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IVC EVIDENSIA
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BY EMAIL

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IVC Evidensia's ("IVC") response to the CMA's revised draft markets guidance

1. I write in relation to the CMA's consultation on its revised draft guidance on the approach to market reviews, studies, investigations and the monitoring and review of market remedies (the "**Revised Guidance**"), published on 20 August 2025, pursuant to the markets regime reforms in the Digital Markets, Competition, and Consumers Act 2024 (the "**DMCCA**").

2. It is critically important that the Revised Guidance provides all market participants subject to CMA market reviews and investigations with the **necessary regulatory efficiency, legal certainty, and procedural fairness safeguards** to ensure that the conduct of such inquiries by the CMA does not come at the cost of stifling innovation, investment, and growth.

3. On this basis, IVC:

   a. **Welcomes the CMA's efforts to align the Revised Guidance with its '4Ps' framework.** In particular, IVC strongly supports the Revised Guidance's focus on "*enhanced and earlier engagement with parties*" and "*end-to-end timeline efficiencies*"[1] - to improve the **pace, process, and proportionality** of the markets regime. Based on IVC's experiences in the ongoing market investigation into veterinary services for household pets (the "**Vets MIR**"), this would represent a very welcome change in the CMA's approach to markets work. Further details are provided in section (A) below.

   b. **Urges the CMA to also ensure that the Revised Guidance provides as much detail as possible on the practical implementation of these principles**, to enhance legal certainty and **predictability** - for example in the context of the provisions on remedies trials. Sustained uncertainty on the parameters and mechanics of these trials (especially their maximum end-to-end duration) significantly reduces the ability of market participants to plan for their operations and investments in the UK - an outcome which is clearly not conducive to healthy market development or consumer welfare. See further section (B) for IVC's proposals on where the Revised Guidance requires further detail and development to avoid damaging business activity in this way – in particular the need for a clear and proportionate long-stop date for any remedies trialling period (which follows an already lengthy regulatory process).

[1] Market Reviews, Studies, Investigations and the monitoring and review of market remedies, Updated guidance on the CMA's approach, Consultation document 20 August 2025 (the "**Consultation Document**"), section 2.

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(A) The Revised Guidance must target pro-competition, pro-consumer, and pro-growth regulatory outcomes – for the benefit of all stakeholders

4. In light of the substantial impact that the CMA's markets work has on market participants and the broader investment landscape, the process of **any market review, study, or investigation should be thorough, but also expeditious and fair.** IVC therefore welcomes the CMA's responsiveness in the Revised Guidance to: (i) the concerns we and others had expressed about the first draft (including its approach to the new remedy trialling powers)[2]; as well as (ii) the '4Ps' and the Government's strategic steer to the CMA.

5. These revisions to the draft guidance are very important given **IVC's experience of the Vets MIR** (and preceding market review), where we have been concerned[3] by:

   a. **The heavy burden of extensive information requests over an extended period** (of more than two years to date).

   b. **Limited engagement by CMA staff with market participants and their advisers,** for example in the context of: our proposals for early engagement (via industry roundtables) on challenges for the profitability analysis; the composition and role of the CMA vet advisory panel (with little evidence that the panel was subsequently meaningfully consulted in the CMA's investigative process); the methodology for qualitative vet research; and (most importantly) potential early resolution of the CMA process through meaningful early engagement on effective and proportionate remedies offered by a group of market participants during the market review stage in early 2024 (i.e. almost two years ago).

6. A **shorter, more focused enquiry** would clearly have been to the benefit of consumers (by implementing solutions to industry-wide issues more quickly) and smaller, independent market participants (which have more limited administrative and financial resources to manage a complex regulatory process). It would also have reduced the chilling effect on innovation and investment in developing new and better services for pets and pet owners.[4]

7. To address these concerns, **IVC fully supports the provisions in the Revised Guidance** that recognise the following principles – and urges the CMA to prioritise these when finalising the markets guidance and in its subsequent regulatory activities:

   a. Any investigative process should be as **time-limited and efficient** as possible, to minimise the burden on businesses (especially smaller ones) and the impact on innovation and investment in the industry under review. IVC therefore welcomes the

[2] See further paragraph 7(d) below.

[3] See further [redacted] which sets out these concerns in greater detail.

[4] The prolonged inquiry has also led to deteriorating consumer sentiment towards the veterinary profession and increased challenges around vet morale, as we have previously flagged to the CMA.

CMA's recognition that the Revised Guidance should include "*a range of measures aimed at reducing the overall end-to-end length of markets work.*" [5]

b. There should be **open, collaborative, and continuous engagement** between the CMA and key stakeholders early in (and throughout the duration of) the CMA's process, including through regular meetings, with a view to finding effective and proportionate solutions as soon as possible.[6]

c. The **information-gathering exercise must be proportionate**[7] – i.e. it must reflect feedback from recipients of questionnaires so as "*to facilitate efficient collection of useful and consistent information, whilst as far as possible minimising the burden to business*"[8]; and have sufficient consideration of the impact on recipients, and the usefulness of the information sought.

d. **Remedy trials must be limited, proportionate, timely, and subject to meaningful consultation** (both during the development phase of the trial and on an ongoing basis)[9]. The anticipated benefit of a trial must always be carefully weighed against

[5] See further paragraph 2.15 of the Consultation Document. In particular, IVC agrees that where a market review or market study may precede a market investigation, that time should be used efficiently to narrow the issues that need to be considered in the market investigation (paragraph 8.51 of the Revised Guidance). IVC also supports streamlining the market investigation process by dispensing with working papers and annotated issues statements other than in exceptional cases (paragraph 2.12 of the Consultation Document) – which would also reduce the scope for unnecessary harm to the industry being caused by premature speculation in public discourse on outcomes, when the CMA is still developing its analysis (as was observed in the Vets MIR, where vets reported instances of abuse in-clinic and online following publication of the CMA working papers). However, IVC agrees that this change must be coupled with "*earlier and fuller*" consultation on the interim report, to create a meaningful prospect of "*new evidence and/or submissions on existing evidence provided after the interim report result[ing] in changes to the provisional decisions*" (paragraphs 2.13 and 2.14 of the Consultation Document).

[6] IVC supports the Revised Guidance's proposals to (a) hold one or more launch webinars at the outset of a new market study or market investigation (paragraphs 6.11 and 8.25); (b) formalise the process of holding a 'teach-in' session at the outset of a study or investigation (paragraphs 6.14 and 8.30); (c) provide post internal state of play meeting updates to parties (paragraphs 6.18 and 8.35); and (d) provide more regular updates, by way of informal calls and/or short progress reports (e.g. as set out at paragraph 8.36).

[7] IVC welcomes the statements to this effect in the Revised Guidance, and encourages the CMA to fully implement these principles in its regulatory activities – see e.g. paragraph 6.13 in relation to market studies ("*The CMA will in all cases exercise its statutory information gathering powers in a proportionate manner*") and paragraph 8.31, in relation to market investigations ("*Where practicable, the CMA will usually share in draft the questions it intends to send to market participants under section 174 of the EA02 for their comments on feasibility and timing. This is to ensure compliance is possible and to facilitate efficient collection of useful and consistent information, whilst as far as possible minimising the burden to business*").

[8] CMA Guidelines (CC3), paragraph 66.

[9] IVC stressed the importance of these principles in its response to the CMA's consultation on its first draft of the guidance, dated 13 December 2024 (see paragraphs 12-13). IVC is therefore encouraged by paragraph 3 of Appendix 6 to the Revised Guidance, which states that the "*CMA will also take steps to ensure that implementation trials are used appropriately and are not prolonged or ineffective and need to be repeated. It will take an approach that is proportionate and time-limited, and that employs clear criteria for gauging the effectiveness of any trialled measure*". IVC also welcomes the proposals in the Revised Guidance to: (a) limit the scope of trials to focus on gathering only data, evidence or other information that is necessary to ascertain the effectiveness of a remedy (paragraph 8.124(a)); (b) apply a default of running concurrent (rather than successive) trials to minimise the overall timeframe of any trialling period (paragraph 8.124(b)); and (c) cease trials early where possible (paragraph 8.124(c)).

the costs involved. Due regard must also be had to the multiplicity of market participants involved in any remedy trial process – with varying capacities to assume the financial and administrative burdens associated with such trials (and, by extension, the compliance burden associated with implementing remedies).

e. **Final remedies outcomes must be reliable** - i.e. there should be an expressly high ('exceptional') legal threshold for intervention in implemented remedies, with clear and measurable metrics subject to industry consultation, and procedural safeguards substantially comparable to the full market investigation remedies process.[10]

(B) The Revised Guidance must offer more detail on the practical implementation of remedies trials, to provide the necessary legal certainty to market participants

8. IVC also recognises that the principles set out in the Revised Guidance must allow for flexibility and adaptability to varying circumstances. However, this must not be at the expense **of transparency and (the CMA policy principle of) 'predictability' for businesses**, given the very damaging impact of regulatory uncertainty on business activity (and consumers' trust in market outcomes and regulatory oversight of those outcomes). Notwithstanding the encouraging changes to the first draft, IVC remains concerned that the Revised Guidance lacks the necessary legal certainty for market participants in several important respects. This is especially so in the provisions relating to remedies trials which, as the CMA's consultation document indicates, will also apply to the Vets MIR. IVC is particularly concerned by the absence in the Revised Guidance of a clear and proportionate 'long-stop date' for the remedies trialling process, which should be no more than 12 months from the date of the market investigation's final report.

9. IVC therefore encourages the CMA to provide **more detail in the Revised Guidance on the practical implementation of remedy trials**, as follows:

a. **The remedies trialling process should be subject to a clear and proportionate *ex ante* time limit**. Currently, the Revised Guidance does not set a maximum overall duration for trials, which is incompatible with: (i) the Government's recognition (in its consultation on the DMCCA) of the need to ensure that "*businesses could be confident that remedies would not become subject to perpetual review*";[11] and (ii) the CMA's policy principles of 'pace' and 'predictability'. Instead, the Revised Guidance

[10] IVC raised these concerns in response to the CMA's consultation on its first draft of the guidance, dated 13 December 2024 (see paragraph 14). IVC is therefore encouraged by the approach indicated in the Revised Guidance that "*the CMA will typically seek to remove the remedy and will only consider amending the remedy if there is clear evidence that the relevant competition problem has endured and is material. Where this is the case, the CMA would generally expect to narrow the scope of the remedy's application*" (paragraph 9.37); and that variation of ineffective (implemented) remedies will be subject to a high threshold, such as where a remedy has "*been circumvented or not implemented*" (paragraph 9.36(a)); "*had little or no impact*" (paragraph 9.36(b)); "*led to substantial unintended consequences*" (paragraph 9.36(c)) or a "*substantially lesser*… [or] *slower effect than intended*" such that "*the benefits have not been realised*" (paragraphs 9.36(d) and (e)). Further, IVC agrees that review of implemented remedies should be conducted in an "*efficient and timely manner*" (paragraph 9.41), and urges the CMA to ensure that this approach is fully reflected in its regulatory activities.

[11] Government Consultation on Reforming Competition and Consumer Policy.

should commit to a maximum time limit for the overall trialling period of no more than 12 months from the final report. This would formalise the expectation already set out in the Revised Guidance that, in "*the rarer circumstances where a more complex trial is merited, a trial may involve 12 months of work after [the] final report*."[12] Effective engagement with stakeholders at the point of trial design (see (b) below) should also ensure that more than 12 months should not be required for well-designed remedy trials.

b. IVC strongly supports the indication in the Revised Guidance that the CMA will undertake **specific additional engagement with market participants that are subject to trials** (including in relation to trial details, logistics and preparatory steps).[13] However:

   i. IVC requests that the CMA should be **as specific as possible with the details of its proposed trial designs** when consulting stakeholders subject to trials, and to make clear in the Revised Guidance that **measures of effectiveness will be based on objective, measurable criteria focused on information transparency and consumer awareness** (instead of changes in consumer behaviour or market outcomes, which depend on multiple complex variables).

   ii. The Revised Guidance should clarify that, when weighing the anticipated benefit of a trial against the costs involved, the CMA will **specifically consult market participants on the administrative, logistical, and financial burdens involved** in setting up, implementing, and potentially unwinding or amending (if ineffective) the measures to be tested. Depending on the parameters of the proposed trials, these costs can be very significant, with the greatest impact on smaller businesses.[14]

   iii. The Revised Guidance should set out a clear process for **periodic touchpoints** between the CMA and market participants during the trialling period - including updates in relation to the trial's interim results and effectiveness, and any scope for reducing the trial's timeframes. Details on the timing, format, and purpose of these periodic touchpoints and updates should be set out in the Revised Guidance.

c. **Interim remedies (imposed pending the outcome of trials) should only be used in exceptional cases,** given the damaging uncertainty and duplicated

[12] Revised Guidance, Appendix 6, paragraph 20.

[13] Revised Guidance, Appendix 6, footnote 342.

[14] For example, in the context of the Vets MIR, the remedies the CMA has proposed trialling in its remedies working paper of 1 May 2025 (including how consumers are informed about prescriptions and veterinary medicine prices in first opinion practices vs other suppliers) may, depending on their parameters, require far-reaching, expensive, and time-consuming changes to clinics' technological infrastructure, including practice management systems and real-time price comparison capabilities.

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implementation costs generated for market participants (and consumers) should these remedies be varied within a short timeframe (i.e. following the conclusion of the relevant remedy trials). These costs would be even more acute for small or independent firms. The Revised Guidance should therefore explain in detail the (exceptional) circumstances in which interim remedies would be appropriate and proportionate, e.g. where the harm to consumers - should an interim remedy not be imposed - is so substantial and wide-ranging that it clearly and demonstrably outweighs the cost implications.

10. IVC remains available to discuss the contents of this letter and its concerns with you should that be useful to the CMA, to support the CMA's aims of regulatory improvements.

Yours sincerely,

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IVC Evidensia