value that CMA Panel members bring to the decision-making processes, including external perspectives and diversity of thought. However, government believes the current model could be improved by:
  - a) Increasing accountability of the CMA Board for merger investigations and single-phase market reviews.
  - b) Strengthening engagement between representatives of the CMA Board and parties to an investigation throughout the process.
  - c) Enhancing consistency across CMA regimes and the predictability of decision-making across the CMA's functions.
10. Government believes the introduction of a CMA Board-led decision-making approach, aligned with the approach in the digital markets regime, supported by an expert pool of non-CMA staff decision-makers, will deliver these improvements while maintaining expertise and diversity of experience in the decision-making processes.
11. The CMA Panel also plays a role in regulatory appeals, including reviewing price determinations and decisions by sectoral regulators such as those in the energy and water sectors. Government intends to review this role in the coming months, informed by decisions in sector specific reviews and taking account of cross-cutting work on the updated approach to economic regulation as set out in the 10 Year Infrastructure Strategy.

### **Existing decision-making model for mergers and markets**

12. The CMA Board and CMA Panel both play a role in the existing decision-making model for mergers and markets functions:

- a) In both functions, certain decisions must be taken by the CMA Board<sup>1</sup>, which is comprised of the Chief Executive Officer, Chair, Executive Members and Non-Executive Members. The CMA Chair is appointed by the Secretary of State for Business and Trade and is not a member of CMA staff. At least one member of the Board must also be appointed to the CMA Panel. All Board members are appointed by the Secretary of State for Business and Trade.
- b) The CMA Chair, with the consent of the Board, appoints a CMA Panel Chair who has overall responsibility for leading the CMA Panel, which is usually comprised of around 30 members who are appointed by the Secretary of State. The CMA Panel Chair allocates Inquiry Chairs and Panel members to form an Inquiry Group, which is tasked with running and deciding the outcomes of each Phase 2 merger investigation and market investigation. Panel members are intended to provide the CMA with outside perspectives and experience to assist with decision-making. The CMA Board is required to make rules of procedure for Inquiry Groups (the Rules). Subject to these Rules, groups can decide their own procedures.<sup>2</sup>

13. The CMA currently operates a two-stage decision-making model in relation to its mergers and markets functions.

## **Mergers**

- 14. Phase 1 decision-making assesses whether a merger gives rise to a realistic prospect of substantially lessening competition (SLC). Phase 1 decision-making is usually delegated by the Chair of the CMA Board to senior CMA staff; however, some Phase 1 decisions are taken by the Executive Director of Mergers or the CEO who are both Board members.
- 15. Phase 2 merger decisions on the statutory questions are made by an Inquiry Group.<sup>3</sup> The Inquiry Group also answers the statutory questions<sup>4</sup> to a higher standard of proof than the Phase 1 decision-maker (e.g. not whether there is a realistic prospect that a merger will result in an SLC but whether an SLC is more likely than not). For the statutory question in merger decisions, relating to an SLC, i.e. whether a relevant merger situation has resulted or may be

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<sup>1</sup> Subject to the Board's powers to delegate some decisions - see paragraph 29 of Schedule 4 to ERRA13.

<sup>2</sup> Paragraphs 51 and 54 of Schedule 4 to ERRA13.

<sup>3</sup> The functions reserved to Inquiry Groups are set out in section 34C EA02.

<sup>4</sup> Compare sections 22 and 33 with sections 35 and 36 EA02.

expected to result in an SLC, there needs to be a qualifying majority<sup>5</sup> decision, which is that of at least two-thirds of the members of the Inquiry Group.

## **Markets**

16. The CMA Board launches and oversees market studies. The Board also has the power to make a Market Investigation Reference (MIR) where it has reasonable grounds to suspect that features of the market are causing an 'adverse effect on competition' (AEC). An MIR can be made without having first conducted a market study. MIRs can also be made by sector regulators and, under certain limited circumstances, the Secretary of State.<sup>6</sup>
17. If the CMA Board decides that an MIR is to be made, an Inquiry Group undertakes the market investigation and is required to decide whether there is an AEC in the market(s) referred and, if so, whether and what remedial action is appropriate. The CMA Board may issue an advisory steer to Inquiry Groups, setting out its expectations regarding the scope of the market investigation and the issues that could be the focus of the investigation. Inquiry Groups are expected to take the advisory steer into account but are required to make statutory decisions independently of the CMA Board.<sup>7</sup>
18. In order to make a valid finding of an AEC that can be subject to remedial action, a decision must be taken by a qualifying majority, which is that of at least two-thirds of the members of the Inquiry Group.<sup>8</sup>

## **Decision-making for digital markets**

19. On 1 January 2025 government commenced the digital markets regime (established by the DMCCA24), providing the CMA with bespoke tools to promote competition in digital markets. It has a different decision-making model to the CMA's existing markets and merger regimes, with no Inquiry Group for digital markets investigations. Instead, certain strategic decisions must be taken by the Board whereas other regulatory decisions, including designation and imposition of conduct requirements (and if a pro-competition intervention investigation is launched, pro-competition orders), can be delegated to a committee or sub-committee of the Board.
20. The Board may delegate any of its functions to a committee or sub-committee of the Board, save for certain functions. These 'reserved functions'<sup>9</sup> are deemed to have the greatest strategic impact for the market and require clear accountability of senior decision-makers to Parliament and stakeholders. They

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<sup>5</sup> Paragraphs 55 and 56 of Schedule 4 to ERR13.

<sup>6</sup> Section 132 EA02 and Chapter 2 Part 4 EA02.

<sup>7</sup> The full list of markets functions to be exercised by the Inquiry Group are set out in section 133A EA02.

<sup>8</sup> Paragraphs 55 and 57 of Schedule 4 to ERR13.

<sup>9</sup> Set out in paragraph 29(2) of Schedule 4 to ERR13.

also have strategic implications for the CMA in terms of committing resource. The reserved functions are the decision to begin an investigation into whether a firm should be designated with Strategic Market Status, the decision whether designation of such a firm should be continued, and the decision whether to begin a pro-competition intervention investigation.

21. The Digital Markets Board Committee (DMBC) is a decision-making committee of the CMA established to take certain regulatory decisions, not reserved to the full Board<sup>10</sup>. These decisions can be, and in practice typically are, delegated to a sub-committee of the Board including making an SMS designation, making or varying conduct requirements, and making a pro-competition intervention.
22. The DMBC<sup>11</sup> is required to include at least two non-executive directors of the Board (or the CMA Chair and a non-executive director) and at least half of its members must be non-executive members (as set out in ERRA13). Non-executive members are non-executive directors on the CMA Board or members of the CMA Panel. This requirement ensures sufficient senior accountability and diversity of perspectives for a coherent body of digital competition rules and regulatory decisions.
23. The DMBC appoints members to the individual sub-committees, and they will usually also include at least one staff member of the DMBC. When appointing sub-committee members, the DMBC also appoints a sub-committee Chair and Deputy Chair.
24. The DMBC itself is comprised of the CMA Chair, at least one CMA Panel member, the Chief Executive Officer, 3 Executive Directors of the Board and 5 non-executive directors of the Board. The CMA Board appoints the Chair of the DMBC (DMBC Chair) as well as its non-executive members as per the CMA Board's Rules of Procedure (made by the CMA Board itself).

### **Proposal for change**

25. Government is proposing to closely align decision-making in mergers and markets with the approach in digital markets, delivering greater accountability, pace and predictability, along with operational consistency. Key decisions currently reserved for Inquiry Groups (comprised of Panel members) would be taken by either the CMA Board, new committees of the Board – a Merger Board Committee and Markets Board Committee – or by decision-making groups (sub-committees) appointed by the Mergers Board Committee or Markets Board Committee. The Board would be able to delegate other decisions

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<sup>10</sup> Listed in paragraph 29(2A) of Schedule 4 to ERRA13.

<sup>11</sup> Or any committee of the CMA Board making the digital markets decisions in paragraph 29(2A).



currently made by Inquiry Groups to allow them to be taken by the relevant case team within established CMA governance procedures.

26. Under this proposed reform the Panel would be replaced by a pool of non-CMA staff experts who will provide diversity and experience across decision-making in any sub-committees determining mergers and markets cases. This would ensure that the diverse and expert views currently provided by the Panel model are maintained in the decision-making process, something which government is aware is valued by stakeholders. Some members of the pool may also be members of the Mergers Board Committee, or Markets Board Committee, or potentially both. Expert decision makers would, as the Panel currently are, be appointed by the Secretary of State for Business and Trade.
27. As with the DMBC, the CMA Board will appoint the chairs of the Mergers Board Committee and the Markets Board Committee, as well as deciding which non-executive members should sit on the Committees.

## **Mergers**

28. To ensure robustness of decision-making, Phase 1 merger decisions would in practice continue to typically be made by senior members of CMA staff who are not on the Board (under delegated authority from the Board). At Phase 2, the key decisions would typically be made by sub-committees appointed by the Mergers Board Committee comprising different, senior staff (of equivalent seniority or more senior to the Phase 1 decisions maker) including Executive or Senior Directors, Non-Executive Directors and members of the pool of experts, or by the Mergers Board Committee itself.
29. While the CMA Board would be permitted to take the merger decisions currently reserved to the Panel<sup>12</sup>, the Board would be permitted to delegate, and would typically delegate, those decisions<sup>13</sup>. Certain key decisions could only be delegated to the Mergers Board Committee or one of its sub-committees, including:
  - a) decisions on the statutory questions in sections 35 and 36 EA02 that are currently reserved for Inquiry Groups (e.g. the SLC decision)
  - b) remedy decisions under section 41 EA02.
30. In practice the decision-making committee or sub-committee would also be responsible for the provisional decisions in relation to those matters.

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<sup>12</sup> The list of decisions is set out in section 34C(1) EA02 and effectively covers all the decisions made in Phase 2 of a merger investigation.

<sup>13</sup> See paragraph 29(1) of Schedule 4 to ERRA13 which permits the Board to authorise committees or sub-committees of the Board, or individual members of the Board or members of CMA staff, to take decisions in relation to its functions.

31. Other (day-to-day) decisions would be delegated to sit within established CMA governance procedures for taking those decisions. In other words, the case team would take day-to-day investigation decisions – for example, sending information requests, taking decisions as to publication of material, confidentiality redactions, etc. These are decisions which formally currently fall to the Inquiry Group, which can negatively impact pace.

## **Markets**

32. As regards the markets function, decision-making would be adjusted to take into account the proposal for a single-phase markets review tool set out further below.
33. As with the current market study process, the key strategic decision to launch a market review would be reserved to the CMA Board.
34. Certain key decisions could only be delegated by the Board to a sub-committee of the Markets Board Committee, or the Markets Board Committee itself, including decisions to extend a review to consider remedies and decisions on the statutory questions (for example, the AEC decision and remedy decisions).
35. As with Phase 2 merger investigations, other (day-to-day) decisions would be delegated to sit within established CMA governance procedures for taking those decisions. This would include day-to-day decisions sitting with a case team or steering group appointed for the purposes of managing any market review (reporting, as applicable, to the CMA Board, the Markets Board Committee, or sub-committee).

## **Mergers and markets**

36. As with the DMBC model, at least half of the members of the committee or sub-committee appointed to take the delegated statutory decisions would have to be either non-executive members of the Board or drawn from the pool of non-CMA staff experts. Government is not proposing to require mergers and markets committees or sub-committees to include at least two non-executive directors of the Board (or one where the Chair is also a member), as is the case for the DMBC, so as to enable the CMA to draw more flexibly on the pool of non-CMA staff experts. This is appropriate because of the practical need to ensure sufficient flexibility for the CMA potentially to determine several merger investigations<sup>14</sup> and market reviews at one time, and recognising the limited size of the CMA's Board and the significant workload associated with decision-making. As with the digital markets regime, the sub-committees could also be chaired by a senior member of CMA staff authorised by the Mergers or Markets Board Committees. The decisions in both merger and markets cases are currently and would remain appealable to the Competition Appeal Tribunal

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<sup>14</sup> The CMA has previously had up to nine Phase 2 merger investigations at one time.

(CAT) on judicial review principles which constitutes a critical part of fair procedure.

37. Government believes that the proposal to change the decision-making model in both mergers and markets to bring them in line with that used in the digital markets competition regime would continue to provide robust procedural guarantees<sup>15</sup>. The judicial review standard ensures the CAT conducts a robust testing of the CMA's evidence base and evaluation where relevant to a challenge to a CMA decision, while minimising the time, costs and uncertainty that can be associated with other standards of review. The CAT also has, and will continue to have, the power to quash a decision and remit the matter, if the rationality and/or procedural fairness of the decision-making is successfully challenged.

## Questions

***Q1. What impact do you think the proposed reform would have on the consistency and predictability of decision-making in merger and markets cases? Please explain your views.***

***Q2. Would the proposed reform for greater accountability for the CMA Board for merger and markets decision-making be something you would welcome? [Yes / No / Not sure] Please explain your views.***

***Q3. Do you support the proposed membership requirements for the mergers and markets sub-committees/committees? [Yes / No / Not sure] Please explain your views.***

## 2. Markets Work and Market Remedies

### Overview of the UK's markets regime

38. Market studies and market investigations have delivered substantial benefits, helping drive growth, innovation, and better outcomes for consumers. The CMA estimates its interventions through the markets regime delivered over £5 billion of direct consumer benefits over a three-year period between 2021/22 - 2023/24<sup>16</sup>.
39. For example, the Retail Banking Market Investigation Order enabled the development of open banking, paving the way for fintech firms to challenge

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<sup>15</sup> See *C  r  lia Group Holdings SAS & Anor v Competition and Markets Authority* [2024] EWCA Civ 352 at paragraphs 28 to 41 for the Court of Appeal's views on the scope of judicial review by the CAT in merger cases.

<sup>16</sup> [Impact Assessment 2023 to 2024 - GOV.UK](#).

incumbent banks and inspiring government's ambition for a Smart Data Economy. In its Road Fuel Market Study Final Report, the CMA recommended the creation of a fuel finder scheme, which government made regulations implementing in December 2025 to make finding the cheapest fuel easier and put more money in people's pockets.

40. As the CMA marks over a decade of conducting market studies and investigations, government wants to build on its success and maximise its contribution to our Industrial Strategy and overriding national priority – economic growth.

### **Recent changes to the markets regime**

41. The DMCCA24 made reforms to ensure market studies and investigations could be used as effectively and efficiently as possible because of concerns they were underutilised as well as important changes to ensure that any remedies that follow a market investigation effectively address competition concerns. These included:
- Powers for the CMA to vary, revoke, release or replace market remedies where the original remedy is ineffective.
  - Powers for the CMA to trial certain remedies to ensure they work as well as possible.
  - Enabling the CMA to accept binding undertakings at any stage in the process.
  - Removing the requirement to consult on the proposal to make a market investigation reference within the first 6 months of a market study.
  - Providing the CMA with greater flexibility to define the scope of market investigations in order to allow the CMA to conduct properly targeted and proportionate market investigations more easily, where appropriate.
42. The CMA is taking steps to improve the markets regime as part of its 4Ps framework: driving greater pace, predictability, proportionality and better process across its tools. Government welcomes the CMA's efforts and the publication of its 'Approach to Markets Work'<sup>17</sup>, which sets out how the CMA will apply the 4Ps when utilising its markets tools. The CMA's strategic review of market remedies will review a significant proportion of its market remedies with a view to removing those which are no longer appropriate. If those remedies are removed, businesses will benefit from lower costs and a simpler regulatory environment.<sup>18</sup> The DMCCA24 reforms and CMA initiatives have together made significant improvements to the markets regime, but government believes more can be done.

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<sup>17</sup> [CMA's approach to markets work - GOV.UK](#).

<sup>18</sup> DBT's proposals for markets remedies as set out in this consultation do not affect the CMA's strategic review.

## i. Enhancing the CMA's markets work

43. Government wants to improve the pace, predictability, proportionality and flexibility of the CMA's markets work. While its overall impact has been positive for UK consumers and the economy, the end-to-end process of combined studies and investigations can take over 3 years in some cases. During this time, benefits that could have flowed to consumers earlier are delayed and affected firms incur costs and experience uncertainty, which can reduce investment and innovation.
44. Government recognises that markets work must not be rushed and that pace should not come at the expense of robust analysis, procedural safeguards and rights of defence. However, we believe that the disconnect between studies and investigations limits the extent to which the CMA can deliver effective outcomes as quickly and efficiently as possible, and is not necessary to secure these procedural requirements. Most significantly, this disconnect requires the CMA to decide at the outset, and before having access to compulsory information-gathering powers, which type of process to launch. This creates a dual risk, as the CMA may launch a market study, only to find quickly that a market investigation is required, or launch a market investigation only to discover that a market study would have sufficed. At this point however, the CMA is locked into a process that is either insufficient or unnecessarily onerous, potentially adding months to the overall timetable.
45. In addition to this concern, there is inevitable friction in moving from one process to another. Market studies and investigations are separate processes overseen by different decision-makers. The CMA Board oversees market studies, whereas market investigations are led by an independent Inquiry Group of CMA Panel members, who have not been involved in the preceding market study. This separation creates inefficiencies which invariably contributes to the length of some markets work.
46. Government and the CMA agree that the current markets model could be further improved to enhance the CMA's ability to support our growth mission, and government welcomes the CMA's initiatives to improve its markets work. However, the current statutory framework limits what the CMA can achieve, and government believes legislative changes are needed to deliver the scale of change desired.

### **Proposal**

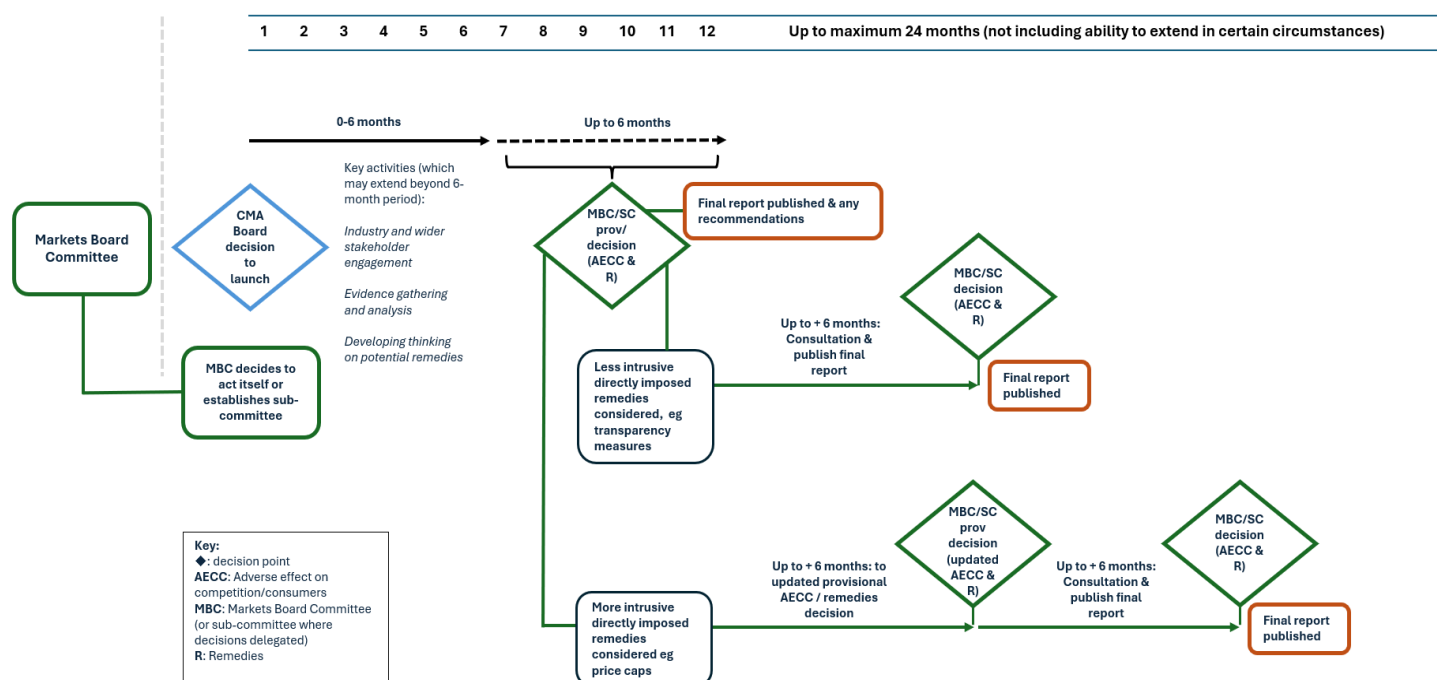
#### *Time periods and process*

47. Government proposes to replace the existing market study and market investigation system with a new single-phase market review tool.

48. Under the single-phase market review tool procedural safeguards, including evidential thresholds, statutory consultation requirements and parties' rights of defence, will all remain in place. The below explains and illustrates how a single-phase review is expected to work:

- a) 6 – 12 months after the launch of a review, the CMA would either publish a final report with recommendations or consult on a provisional adverse effect (on competition or consumers) decision including areas to consider for remedies.
- b) Where less intrusive remedies (for example, transparency measures) are being considered, the CMA expects to consult on provisional remedies and to publish a final report within 6 months of any provisional adverse effect decision.
- c) Where the CMA is considering more intrusive remedies, such as price controls, it expects to consult on an updated provisional adverse effect decision and provisional decision on remedies within 6 months of forming its initial provisional view, and then publish a final report within a further 6 months. This is to allow sufficient time for the analysis needed before imposing remedies such as price controls.

## Process Map



49. The end-to-end process should in most cases take between 18 - 24 months instead of over 30, and in some cases considerably less than 18 months. That is why government is proposing a statutory time-limit of 24 months for single-phase market reviews, although it expects reviews to conclude more quickly where the CMA is only considering less intrusive remedies. The CMA would retain the ability to extend this by up to a maximum of 6 months only in certain circumstances.

#### *Legal test*

50. The current markets model applies different thresholds and legal tests for market studies and market investigations. In a market study, the CMA must assess whether there are reasonable grounds to suspect there is an adverse effect on consumers. In a market investigation, it assesses whether there is an adverse effect on competition. Moving to a single test could therefore speed up single-phase market reviews. It could also remove any perceived uncertainty that some aspects of how a market is functioning may be considered in one stage of a market review, and eliminate the prospect of any dispute over whether those same issues can be considered and, where appropriate and proportionate, considered for potential remedy, in the second stage.
51. In order for any markets tool to be fully effective, the CMA needs to be able to assess and, where appropriate, consider for potential remedy, all possible sources of harm that arise for consumers and businesses alike, in order to fulfil its general duty to promote competition, both within and outside the UK, for the benefit of consumers. That ability could be restricted under a single adverse effect on competition test, particularly in cases where the causal link between the consumer harm and the harm to competition is open to dispute - but the consumer harm is nonetheless material and, if unaddressed, would be liable to damage trust or fairness in markets, and thereby jeopardise their effective operation.
52. Accordingly, views are sought on moving to a single test of adverse effect on consumers.

#### *Other benefits*

53. A single-phase review tool will deliver other benefits. First, it would allow for the identification of the types of potential remedies being considered earlier in the process, providing greater transparency and predictability. Second, continuation of executive-led engagement with affected parties from diagnosis stage to remedies stage and the adoption of a more participative approach throughout could further reduce timeframes. Third, reduced costs for affected firms and the CMA thanks to the quicker process. As a result, the markets regime will be quicker, more predictable and more proportionate. This will contribute to growth and delivery of competition benefits for UK consumers.

54. Previous governments have suggested similar approaches to rationalising the markets regime. Past responses generally expressed strong support for retaining the distinction between market studies and market investigations and emphasised the importance of ensuring efficiencies did not come at the expense of procedural safeguards.
55. Government has carefully considered these views and concluded that a single-phase review model is preferable. First, change is needed to deliver the government's regulatory reform agenda<sup>19</sup>, which has set out a vision for a more transparent, predictable and proportionate regulatory system that supports growth and innovation. Second, the efficiencies and improvements offered by the single-phase review tool will not come at the expense of procedural safeguards. The CMA will need to consult on proposed decisions, including on remedies, findings and proceeding to an in-depth investigation.
56. As set out above, the proposed decision-making model for markets will retain CMA Board decision-making in relation to launching a market review, following which the statutory decisions on adverse effect findings and remedies be taken by a decision group at least half of which is comprised of non-CMA staff i.e. non-executive members of the Board or members of the pool of experts. Safeguards will be therefore maintained whilst enabling a quicker and more predictable, proportionate and flexible markets regime; reducing the impact on affected businesses and realising benefits to consumers more quickly.

## Questions

***Q4. Do you agree the existing market study and market investigation model should be replaced with a new single-phase market review tool? [Yes / No / Not sure] Please explain why.***

***Q5. Do you agree the statutory time-limit for market reviews should be 24 months, with a possibility to extend by a maximum of 6 months? [Yes / No / Not sure] Please explain why.***

***Q6. Do you agree there should be a single legal test for single-phase market reviews? [Yes / No / Not sure] Please explain why.***

***Q7. If so, should this be the adverse effect on consumers test? [Yes / No / Not sure] Please explain why.***

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<sup>19</sup> [New approach to ensure regulators and regulation support growth \(HTML\) - GOV.UK.](#)



## ii. CMA Market Remedies

57. Market investigations can result in the CMA imposing binding structural or behavioural remedies to fix competition problems. Market remedies have increased competition, contributing to growth and delivering substantial benefits for UK consumers.
58. However, some stakeholders have raised concerns about remedies remaining in place for extended periods, sometimes indefinitely, without being regularly reviewed. Unnecessary and burdensome remedies can distort markets, impose significant costs on both businesses and the CMA, and reduce investment and innovation. That is why government committed in the Regulation Action Plan and Industrial Strategy to consider introducing measures to ensure the necessity of binding market remedies is regularly reviewed.<sup>20</sup>
59. Government welcomes the CMA's strategic review of a significant proportion of its market remedies<sup>21</sup> and the commitments in its 'Approach to Markets Work'<sup>22</sup> to increase the pace of remedy reviews and to impose sunset clauses for remedies by default. The legislative proposals in this consultation will complement the CMA's improvements and ensure remedies are regularly reviewed and do not stay in force for longer than is necessary.
60. This follows the improvements already delivered through the DMCCA24 with new CMA powers to trial and vary remedies. These changes help ensure market remedies are effective, remain necessary and are as least burdensome as possible. Accordingly, they are important for ensuring remedies are effective and deliver benefits to consumers and the businesses that are required to comply with them.

### **The CMA's approach to reviewing remedies**

61. The CMA has a statutory duty to keep its remedies under review. The CMA may initiate a review either on its own initiative or following a request from a relevant party. It has discretion in determining the scope of the review and the process by which it will be conducted. Following a review, the CMA may vary, revoke, or release a remedy if it concludes that a change in circumstances has rendered it no longer appropriate and/or the remedy has been ineffective. There is currently no statutory requirement for the CMA to specify when a remedy will be reviewed. However, in some cases, a review date is either recommended in the Inquiry Group's market investigation report or built directly into the remedy itself.

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<sup>20</sup> [New approach to ensure regulators and regulation support growth \(HTML\) - GOV.UK.](#)

<sup>21</sup> DBT's proposals for markets remedies as set out in this consultation do not affect the CMA's strategic review.

<sup>22</sup> [CMA's approach to markets work - GOV.UK.](#)

## **Proposals for Market Remedies**

### **Sunset clauses**

62. The CMA has reaffirmed its commitment to impose sunset clauses by default, meaning remedies will fall away after a set period, unless the CMA judges that there is good reason for them to remain in place. Government wants to put this good practice on a statutory footing and make considering sunset clauses when designing remedies a legal requirement.
63. Government recognises that sunset clauses may not be appropriate for all remedies and that the CMA, as the UK's principal and independent competition authority, is best placed to determine whether they should be imposed. Where the CMA judges that sunset clauses are not appropriate, it will be required to set out its reasoning for improved transparency.

### **Regular reviews for market remedies**

64. The CMA is not currently required to review remedies within a set time frame. While government welcomes the CMA's recent commitments to improve how it reviews remedies, legislative measures provide the greatest certainty for businesses. That is why government is proposing all market remedies must be reviewed at least once every 10 years.
65. The CMA will review remedies within 10 years of the relevant final report and then within 10 years of that initial review if they still remain in place.
66. Government has considered whether remedies should be reviewed more frequently, but this would impose a disproportionate resource burden on the CMA and affected businesses. It would also not be appropriate for all remedies, some of which can take time to show effects. We believe 10 years strikes the right balance between ensuring remedies are regularly reviewed with ensuring the CMA's resource is effectively utilised.
67. Government is considering permitting the CMA to depart from the requirement to review remedies at least once every 10 years in exceptional circumstances. To ensure this does not undermine the policy for remedies to be regularly reviewed, the CMA would need to publicly set out what the exceptional circumstances are and when it expects to review the remedies. This will provide the CMA with limited flexibility to delay reviews while ensuring such decisions are taken transparently.

### **Questions**

***Q8. Do you agree the CMA should consider sunset clauses when designing remedies? [Yes / No / Not sure] Please explain why.***

***Q9. Do you agree the CMA should review market remedies at least once every 10 years? [Yes / No / Not sure] Please explain why.***

***Q10. Should the CMA be able to delay reviews beyond 10 years in exceptional circumstances, providing it publishes its reasons for doing so? [Yes / No / Not sure] Please explain why.***

### **iii. Concurrency**

68. The CMA is the UK's principal competition regulator with responsibility across the whole UK economy. However, it shares certain competition powers with the sector regulators<sup>23</sup> to promote competition in regulated sectors. There are arrangements for cooperation on the exercise of these powers. This is referred to as the 'concurrency framework'.
69. 2024 marked 10 years since the implementation of reforms under ERA<sup>13</sup> which enhanced the concurrency framework and the publication of a review of concurrency arrangements by the CMA<sup>24</sup>. It concluded there was general support for concurrency but that there was also room for improvement. Government is proposing one change to simplify the regulatory environment and also seeking views on another change intended to ensure the CMA can focus its resource on where it can best support growth and investment. Both of these reflect the proposed change to a single-phase market review model, which would enable the CMA to take a more flexible and tailored approach.

#### **Permitting sector regulators to oversee market remedies in their sectors**

70. The sector regulators have powers to undertake market studies but only the CMA can undertake market investigations and impose orders. As a result, the CMA monitors and enforces such market remedies in sectors with dedicated regulators which possess competition powers and expertise. Some stakeholders have said this creates duplication and confusion.
71. Government therefore wants to clarify in legislation that sector regulators can assume responsibility for market remedies any time after they have been imposed or accepted by the CMA following a market review. This would be optional and for the CMA and sector regulators to decide which of them is best placed to oversee remedies on a case-by-case basis. The CMA would also be required to consult sector regulators on the design of remedies.

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<sup>23</sup> The Civil Aviation Authority, Financial Conduct Authority, Gas and Electricity Markets Authority (Ofgem), Office for Communications (Ofcom), Office of Rail and Road (ORR), Payment Systems Regulator (PSR), Northern Ireland Authority for Utility Regulation (URGENI) and the Water Services Regulation Authority (Ofwat). To note, at the time of writing both the PSR and Ofwat are undergoing structural changes.

<sup>24</sup> [Review of the competition concurrency arrangements](#).

## More consultative references

72. Sector regulators can make market investigation references to the CMA where the threshold for making such a reference is met. The CMA must undertake a market investigation following such a reference and adhere to the statutory time requirements. Government is of the view that market investigation references from sector regulators should be replaced with a more consultative approach under the proposed single-phase market review tool model. Government believes this is important for the CMA to have greater control over its resource and for it to be able to effectively prioritise which market reviews will have the biggest impact across the economy, considering its own prioritisation principles and government's Strategic Steer.
73. Government is therefore seeking views on recasting the ability of sector regulators to make a market investigation reference following a market study. Like the current model, sector regulators will be able to undertake market studies and the CMA would remain the sole UK competition authority with the power to impose remedies following a market review. However, sector regulators will only be able to recommend that the CMA launches a market review under the new proposed single-phase model that can result in remedies. The CMA could use the sector regulator's market study as its evidence base for the market review and would be able to plan its review taking into account any procedural efficiencies this would provide. The CMA would be required to consider the request and respond to it within a set time frame, including with details of any actions it intends to take. This would resemble the approach taken in the digital markets regime where the Financial Conduct Authority and Ofcom can recommend the CMA uses its digital markets functions and the CMA is required to respond publicly within 90 days.<sup>25</sup>
74. Government will work with sector regulators to assess the merits of these proposals to ensure they uphold the strengths of the concurrency framework and to retain the important leverage the current power gives regulators to ensure businesses properly engage with their markets work.

## Questions

***Q11. Should sector regulators be able to oversee market remedies imposed or accepted by the CMA? [Yes / No / Not sure] Please explain why.***

***Q12. Do you support the proposed consultative approach, where the CMA must consider undertaking a single-phase review following a request from sector regulators? [Yes / No / Not sure] Please explain why.***

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<sup>25</sup> Section 108 of the DMCCA24.

***Q13. We welcome any other views or evidence on improving the concurrency framework.***

### **3. Mergers**

- 75. Mergers play an important role in dynamic markets by driving efficiency, innovation, and growth. However, they can also harm competition, leading to higher prices, reduced innovation, and reduced growth. Government is committed to a strong and effective merger control regime where the CMA has the necessary powers to investigate the benefits and risks of mergers in relation to competition.
- 76. To build on the strengths of the UK's voluntary notification regime and the CMA's 4Ps framework, government is now consulting on targeted legislative proposals to further increase predictability and pace in merger control, while ensuring the CMA retains the strong tools it needs to protect and promote effective competition.
- 77. The following proposals are for the standard merger control regime in Part 3 EA02. There are also special merger control regimes for mergers between energy network enterprises in Great Britain (under EA02 as amended by the Energy Act 2023) and mergers between water enterprises in England and Wales (including under the Water Industry Act 1991). Government is considering whether to apply the following proposals where relevant to these special regimes<sup>26</sup>.

#### **i. Increasing predictability in merger control**

- 78. The UK's merger control regime requires the CMA to review mergers that may raise competition concerns. The CMA finds jurisdiction through statutory thresholds, including the share of supply test and the material influence test. Although the flexibility of these tests is historically considered a strength of the UK regime, it can make it difficult for businesses to assess whether their mergers fall within the CMA's jurisdiction.
- 79. The CMA has recently consulted on changes to its guidance to better clarify how it applies these tests under the current legal framework. As committed to in the Regulatory Action Plan, government is now considering legislative changes to these tests to further increase predictability for businesses.
- 80. The following proposals would amend the merger jurisdiction tests which apply to the CMA's powers to review mergers under competition grounds. However,

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<sup>26</sup> The proposal on the share of supply test is not relevant for these special regimes, as their jurisdictional thresholds are based solely on turnover.

the merger jurisdiction tests also apply to the powers for Ministers to intervene in mergers on specified public interest grounds, in cases involving media plurality, financial stability, and public health emergencies<sup>27</sup>. Government proposes to maintain the existing jurisdictional tests for the Secretary of State in public interest intervention cases, recognising the importance of these powers to protect the public interest and the small number of cases investigated under these grounds<sup>28</sup>.

### The ‘share of supply’ test

81. The share of supply test provides the CMA with jurisdiction over mergers where (i) at least one of the parties has UK turnover exceeding £10 million, (ii) after the merger, the parties together supply or acquire at least 25% of goods or services in the UK (or a substantial part of it), and (iii) the merger leads to an increase in that share.
82. The hybrid jurisdictional test introduced by the DMCCA24 also includes a threshold relating to share of supply. The hybrid test is met where the person(s) that carry on one enterprise concerned in the merger supply or acquire at least 33% of goods or services of any description in the UK (or a substantial part of the UK); the same enterprise concerned has a UK turnover exceeding £350 million; and any other enterprise concerned in the merger has a UK nexus.
83. In both tests, the CMA has broad discretion in defining the relevant category of goods or services and in choosing how supply is measured. In deciding whether the 25% threshold under the share of supply test, or the 33% share of supply element of the hybrid test is met, the CMA may have regard to any of the criteria specified in EA02 (i.e., value, cost, price, quantity, capacity, and number of workers employed) it considers appropriate “*or some other criterion, of whatever nature*”. This open-ended formulation can contribute to uncertainty in how the test is applied.
84. Government proposes to remove the ability to consider “*some other criterion, of whatever nature*” and limit the assessment of shares of supply to a defined set of criteria. We propose to use the established criteria already set out in EA02, namely: value, cost, price, quantity, capacity, and number of workers employed. This would ensure clarity in what criteria can be considered and place clear statutory boundaries around the application of the jurisdictional tests. The existing delegated power to make amendments to the share of supply and

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<sup>27</sup> Slightly different thresholds exist for a small number of public interest interventions as set out in the Special Public Interest Intervention regime.

<sup>28</sup> Since 2002, there have been 25 public interest cases, the majority of these on national security grounds which has since been replaced by powers under the National Security & Investment Act 2021.

hybrid tests will ensure the factors can be revisited if new competition challenges arise in the future.

## Questions

***Q14. Should share of supply be revised to a closed list of criteria, for both the share of supply and hybrid jurisdictional tests? [Yes / No / Not sure] Please explain why.***

***Q15. Do you support the proposed criteria for inclusion? [Yes / No / Not sure] Please explain why.***

***Q16. Are there any additional criteria that should be included? [Yes / No / Not sure] Please explain why.***

***Q17. Would the proposed reform for the share of supply test improve predictability for businesses? [Yes / No / Not sure] Please explain why.***

## The 'material influence' test

85. Under EA02, a 'relevant merger situation' occurs when two or more enterprises cease to be distinct and any of the jurisdictional tests in the Act relating to turnover and/or share of supply is satisfied. Enterprises cease to be distinct if they are brought under common 'control'. Control is defined in three tiers: legal control (typically over 50% of voting rights), de facto control (the ability to direct policy in practice), and material influence – the lowest threshold, which refers to the ability, directly or indirectly, materially to influence the policy of the target enterprise. CMA guidance interprets this as referring to the commercial policy of the target enterprise.
86. The CMA assesses material influence on a case-by-case basis and can consider a broad range of factors, with examples provided in CMA guidance. In addition, the CMA may consider factors similar to these when assessing for de-facto control. However, the test lacks a statutory list of factors that can be considered by the CMA when deciding whether the material influence test is met. This may sometimes make it difficult for businesses to assess whether a transaction will fall within scope of CMA scrutiny. This is especially relevant in cases involving minority investments or strategic partnerships, where the boundaries of control may be less clear. While merger parties can submit a short briefing note to the CMA to check whether there may be a relevant merger situation, the CMA will generally only consider it after there is a signed merger agreement.
87. Similarly to the 'share of supply' proposal, government proposes to establish a closed list of factors that the CMA can consider for material influence and de-facto control. The factors we propose are:

- Shareholding or voting rights thresholds (for example, at least 15%), or any shareholding or voting rights in combination with other factors
- Board representation or appointment rights
- Special voting rights or veto rights over strategic decisions
- Access to confidential strategic information
- Commercial, financial, or consultancy arrangements.

88. This would put on a statutory basis the factors already considered by the CMA in practice. This would improve predictability for businesses, while preserving the CMA's ability to intervene in potentially harmful mergers that do not involve the acquisition of a controlling interest that may raise competition concerns. We would include a delegated power to make amendments, ensuring the list can be revisited if new competition challenges arise in the future

### Questions

***Q18. Should the material influence and de-facto control tests be revised to a closed list of statutory factors? [Yes / No / Not sure] Please explain why.***

***Q19. Do you support the factors proposed for inclusion? [Yes / No / Not sure] Please explain why.***

***Q20. Are there any additional factors that should be included? [Yes / No / Not sure] Please explain why.***

***Q21. Would the proposed reform for the material influence test improve predictability for businesses? [Yes / No / Not sure] Please explain why.***

## ii. Providing more time to agree remedies at Phase 1

89. Under EA02, when the CMA issues a Phase 1 SLC decision – that is, a formal finding that the merger may result in a substantial lessening of competition – merging parties have up to five working days to submit remedy proposals. The CMA has up to ten working days from the SLC decision to decide whether to accept those proposals in principle<sup>29</sup>.

90. The CMA has proposed updates to its guidance documents that confirm its willingness to engage in early remedies discussions with merging parties. The CMA has also indicated the importance of such discussions, particularly where remedies may be complex. In addition, the CMA recently revised its Phase 1 process to introduce more frequent updates to merging parties on the progress

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<sup>29</sup> If the CMA decides that the offered undertakings are in principle acceptable, the CMA has 50 working days (extendable by a further 40 working days for special reasons) from the SLC decision in which to decide whether to formally accept the proposed undertakings.



of its investigations, following feedback that uncertainty about the progress of investigations was a key barrier to merging parties engaging in early remedies discussions. There may, however, remain cases where there is a “near miss” on remedies: merging parties make a proposal that is close to sufficient but run out of time to make necessary amendments.

91. To address this, government proposes extending the statutory period for the CMA to consider Phase 1 remedies following an SLC decision from up to 10 working days to up to 20 working days from the SLC decision. Merging parties would still need to submit a proposal by working day 5. However, the CMA would have discretion to grant the merging parties a 5-working day extension to further develop their proposals where there is a reasonable prospect of resolving concerns at Phase 1. The CMA could then use the remainder of the extended period to assess those proposals. The CMA would retain the ability to move swiftly to Phase 2 where it is clear remedies will not be achieved. This added time and flexibility would enable more meaningful engagement on remedies during Phase 1, increasing the chances of resolving concerns early. This could help avoid a more intensive Phase 2 investigation, saving both businesses and the CMA the costs and burden of up to 24 weeks of further investigation.

#### **Question**

***Q22. Should the timeframe for submitting and considering Phase 1 remedies be extended from up to ten to up to twenty working days? [Yes / No / Not sure] Please explain why.***

## **4. Further cross-cutting changes**

### **i. Stronger investigative powers for algorithms**

92. Algorithms are playing an increasingly significant role in shaping consumer experiences and driving economic activity across the UK. Businesses can benefit from automating tasks and improving workers’ efficiency, while consumers can make better-informed choices through price comparison tools.
93. However, algorithms can be misused in ways that breach competition law - for example, they can be used in a variety of different ways to facilitate collusion. Algorithms also raise important concerns for consumer protection – for example, enabling firms to charge varying prices for the same product based on personal data on protected characteristics and/or vulnerabilities, in breach of consumer protection law.
94. Government wants to ensure the CMA has robust tools to investigate and address such harmful practices across its competition and consumer protection

toolkit. Under the CA98, EA02, and the CMA's direct consumer protection powers under the DMCCA24, the CMA has powers to require specified documents or information through an information notice. Multiple rounds of requests may be required, to obtain information regarding the operation of an algorithm, prolonging investigations and creating burdens for both businesses and the CMA. In some cases, information in written form is insufficient to reveal the role of algorithms, limiting the CMA's ability to investigate and protect consumers.

95. Government proposes to extend the powers available to the CMA under its digital markets function, to the CMA's wider competition and consumer protection functions (including the CMA's road fuel information gathering powers). For example, when issuing an information notice, the CMA would have the powers to:
- require persons to obtain or generate information on algorithms, including requiring businesses to produce simulated outputs or data not already held.
  - require persons to vary their usual conduct, for example, altering how services or digital content are presented to users, to better understand algorithmic behaviour.
  - require persons to perform a specified demonstration or test, allowing CMA experts to observe how an algorithm operates under specified conditions

### **Question**

***Q23. Should the CMA be granted enhanced powers to investigate algorithms in its competition and consumer protection functions? [Yes / No / Not sure]  
Please explain your reasoning.***

## **ii. The Secretary of State's role in CMA guidance**

96. The CMA produces comprehensive guidance to explain its approach across its regimes. There are statutory requirements on the CMA to provide general advice and information (for example, under section 106 EA02), to explain how the legal framework operates. The CMA goes beyond the statutory minimum requirements, and provides a broad range of publications for a wide variety of audiences to better understand the UK's competition framework. Government recognises the value of these publications for businesses, and their advisors, in providing clarity and predictability on the CMA's approach.
97. Currently, the CMA is required to seek formal approval from the Secretary of State for only a limited number of key guidance documents – those concerning digital markets regime, civil penalties and international cooperation. These

reflect areas of novel or increased sensitivity, and requiring Secretary of State approval ensures the guidance accurately reflects the legislative intent.

98. Government is considering providing the Secretary of State with a formal role in a wider range of key CMA guidance documents. For example, requiring the CMA to consult the Secretary of State or seek his approval before publishing certain key guidance documents (such as the Merger Assessment Guidelines). This would align with the approach for other key CMA guidance such as in digital markets, ensuring guidance is fit for purpose and delivers increased predictability for businesses, while respecting the independence of the CMA.

#### **Question**

***Q24. Should the Secretary of State have a formal role in a wider range of key guidance documents? [Yes / No / Not sure] Which ones, and please explain why.***

### **iii. Excluding the Christmas period from statutory time limits**

99. Government is seeking views on another change aimed at improving the process of mergers and which would be built into the new market review tool. Specifically, pausing statutory time-limits over the Christmas holidays, in line with similar features of some international merger control systems<sup>30</sup>. While bank holidays are excluded from statutory time-limits, many people choose to take more time off over the Christmas period but may still need to respond to CMA requests for information or consultations that are running to meet statutory time limits. Government believes this could be undermining the goal of positive relationships between the CMA and the parties with a stake in its investigations.

#### **Questions**

***Q25. Do you agree a longer Christmas period should be excluded from merger and markets statutory time-limits? [Yes / No / Not sure] Please explain why.***

***Q26. If so, what length should the pause be?***

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<sup>30</sup> For example, in 2025 the EU Commission's office closing days ran from Wednesday 24 December 2025 returning on Monday 5 January 2026.

# Consultation Questions

## **Chapter 1. Enhancing accountability for CMA decision-making in mergers and markets**

Q1. What impact do you think the proposed reform would have on the consistency and predictability of decision-making in merger and markets cases? Please explain your views.

Q2. Would the proposed reform for greater accountability for the CMA Board for merger and markets decision-making be something you would welcome? [Yes / No / Not sure] Please explain your views.

Q3. Do you support the proposed membership requirements for the mergers and markets sub-committees/committees? [Yes / No / Not sure] Please explain your views.

## **Chapter 2. Markets Work and Market Remedies**

### **i. Enhancing the CMA's markets work**

Q4. Do you agree the existing market study and market investigation model should be replaced with a new single-phase market review tool? [Yes / No / Not sure] Please explain why.

Q5. Do you agree the statutory time-limit for market reviews should be 24 months, with a possibility to extend by a maximum of 6 months? [Yes / No / Not sure] Please explain why.

Q6. Do you agree there should be a single legal test for single-phase market reviews? [Yes / No / Not sure] Please explain why.

Q7. If so, should this be the adverse effect on consumers test? [Yes / No / Not sure] Please explain why.

### **ii. CMA Market Remedies**

Q8. Do you agree the CMA should consider sunset clauses when designing remedies? [Yes / No / Not sure] Please explain why.

Q9. Do you agree the CMA should review market remedies at least once every 10 years? [Yes / No / Not sure] Please explain why.

Q10. Should the CMA be able to delay reviews beyond 10 years in exceptional circumstances, providing it publishes its reasons for doing so? [Yes / No / Not sure] Please explain why.

### **iii. Concurrency**

Q11. Should sector regulators be able to oversee market remedies imposed or accepted by the CMA? [Yes / No / Not sure] Please explain why.

Q12. Do you support the proposed consultative approach, where the CMA must consider undertaking a single-phase review following a request from sector regulators? [Yes / No / Not sure] Please explain why.

Q13. We welcome any other views or evidence on improving the concurrency framework.

## **Chapter 3. Mergers**

### **i. Increasing predictability in merger control**

Q14. Should share of supply be revised to a closed list of criteria, for both the share of supply and hybrid jurisdictional tests? [Yes / No / Not sure] Please explain why.

Q15. Do you support the proposed criteria for inclusion? [Yes / No / Not sure] Please explain why.

Q16. Are there any additional criteria that should be included? [Yes / No / Not sure] Please explain why.

Q17. Would the proposed reform for the share of supply test improve predictability for businesses? [Yes / No / Not sure] Please explain why.

Q18. Should the material influence and de-facto control tests be revised to a closed list of statutory factors? [Yes / No / Not sure] Please explain why.

Q19. Do you support the factors proposed for inclusion? [Yes / No / Not sure] Please explain why.

Q20. Are there any additional factors that should be included? [Yes / No / Not sure] Please explain why.

Q21. Would the proposed reform for the material influence test improve predictability for businesses? [Yes / No / Not sure] Please explain why.

### **ii. Providing more time to agree remedies at Phase 1**

Q22. Should the timeframe for submitting and considering Phase 1 remedies be extended from up to ten to up to twenty working days? [Yes / No / Not sure] Please explain why.

## **Chapter 4. Further cross-cutting changes**

### **i. Stronger investigative powers for algorithms**

Q23. Should the CMA be granted enhanced powers to investigate algorithms in its competition and consumer protection functions? [Yes / No / Not sure] Please explain your reasoning.

### **ii. The Secretary of State's role in CMA guidance**

Q24. Should the Secretary of State have a formal role in a wider range of key guidance documents? [Yes / No / Not sure] Which ones, and please explain why.

### **iii. Excluding the Christmas period from statutory time limits**

Q25. Do you agree a longer Christmas period should be excluded from merger and markets statutory time-limits? [Yes / No / Not sure] Please explain why.

Q26. If so, what length should the pause be?

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**Department for Business  
and Trade**

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