

**PROCEDURAL COMPLAINTS ADJUDICATOR DECISION ON COMPLAINT**

**2026/1**

**COMPLAINT BY**

**EURO CAR PARKS LIMITED**

**IN RELATION TO**

**A FINAL ENFORCEMENT NOTICE UNDER THE CONSUMER RIGHTS ACT  
2015**

**Introduction**

1. This decision concerns a complaint to the Procedural Complaints Adjudicator made by Caytons Solicitors on 23 December 2025 on behalf of Euro Car Parks Limited (**ECP**) in relation to:
  - (1) information in a Final Enforcement Notice dated 10 December 2025 (the **FEN**), which the CMA proposes to publish; the FEN imposed a monetary penalty of £473,000 on ECP under Paragraph 16C(2) of Schedule 5 to the Consumer Rights Act 2015 (the **CRA**) for non-compliance with an information notice dated 25 July 2025 (the **IN**) (**Issue 1**);
  - (2) the CMA's decision to assemble what ECP describes as a '*decision-making panel*' to impose the FEN based on actual or apparent bias as a result of the involvement of one of the '*panel members*' whose conduct and decisions in serving the IN had been criticised by ECP (**Issue 2**); and
  - (3) the CMA's decision not to reveal to ECP as part of the proceedings the position held and role of each of the decision-making '*panel members*' which ECP describes as being involved in deciding to issue the FEN (**Issue 3**).
2. This decision records my conclusions in relation to ECP's complaint and the reasons for them.
3. I have set out below the background context, the procedure I have followed and the considerations I have taken into account in considering ECP's complaint and reaching my conclusions.
4. In addition to the original complaint dated 23 December 2025 submitted by Caytons on behalf of ECP (**ECP's Complaint**), I also received:

- (1) ECP's written submissions to the PCA dated 8 January 2026 (**ECP's Written Submissions**);
  - (2) the CMA Case Team's written submissions in response to the Complaint dated 12 January 2026 (the **Case Team's Written Submissions**); and
  - (3) ECP's reply to the Case Team's Written Submissions dated 17 January 2026 (the **Reply Submissions**).
5. ECP's Complaint was accompanied by supporting documents in a Complaint Bundle, also dated 23 December 2025. References in this decision to page numbers in the Complaint Bundle are in the form [CB/page].

### **Role of Procedural Complaints Adjudicator**

6. Under rule 6 of the CMA Direct Consumer Enforcement Rules (CMA201) (the **Rules**),<sup>1</sup> where the CMA has opened a formal investigation under section 180 of the Digital Markets, Competition and Consumer Act 2024 (the **DMCCA**)<sup>2</sup> into a suspected breach of consumer law, the parties to the investigation may have recourse to a procedural complaints process if they are unhappy with certain aspects of the investigation procedure. Specifically, under rule 6(2) of the Rules a procedural complaint must be in writing and relate to '*a significant procedural issue arising from a procedural decision*' during the course of the investigation.
7. Paragraph 9.11 of the CMA's Direct Consumer Enforcement Guidance CMA200 (the **Guidance**)<sup>3</sup> provides that the same process for referring a complaint in respect of a '*significant procedural issue*' will be open to parties in relation to an '*administrative enforcement action*' taken by the CMA.
8. Paragraph 9.2 of the Guidance provides that any concerns or complaints should be made in the first instance to the Senior Responsible Officer (the **SRO**) for the case. If a dispute cannot be resolved with the SRO, then complaints that relate to '*a significant procedural issue arising from a procedural decision*' may be referred to a Procedural Complaints Adjudicator (**PCA**). As set out in rule 6(1) of the Rules, the person appointed to act as

---

<sup>1</sup> The CMA [Direct Consumer Enforcement Rules](#) (CMA201) (**Rules**) were made under section 210 of the DMCCA and approved by regulations made by the Secretary of State under section 211 of the DMCCA: the Digital Markets, Competition and Consumers Act 2024 (CMA Consumer Enforcement Rules) Regulations 2025 (SI 2025 No.267).

<sup>2</sup> [Digital Markets, Competition and Consumers Act 2024](#) (**DMCCA**).

<sup>3</sup> [Direct consumer enforcement guidance](#) (CMA200) (**Guidance**).

PCA must not have been involved in the day to day running of the case or as decision maker overseeing it.

9. The scope of complaints within the remit of the PCA are outlined on the CMA's webpage<sup>4</sup> and in the Guidance. In particular, paragraph 9.4 of the Guidance provides as follows:

'Rule 6(2) [of the Rules] sets out that a procedural complaint must relate to a significant procedural issue arising from a procedural decision during the course of an investigation. Significant procedural issue will include:

(a) decisions regarding the disclosure of information over which claims of confidentiality have been made;

(b) the period provided by the CMA to:

(i) respond to an information notice,

(ii) respond to a [provisional infringement notice (**PIN**)]; and

(iii) attend an oral hearing to make representations in relation to a PIN.'

10. As set out at paragraph 9.5 of the Guidance, the PCA does not have jurisdiction to review decisions on the scope of requests for information or other decisions relating to the substance of a case.

11. Rule 6(3)(a) of the Rules outlines the process for a procedural complaint of this type. It provides that the PCA must consider '*the process followed in arriving at the decision complained about and the rationality of that decision where the complaint has not been determined or settled to the satisfaction of a complainant by the relevant person overseeing the investigation*'.

12. Rule 6(3)(b) and (c) of the Rules provide that the PCA must give notice to the complainant of the decision in respect of the complaint within 15 working days from the day on which the PCA received the complaint, but that the PCA may extend this period by no more than 10 working days if the PCA considers there are special reasons why the notice of decision cannot be provided within the 15 day deadline.

---

<sup>4</sup> [Procedural complaints: raising procedural issues in CMA cases - GOV.UK](#)

13. As set out at paragraph 9.7 of the Guidance, the PCA's decision will be binding on the case team. Decisions by the PCA will be published on the CMA's website (paragraph 9.5 of the Guidance).

### **The SRO's decision**

14. The Complaint relates to decisions by the CMA in connection with the FEN, which imposed an administrative penalty on ECP for non-compliance with the IN.

15. By way of background:

- (1) On 25 July 2025, the IN was issued to ECP requiring the provision of information to enable the CMA to consider whether to exercise its consumer protection functions under Part 3 of the DMCCA. The information was sought from ECP by 5 September 2025. Follow up correspondence was sent on 4 August 2025, 20 August 2025 and 5 September 2025 respectively. No response was received from ECP.
- (2) On 20 October 2025, the CMA issued a Provisional Enforcement Notice (the **PN**) under paragraph 16B(2) of Schedule 5 to the CRA, which set out the CMA's provisional findings regarding ECP's non-compliance with the IN. The PN also gave notice under paragraph 16C(2) of Schedule 5 to the CRA that the CMA was considering imposing a financial penalty on ECP for failing to comply with the IN without reasonable excuse. The PN was signed by Hayley Fletcher, Senior Director of Consumer Protection, whose decision it was to issue the PN in her capacity as the SRO appointed to lead the case, as provided for in paragraph 8.13(g) of the Guidance.
- (3) On 5 and 12 November 2025 respectively, ECP made written and oral submissions to the CMA in response to the PN, including by way of an oral hearing held on 12 November 2025.<sup>5</sup> Consistent with the Guidance (paragraphs 6.11 to 16.12 and 2.45), the oral hearing was chaired by the CMA's Procedural Officer, and was attended by the SRO, as well as by members of the CMA case team, including the Director on the case, who was the signatory of the IN, the Assistant Director on the case, who was one of the people named in the IN as 'points of contact at the CMA', and two members of the CMA's Legal Service. ECP was represented by its legal representatives, who included experienced counsel, and by its Managing Director and Associate Director.

---

<sup>5</sup> Note of hearing with Euro Car Parks Limited held at the Competition and Markets Authority, dated 12 November 2025.

- (4) On 10 December 2025, the SRO issued the FEN to ECP imposing a financial penalty for non-compliance with the IN of £473,000 [CB/16-35]. The CMA indicated its intention to publish the FEN and invited representations as to confidentiality [CB/13-14].
- (5) On 15 December 2025, ECP wrote to the CMA to request that the CMA anonymise the FEN before its publication, which it described as ‘a matter of fundamental importance’ to ECP [CB/39-40]. Specifically, ECP requested that the FEN and any accompanying press notice refer generically to a ‘parking company’ instead of identifying ECP. This was sought on the grounds that ECP’s reputational harm would, according to ECP, be disproportionate to the alleged breach, and that there was a risk that identifying ECP would result in an unfair conflation of the behaviour for which it was being fined, namely failing to comply with an information notice, with more egregious conduct causing serious consumer harm.
- (6) On 15 December 2025, the SRO rejected the request for anonymity [CB/41-43] on the basis that:
- anonymising ECP’s identity in the FEN and any associated public messaging would conflict with the public interest in understanding the context of final enforcement decisions taken by the CMA and with the CMA’s commitment to openness and transparency, and would weaken the deterrent effect of the FEN;
  - the SRO did not consider that ECP was likely to suffer disproportionate reputational harm as a result of publishing ECP’s identity in the FEN;
  - the SRO considered it unlikely that those reading or reporting on the FEN would fail to understand that it related to a failure to comply with an information notice, as opposed to some other conduct;
  - the legal and factual basis upon which the FEN was issued were set out clearly in the FEN itself, and any accompanying press notice would also include wording making clear that the CMA does not currently have an enforcement case open against ECP and that no assumption should be made that ECP had infringed consumer law; and
  - referring generically to a ‘*parking company*’ – as suggested by ECP - could cause speculation about the identity of the operator,

resulting in confusion and unfairness to other parking companies who were not subject to administrative enforcement for failing to comply with any information notices sent to them.

- (7) In rejecting the request, the SRO had regard to the CMA's statutory powers, in particular, the power to publish final enforcement notices given under paragraph 16C of Schedule 5 to the CRA '*in such a manner as the CMA considers appropriate*', and the CMA's policy objectives as set out in Transparency and Disclosure: statement of the CMA's policy and approach (**CMA6**),<sup>6</sup> Consumer Protection: enforcement guidance (**CMA58**)<sup>7</sup> and the Guidance.
- (8) On 16 December 2025, ECP provided the CMA with detailed confidentiality representations in tabular form [CB/44-50] seeking the redaction of its name and that of its parent company, ECP Holdings Plc, as well as information which ECP considered would reveal ECP's identity (the **Confidentiality Representations**).
- (9) In a letter from the SRO dated 17 December 2025, the CMA declined to accept ECP's confidentiality representations (the **Publication Decision**), stating that the FEN would be published alongside a press notice at 11.00am on 19 December 2025 [CB/51-60]. The Publication Decision referred to the reasoning in the SRO's 15 December 2025 letter rejecting ECP's request for anonymity, and annexed a table containing the CMA's decision in respect of each confidentiality representation made by ECP, with the reasons for the CMA's decision.<sup>8</sup>
- (10) On 6 January 2026, ECP filed an appeal with the High Court in respect of the FEN, which was accompanied by an application for a withholding order to preserve ECP's anonymity until final determination of the substantive appeal.<sup>9</sup> I understand this application has yet to be determined by the High Court.

## The Procedural Complaints Adjudicator process

16. The complaint to the PCA was made by ECP on 23 December 2025, by way of a written submission and a bundle of supporting documents.

---

<sup>6</sup> [Transparency and disclosure: the CMA's policy and approach](#) (CMA6).

<sup>7</sup> [Consumer protection enforcement guidance](#) (CMA58).

<sup>8</sup> The reasoning for the CMA's decision as to whether to accept ECP's proposed redactions is therefore spread across both the letter of 15 December 2025 and the Publication Decision.

<sup>9</sup> Page 7, Draft Order, N244 Application Notice from Euro Car Parks Limited dated 6 January 2026.

17. I held a meeting with ECP and its legal advisers on 7 January 2026 to hear ECP's oral submissions in respect to its complaint and ECP's answers to a number of questions that had been sent to them in advance of the meeting, as well as its answers to follow-up questions during the meeting. ECP's Written Submissions were received on 8 January 2026. These included a summary of the oral submissions ECP had made during the meeting as well as further addressing the questions posed during the meeting.
18. I also held a meeting with the SRO and the CMA case team on 12 January 2026 to hear their oral submissions in response to both ECP's Complaint and ECP's Written Submissions, as well as their answers both to a number of questions that had been sent to them in advance of the meeting and to follow-up questions during the meeting. On 12 January 2026, the case team provided the Case Team's Written Submissions, which were put to ECP. ECP provided Reply Submissions on 16 January 2026.
19. On 16 January 2026, I wrote to ECP and the case team to inform them of my decision to extend the period to reach a decision from 16 January 2026 to no later than the end of 23 January 2026, for the following special reasons:
- (1) the timing of the complaint, which was received at the start of the holiday period on 23 December 2025, meaning that the meetings with ECP and with the case team could not be held until after 5 January 2026;
  - (2) the time permitted for the case team to respond to ECP's written submissions of 8 January 2026; and
  - (3) the extension of time given for ECP to reply to the case team's written submissions of 12 January 2026.
20. Before issuing this decision, I have carefully considered the information set out in ECP's Complaint, ECP's Written Submissions, the Case Team's Written Submissions and ECP's Reply Submissions, together with the oral submissions that were made by ECP and the CMA case team.

### **ECP's complaint to the Procedural Complaints Adjudicator**

21. I summarise below ECP's submissions in ECP's Complaint, together with its further submissions as set out in the ECP Written Submissions and the Reply Submissions, on the three issues outlined at paragraph 1 above.

Issue 1: publication of information in the FEN

22. The first issue relates to the CMA's publication of the FEN, including the redaction decision, the decision to publish and the timing of publication.

*Redaction decision*

23. The FEN redactions sought by ECP relate to the company name and that of its parent company, but also include information about the industry sector and turnover or other identifying characteristics, which fall within the ambit of Part 9 of the Enterprise Act 2002 (**EA02**).<sup>10</sup>

24. ECP submits that publishing the name of the company, which it says is a family business, and any other information in the FEN which would make the company readily identifiable, would cause irreparable economic loss and reputational harm to the company.<sup>11</sup>

25. According to ECP's submissions:

(1) publication of the FEN is '*very likely*' to cause substantial prejudice to ECP's business and harm to the directors and their family, including harm to ECP's business reputation in an industry which – according to ECP - is already under the scrutiny of consumers,<sup>12</sup> and '*serious and lasting harm*' to the directors and their family, who have previously been subjected to '*frightening media pursuits, trolling, victimisation, and humiliation*';<sup>13</sup>

(2) there is a risk ECP may lose retail clients following publication; retail clients are customer facing and sensitive to adverse consumer protection news;<sup>14</sup>

(3) what ECP describes as 'industry specific factors' may heighten media interest and this in turn will increase the publicity associated with the publication of the FEN, which – according to ECP - is likely to be '*disproportionately damaging*' to the company and to ECP's '*excellent reputation*';<sup>15</sup>

---

<sup>10</sup> Paragraph 6, page 2, supplementary written submissions provided by ECP following oral hearing, dated 8 January 2026 (**ECP's Written Submissions**).

<sup>11</sup> Paragraph 25, page 5, complaint to the Procedural Complaints Adjudicator by Caytons Solicitors on behalf of Euro Car Parks Limited dated 23 December 2025 (**ECP's Complaint**); paragraph 3, page 1, ECP's Written Submissions.

<sup>12</sup> Paragraph 25, page 5, ECP's Complaint; paragraph 19, page 4, ECP's Written Submissions.

<sup>13</sup> Paragraph 42, page 7, ECP's Written Submissions.

<sup>14</sup> Paragraph 25, page 5, ECP's Complaint.

<sup>15</sup> Paragraphs 25 - 26, page 5, ECP's Complaint.

(4) publishing the name of ECP in this context will result in consumers unfairly associating the alleged failure with more egregious conduct, given that the CMA has indicated that early enforcement action under the DMCCA would focus on egregious conduct, and the public will not recognise that in this instance, the enforcement relates to an *'administrative failing'*.<sup>16</sup>

26. ECP maintains that set against these factors, there would be minimal prejudice to the public interest in redacting its identity, and that the redaction should remain in place until final determination of its appeal to the High Court against the FEN<sup>17</sup> given that – according to ECP - substantial reputational harm associated with the publication of its identify in the FEN *'will be impossible to fully rectify even upon a successful appeal'*.<sup>18</sup>

27. ECP further submits that publishing ECP's name or otherwise identifying the company would be inconsistent with the CMA's commitment to proportionality and undermine the CMA's stated objective of supporting compliance and helping businesses do the right thing.<sup>19</sup>

#### *Decision to publish and timing of publication*

28. Further, in respect to the decision to publish, ECP submits that the CMA did not give proper consideration as to whether to exercise its discretion to publish the FEN and failed to follow its own policy within the Guidance in deciding to publish.

29. ECP maintains that in every case, the CMA is required to consider whether to publish a final enforcement notice pursuant to a statutory discretion under paragraph 16C(1) to Schedule 5 of the CRA, which must be read in the context of a public body being required to act proportionately in achieving its objectives.<sup>20</sup> According to ECP, the fact that the decision letter accompanying the FEN<sup>21</sup> does not give reasons for the decision to publish suggests that an intention was already formed by the CMA without consideration of the circumstances of this case or application of the CMA's discretion.<sup>22</sup>

30. In the alternative, ECP maintains that the policy underpinning the decision to publish the FEN was unlawful. In particular, ECP submits that the CMA does not have a coherent policy on whether to publish a final notice as – ECP

---

<sup>16</sup> Paragraph 28, page 5, ECP's Complaint.

<sup>17</sup> Paragraph 35-37, page 6, ECP's Complaint, paragraph 1-2, page 1, ECP's Written Submissions.

<sup>18</sup> Paragraph 38, page 6, ECP's Complaint.

<sup>19</sup> Paragraph 34, page 6, ECP's Complaint.

<sup>20</sup> Paragraph 47, page 8, ECP's Complaint.

<sup>21</sup> Email from the CMA dated 10 December 2025 [CB/13-14].

<sup>22</sup> Paragraph 48, page 8, ECP's Complaint.

submits – the Guidance and CMA6 are contradictory.<sup>23</sup> If the policy was to publish in every case, this would amount to an unlawful fettering of the discretion provided by paragraph 16C(10) to Schedule 5 of the CRA.<sup>24</sup>

31. In ECP's submission, the CMA failed to take into account relevant considerations when deciding to publish the FEN, including the timing of publication.<sup>25</sup> In determining whether to publish or forming a policy on publication, the CMA should – ECP submits - have recognised that the new powers granted under the DMCCA were a significant departure from the previous regime for consumer enforcement, meaning that a person subject to enforcement decisions does not have any initial recourse to the courts other than by way of an appeal, noting that once an appeal is lodged, the DMCCA automatically stays the payment of the monetary penalty under section 202(8). In ECP's submission, the CMA should have waited until after the determination of the foreshadowed appeal before deciding to publish the FEN.
32. ECP maintains that the CMA was wrong to decide to publish the FEN without considering if it should await the expiry of 28 days from the date of the decision given an appeal was contemplated.<sup>26</sup> The CMA should have taken a number of relevant factors into consideration in either setting the policy regarding publication, or alternatively when applying its discretion to publish in this case.<sup>27</sup>
33. ECP wants the CMA to refrain from publishing the FEN until the final determination of the appeal in the High Court on the basis that it is not 'necessary' under s 244 of the EA02,<sup>28</sup> or in the alternative, to redact the FEN in accordance with its confidentiality representations dated 16 December 2025.<sup>29</sup>

### Issue 2: bias in the 'decision-making panel'

34. The second ground advanced in the Complaint relates to actual or perceived bias in the decision-making process relating to the issue of the FEN.<sup>30</sup>

---

<sup>23</sup> Paragraph 50, page 8, ECP's Complaint. ECP submits that CMA6 provides that the CMA 'will publish' and the Guidance provides that it 'may' publish. They also note that paragraph 2.81 of the Guidance provides that the CMA will 'normally' publish.

<sup>24</sup> Paragraph 52, page 8, ECP's Complaint.

<sup>25</sup> For instance, ECP submits that there would be no judicial intervention in the process of imposing monetary fines until after it published the decision, and a decision being published would inevitably be one that was made 'without the safeguards of a Court process'.

<sup>26</sup> Paragraphs 54 - 56, page 9, ECP's Complaint.

<sup>27</sup> Paragraph 57, page 9, ECP's Complaint.

<sup>28</sup> Paragraph 2(d), page 2, Reply Submissions from ECP.

<sup>29</sup> Paragraph 64, page 10, ECP's Complaint.

<sup>30</sup> Paragraph 60, page 10, ECP Complaint; paragraphs 9-11, page 3, ECP's Written Submissions; paragraph 2(g), page 3, ECP's Reply Submissions.

35. ECP's submission appears to have evolved somewhat during the course of the PCA process. ECP initially submitted that what it described as the '*decision-making panel*' for the FEN comprised at least one individual who had acted as lead investigator, and the person who had served the IN.<sup>31</sup>
36. In ECP's initial submissions,<sup>32</sup> ECP maintained that the involvement of Louise Strong, Director, and [X], Assistant Director, in the decision-making (including their inclusion on the '*panel*' at the oral hearing) gave rise to an actual conflict of interest and further, that a reasonable person would have considered their involvement in the decision-making appeared to be biased.<sup>33</sup>
37. In its Reply Submissions<sup>34</sup> (following the case team's submissions that the decision to issue the FEN was made by the SRO rather than a '*panel*'), ECP clarified that that its concerns related to the actual or apparent bias associated with individuals potentially involved in the decision-making process, irrespective of whether there was a decision making '*panel*'.
38. In particular, ECP maintains that the CMA had a duty to conduct hearings fairly and transparently and by virtue of the presence of five individuals (that they describe as '*panellists*' at the hearing), a reasonable observer would assume all five individuals contributed to the final decision.<sup>35</sup>
39. ECP further submits that the fact that the supposed '*sole decision-maker*' referred to herself as the *senior* decision-maker implied others also had decision-making roles, and the CMA had not in any event explained what role the other panellists played in the investigation and decision-making process beyond introducing them.<sup>36</sup>
40. Throughout its submissions, ECP maintains that the CMA was required to ensure the roles of each person involved did not conflict with the CMA's decision-making powers and to ensure that those involved in decision-making were not biased and did not have an appearance of bias.<sup>37</sup>
41. In its reply to the case team's submissions, ECP also submits that apparent or actual bias by the CMA's decision makers should be treated as being within

---

<sup>31</sup> Paragraph 60, page 10, ECP's Complaint.

<sup>32</sup> Namely, ECP's Complaint and ECP's Written Submissions.

<sup>33</sup> Paragraph 10, page 3, ECP's Written Submissions.

<sup>34</sup> Paragraph 2(g), page 3, written submissions from ECP in reply to the Case Team's written submissions, dated 17 January 2026 (**Reply Submissions**).

<sup>35</sup> Paragraphs 2(g) and 2(i), page 3, ECP's Reply Submissions.

<sup>36</sup> Paragraphs 2(h) - (i), pages 3 - 4, ECP's Reply Submissions.

<sup>37</sup> Paragraph 62, page 10, ECP's Complaint.

the remit of the PCA process, pursuant to Rule 6 of the Rules, on the basis that it concerns the process by which the decision was made and announced.<sup>38</sup>

42. ECP maintains that such issues do not relate to the substance of the case and in public law, an allegation of bias is well understood to be an aspect of procedural fairness.<sup>39</sup>

43. Finally, ECP maintains that it did not raise bias concerns with the SRO at the hearing or immediately thereafter as it did not know – and could not have been expected to know - that the individuals it describes as ‘*members of the panel*’ were involved in, and responsible for, the ‘*investigation*’ until it was issued with the FEN.<sup>40</sup>

Issue 3: transparency in respect to the panel/decision makers

44. ECP submits that there was no disclosure of the roles held by any of the decision-makers in respect to the FEN and that the CMA had a duty of candour to be transparent about its procedures and act transparently.<sup>41</sup>

45. Consistent with the concerns raised in its Reply Submissions on Issue 2, ECP submits that the CMA failed to provide information regarding the five CMA individuals present at the oral hearing, which – according to ECP – would appear to the ‘*reasonable and informed observer*’ to be involved in the decision-making process.<sup>42</sup>

46. In ECP’s submission, the lack of transparency in respect to the panel of individuals present at the oral hearing amounts to a breach of natural justice and of the CMA’s policy regarding the conduct of investigations.<sup>43</sup>

47. Further, according to ECP, the lack of transparency as to the role of the ‘*investigators*’ in the decision-making means that ECP did not have an opportunity to counter arguments that the ‘*investigators*’ will ‘*inevitably*’ have made in private, justifying their own conduct of the investigation.<sup>44</sup> ECP maintains that the PCA ought to require the case team to disclose records for all meetings at which the FEN decision was discussed.

---

<sup>38</sup> Paragraph 2(a), page 2, ECP’s Reply Submissions.

<sup>39</sup> *R (Talapada) v Secretary of State for the Home Department* [2018] EWCA.

<sup>40</sup> Paragraph 2(f), page 3, ECP’s Reply Submissions; paragraph 12, page 3, ECP’s Written Submissions.

<sup>41</sup> Paragraph 9, page 2, ECP’s Written Submissions.

<sup>42</sup> Paragraph 2(i), page 3, ECP’s Reply Submissions.

<sup>43</sup> Paragraph 62, page 10, ECP’s Complaint.

<sup>44</sup> Paragraph 2(c), page 2, ECP’s Reply Submissions.

48. ECP submits that whilst the FEN has been issued, its procedural concerns regarding the lack of transparency in the decision-making process remain live and valid concerns which require consideration by the PCA in accordance with Rule 6.45 of the Rules.

49. In the course of its Reply Submissions, ECP also clarifies that the remedy sought in respect to Issues 2 and 3 is a determination that the process was procedurally unfair.<sup>46</sup>

### **The case team's submissions**

50. The case team submits that ECP's complaint should not be upheld.

#### *Remit of the PCA in respect to the Complaint*

51. In the case team's submission, only the SRO's decision in respect to the confidentiality redactions fall within the PCA's remit. According to the case team, the SRO's decision to publish the FEN and the timing of that publication are outside the PCA's jurisdiction, which relates solely to significant procedural issues arising from a procedural decision during the course of an investigation.<sup>47</sup> Any concerns regarding the decision to publish and the timing should be dealt with by way of injunction or judicial review.<sup>48</sup>

52. Further, the case team submits that Issues 2 and 3 are outside the remit of the PCA as they are not based on a procedural issue and appear to be based on a misunderstanding of the facts.<sup>49</sup> In particular:<sup>50</sup>

(1) no concerns in respect of bias or the purported '*decision-making panel*' have been raised with the SRO previously;

(2) both the PN and FEN decisions were made by the SRO and there is no decision-making panel, nor was any decision made to withhold the identities of such panel members. This was made clear to ECP prior to the oral submissions meeting on several occasions and the signature on the respective notices; and

---

<sup>45</sup> Rule 6, Direct Consumer Enforcement Rules (CMA201).

<sup>46</sup> Paragraph 2(o), page 5, ECP's Reply Submissions.

<sup>47</sup> Paragraph 27, page 8, CMA Case Team written submissions in response to the complaint from ECP, dated 12 January 2026 (**Case Team's Written Submissions**), referring to the Rule 6.1 of the Rules (CMA201).

<sup>48</sup> Paragraph 28, page 8, Case Team's Written Submissions.

<sup>49</sup> Paragraph 8, page 2, Case Team's Written Submissions.

<sup>50</sup> Paragraphs 35 - 37, page 13, Case Team's Written Submissions.

(3) in any event, both Issues 1 and 2 are rendered otiose and fall outside the jurisdiction of the PCA as the FEN has been issued.

*Redaction decision*

53. In the course of their submissions and at the meeting, the CMA case team outlined the statutory framework surrounding the decision to publish the FEN and the CMA's commitment to openness and transparency, as reflected in the CMA's guidance (CMA6 and CMA58). They explained the approach the SRO had adopted and the reasons she took into consideration in her decision to publish the FEN and for rejecting ECP's confidentiality representations concerning the information that the CMA proposed to publish. As reflected in the Guidance, these included the central policy objective associated with the CMA's power to issue penalties for breaches of procedural requirements, namely to deter future breaches, both by the business concerned and by businesses generally, and the importance of publishing the CMA's decisions for achieving that objective.<sup>51</sup> The CMA case team also provided responses to my follow-up queries.

54. Broadly, the case team submit that there is no basis to ECP's complaint relating to the confidentiality redactions and that ECP has failed to show that:

- (1) the SRO was wrong to reject ECP's confidentiality representations in relation to the relevant information over which redactions were sought; or that
- (2) publication of the relevant information over which redactions were sought might significantly harm ECP's legitimate business or individual interests.

55. In particular, the case team submit that:<sup>52</sup>

- (1) in rejecting ECP's redaction requests, the SRO considered the CMA's commitment to being as open and transparent as it can about its enforcement activities and considered transparency to be important for enhancing the visibility of its work, which increases its impact, predictability and accountability, and was consistent with the general principle of open justice;<sup>53</sup>
- (2) in rejecting the request to redact ECP's name, the SRO had acted consistently with the CMA's general approach to publishing penalty

---

<sup>51</sup> Paragraphs 24 – 26 and 28, pages 7 – 8, Case Team's Written Submissions.

<sup>52</sup> Paragraph 24, page 7 and paragraph 31, pages 9-10, Case Team's Written Submissions.

<sup>53</sup> Paragraph 24, page 7 Case Team's Written Submissions.

decisions. A central policy objective associated with the CMA's power to issue penalties is to deter non-compliance, an element of which requires making it known to the public that failure to comply will give rise to a risk of financial penalty and public censure;<sup>54</sup>

- (3) naming ECP in the FEN – and doing so in a timely manner - was important for both transparency and deterrence purposes, as well as for open justice; anonymisation would undermine deterrence;<sup>55</sup>
- (4) the fact that the CMA was exercising new powers meant that there was a strong public interest in educating businesses on the new consumer direct enforcement regime, and inviting public scrutiny of the CMA's decisions;<sup>56</sup>
- (5) it was not appropriate pre-emptively to withhold ECP's identity out of caution based on the risk of careless reporting by journalists reporting on the FEN, which (if it arises) could be addressed by engaging with the Independent Press Standards Organisation, Independent Monitor for the Press, Ofcom and other regulators, or by taking legal action for any defamation; the CMA takes care to explain and contextualise its decisions in notes to press editors;<sup>57</sup>
- (6) the potential commercial harm that ECP alleges will arise from publication of its identity, including the risk of losing retail customers, is unevidenced, and based on assumptions that the reasons for the penalty will be misreported or misunderstood by the public.<sup>58</sup> The case team note that ECP did not raise the risk of losing retail clients in the course of its confidentiality representations;<sup>59</sup>
- (7) some reputational harm on a proper understanding of the FEN is to be expected but is likely to be proportionate to ECP's failure to comply with the IN, publication of which – the case team submits – is necessary for the purpose for which the CMA is empowered to publish;<sup>60</sup>
- (8) identifying ECP is not likely to cause significant harm to individuals, and ECP has not explained or evidenced how previous instances of personal abuse directed towards ECP staff relate to the proposed publication of

---

<sup>54</sup> Paragraphs 31(i) – (ii), page 9, Case Team's Written Submissions.

<sup>55</sup> Paragraph 31(i), page 9, Case Team's Written Submissions.

<sup>56</sup> Paragraph 31(iii), page 9, Case Team's Written Submissions.

<sup>57</sup> Paragraph 31(iv), page 9, Case Team's Written Submissions.

<sup>58</sup> Paragraph 31(iv), page 10, Case Team's Written Submissions.

<sup>59</sup> Paragraph 31, page 8, Case Team's Written Submissions.

<sup>60</sup> Paragraph 31(vi), page 10, Case Team's Written Submissions.

the FEN.<sup>61</sup> The case team note that this submission was also not raised by ECP in the course of ECP's confidentiality representations;<sup>62</sup>

- (9) an administrative penalty being stayed upon appeal does not give rise to a bar or presumption against publication whilst the appeal is pending;<sup>63</sup>
- (10) submissions relating to matters that fall within the scope of the FEN are not relevant to the assessment of whether ECP's identity should be withheld and are outside the PCA's remit as they go to the substance of the decision;<sup>64</sup>
- (11) ECP's submission that it would be inappropriate to reveal ECP's identity until the conclusion of the appeal amounts to a concession that ECP accept that it would be appropriate to reveal its identity following the appeal and that any significant harm this might cause would be outweighed (at that stage) by the necessity of publishing any upheld CMA decision;<sup>65</sup>
- (12) references in the FEN to the ECP director on whom the IN was served, specifically that he was not involved in the day-to-day running of the company and does not maintain a regular presence at ECP's address - would not significantly harm the legitimate business interest of ECP or the personal interests of the director, who is not named in the FEN;<sup>66</sup> and
- (13) the use of the term '*affordable*' is neither confidential nor an unnecessary description which harms ECP's legitimate business interests, as ECP submit.<sup>67</sup>

### **The PCA's decision regarding the remit of the PCA process**

56. As at the date of ECP's Complaint, the CMA had not – and, I understand, still has not - opened an investigation into ECP under section 180 of the DMCCA. The IN was issued to enable the CMA to consider whether to do so. The Complaint has not, therefore, been made during the course of an investigation

---

<sup>61</sup> Paragraph 31(vii), page 10, Case Team's Written Submissions.

<sup>62</sup> Paragraph 31, page 8, Case Team's Written Submissions.

<sup>63</sup> Paragraph 31(v), page 10, Case Team's Written Submissions.

<sup>64</sup> Paragraph 31(viii), page 10, Case Team's Written Submissions.

<sup>65</sup> Paragraph 31(ix), page 10, Case Team's Written Submissions.

<sup>66</sup> Paragraph 31(i.), page 11, Case Team's Written Submissions.

<sup>67</sup> Paragraph 31(i), page 12-13, Case Team's Written Submissions.

within the meaning of the Rules.<sup>68</sup> Rather, the Complaint has been made in relation to administrative enforcement action taken by the CMA in connection with a failure by ECP to comply with the IN.

57. As set out above, paragraph 9.11 of the Guidance provides that the same PCA process for referring a complaint in respect of a significant procedural issue arising from a procedural decision during the course of an investigation will be open to parties in relation to administrative enforcement action taken by the CMA. Although the Guidance does not say so explicitly, I understand this to mean that the relevant provisions of the Rules will apply *mutatis mutandis* to complaints made in the context of administrative enforcement action.

58. The first issue to consider in relation to ECP's complaint is whether or not it relates to matters within the remit of the PCA pursuant to the Guidance and the Rules, including whether it has been made in time and in accordance with the Guidance. I consider whether each of the issues in ECP's Complaint fall within the PCA's remit below.

Issue 1: publication of information in the FEN

59. There are three separate issues raised by ECP's Complaint and associated submissions in respect to Issue 1:

- (1) whether the decision to publish the FEN *per se* was correctly made;
- (2) whether the decision as to the timing of the planned publication of the FEN was correctly made; and
- (3) whether, having decided to publish the FEN, the SRO's decisions to reject the confidentiality representations made by ECP were correctly made.

60. For the avoidance of doubt, I confirm that, as required by paragraph 9.6 of the Guidance, the Complaint as it relates to Issue 1 was made in time, as it was made within five working days of ECP being notified of the SRO's final decision rejecting ECP's confidentiality representations.

61. I consider that the decision to publish the FEN *per se* is not a '*significant procedural issue arising from a procedural decision*' within the meaning of rule

---

<sup>68</sup> Under rule 1(1) of the Rules, an '*investigation*' is defined as an investigation under section 180 of the DMCCA which may lead to the imposition of a '*relevant notice*', where '*relevant notice*' is defined as any of a provisional infringement notice, a final infringement notice or an online interface notice.

6(2) of the Rules and therefore that it does not fall within the category of complaints which the PCA can consider. Nor do I consider a decision as to the timing of the publication of the FEN to be a '*significant procedural issue arising from a procedural decision*'. Rather, I consider that the decision to publish the FEN *per se* and the timing of its publication are substantive case decisions, which fall outside the remit of the PCA under the Guidance and the Rules.

62. Similarly, I do not consider that it is within the PCA's remit to decide whether – as ECP argues at paragraphs 49 to 52 of ECP's Complaint – the CMA lacks a coherent policy on whether to publish a FEN, or whether the CMA's policy unlawfully fetters its discretion. Moreover, even if – contrary to my finding - the decision to publish the FEN *per se* did fall within the remit of the PCA process, a review of the CMA's policies – as opposed to a consideration of whether those policies were correctly applied - would not.

63. On the other hand, I consider that whether the SRO should have accepted ECP's confidentiality representations does fall within the remit of the PCA process. Indeed, decisions regarding the disclosure of information over which claims of confidentiality have been made are expressly identified in the Guidance as examples of a '*significant procedural issue*'.<sup>69</sup>

#### Issue 2: bias in the 'panel'

64. I consider that the concerns in respect to Issue 2 fall outside the remit of the PCA process.

65. At the outset, I note that under paragraph 9.2 of the Guidance any concerns or complaints about the CMA's procedures must be made to the SRO in the first instance, and under paragraph 9.6 of the Guidance any complaint against the decision of the SRO must be made within five working days of the decision of the SRO.

66. The final decision to issue the FEN was made on 10 December 2025. ECP was informed of the identity of the decision maker in respect of the FEN by an email from [X] to ECP dated 4 November 2025. This email addressed arrangements for the upcoming meeting at which ECP was to make its oral representations on the PN, and stated that attending the meeting for the CMA would be: '*Hayley Fletcher, Senior Director Consumer (the decision maker)*', as well as four other named members of CMA staff. These included '*Louise Strong, Director Consumer*' and '*[X], Assistant Director Consumer*'.

---

<sup>69</sup> See the Guidance (CMA200), paragraph 9.4.

67. Attached to the email from [§<] was a note of a meeting between the ECP and members of the CMA case team, including Louise Strong and [§<], at which ECP's Managing Director, [§<], is recorded as having asked '*who was in charge of this matter*' and as having been informed that '*Hayley Fletcher was the decision-maker on this matter*'. At the time of that email ECP was legally represented by experienced counsel from Linklaters LLP, who were copied into the email from [§<].
68. At no stage prior to the Complaint did ECP or its legal representatives raise any concerns with the SRO about the decision maker or the decision-making process in respect of the FEN. Nor did they raise any queries or concerns about the attendance of any of the other CMA attendees at the oral representations meeting, which was also communicated to ECP in [§<]'s] email dated 4 November 2025, or about their roles in the case or in the decision-making process.
69. As it is, none of the individuals other than Hayley Fletcher were decision makers. There was no decision-making '*panel*' as asserted by ECP. The CMA at no stage made reference to a panel of decision makers and ECP has not provided any explanation as to why it understood there to be a panel involved.
70. In any event, ECP's complaint in respect of Issue 2 was not referred to the SRO in the first instance, as required by the Guidance, and was made to the PCA more than 5 working days after ECP was informed of the identity of the decision maker in respect of the FEN and of the CMA attendees at the oral hearing (and indeed after the issue of the FEN on 10 December 2025).
71. In the Reply Submissions and ECP's Written submissions, ECP maintains that it could not raise bias concerns with the SRO at the hearing or immediately thereafter as it did not know, and could not have been expected to know, that '*members of the panel*' were involved in, and responsible for, the '*investigation*' until such time as the FEN decision was made.<sup>70</sup> However, I do not accept that this is the case given that the IN was signed by '*Louise Strong, Director, Consumer*', and '[§<], Assistant Director, Consumer', was one of the people named in the IN as '*points of contact at the CMA*'.
72. In the absence of a decision from the SRO in respect of Issue 2, there is no '*procedural decision*' from which a '*procedural issue*' arises or could arise. As a result, I consider that ECP's complaint in respect of Issue 2 does not

---

<sup>70</sup> Paragraph 2(f), page 3, ECP's Reply Submissions; paragraph 12, page 3, ECP's Written Submissions.

concern a ‘*significant procedural issue arising from a procedural decision*’ within the meaning of rule 6(2) of the Rules and does not, therefore, come within the remit of the PCA process.

Issue 3: transparency in respect to the ‘panel’

73. On ECP’s assertion that there was no disclosure of the roles held by any of the CMA individuals present at the oral hearing and that there was a lack of transparency about the CMA’s procedures, ECP was, as set out above, informed in advance of the hearing about the identity of the decision maker and who from the CMA would be attending the hearing. As noted above, ECP had also been made aware through the IN that Louise Strong and [X] were involved in the case. The IN also included a reference to the Guidance for further information about the CMA’s processes when exercising its powers of investigation in consumer cases.
74. The process for administrative enforcement, including for failing to comply with an information notice, is set out at paragraphs 6.8 to 6.16 of the Guidance. As set out at paragraph 6.11 of the Guidance, the process for making representations to the CMA is ‘*broadly similar*’ to that followed for substantive infringements of consumer law, which are set out in Chapter 2 of the Guidance. Paragraph 2.45 of the Guidance provides that, in addition to the decision maker, the hearing will be attended by ‘*members of the case team and any other relevant CMA members of staff*’.
75. As noted above, ECP was represented both before and at the hearing by leading Counsel from Gough Square Chambers as well as solicitors from Linklaters LLP, [X]. Linklaters LLP was copied into the email dated 4 November 2025 from [X] notifying ECP of the attendees at the hearing. ECP did not seek further information about the roles of any of the CMA attendees listed in the email or raise any concerns about their previous involvement in the case or about their involvement in the decision-making process. I do not consider therefore that the CMA has made a decision not to disclose information concerning the roles, or previous involvement in the case, of any person involved in the decision-making in respect of the FEN.
76. The fact that ECP did not seek further information from the case team about the roles of the CMA attendees, still less seek a formal decision from the SRO, means that there is no decision by the SRO not to provide information in respect of which a complaint can be raised. Moreover, the Complaint was made more than 5 working days after ECP was informed of the identity of the decision maker in respect of the FEN and of the CMA attendees at the oral

hearing (and indeed more than 5 working days after the issue of the FEN on 10 December 2025). For the reasons set out above, I do not accept that ECP could not have been expected to seek further information or raise any concern with the SRO had it been so advised.

77. As in the case of Issue 3, in the absence of a decision from the case team or the SRO not to provide information, or indeed a request from ECP for information or any expression of concern about the roles of the CMA attendees at the hearing or about their involvement in the case, there is no '*procedural decision*' in respect of Issue 3 from which a '*procedural issue*' arises or could arise. As a result, I consider that ECP's complaint in respect of Issue 3 does not concern a '*significant procedural issue arising from a procedural decision*' within the meaning of rule 6(2) of the Rules and does not, therefore, come within the remit of the PCA process.

### **The PCA's substantive determination of the redaction issue in Issue 1**

78. Turning to Issue 1, I set out below the legal and policy framework which applies to those aspects of Issue 1 which are within the remit of the PCA process (the **Redaction Issue**). In particular, this concerns the duties which apply to the CMA in connection with the publication of information which comes to it in connection with the exercise of its statutory functions. I then set out the reasons for my decision in respect to the Redaction Issue.

#### *Legal and policy framework*

79. As a starting point, the CMA is under several common law duties as a public authority. These include a requirement to act transparently and fairly. The CMA must, in particular, give intelligible reasons when publishing its findings and decisions,<sup>71</sup> including when carrying out its enforcement functions.

80. These duties are specifically recognised and reflected in CMA6 and CMA58. As to transparency generally, the CMA states at paragraph 2.1 of CMA6:

'The CMA is committed to be open and transparent about the work it does and how it engages with those directly involved in or affected by its work, while seeking to maintain (as appropriate) the confidentiality of information it obtains in the exercise of its functions. It also aims to be reasonable when requesting and handling information.'

---

<sup>71</sup> *South Buckinghamshire District Council v Porter (No. 2)* [2004] UKHL 33, as endorsed in *BAA Ltd v Competition Commission* [2012] CAT 3.

81. As regards the publication of a final enforcement notice issued under paragraph 16C(2) of Schedule 5 to the CRA, paragraph 16C(10) of the Schedule provides that the CMA may publish a final enforcement notice in such manner as the CMA '*considers appropriate*'.
82. Chapter 7 of the Guidance provides that a central policy objective associated with the CMA's power to issue penalties for a breach of procedural requirements is to deter non-compliance and to encourage compliance with the law.
83. The CMA is also subject to certain duties under Part 9 of the EA02 in relation to the information which comes to it in the exercise of its statutory functions, which is defined in section 238 of the EA02 as '*specified information*'. Section 237 of the EA02 places a general restriction on the disclosure of '*specified information*' which relates to the affairs of an individual or to any business of an undertaking. The restriction is subject to a number of permitted disclosure 'gateways' in sections 239 to 244 of the EA02. In addition, section 244 of the EA02 sets out a number of considerations to which the CMA must have regard before disclosing any specified information. These considerations essentially require the CMA to undertake a 'balancing exercise' between the potential harm that may be caused by the disclosure and the extent to which the disclosure is necessary for the purpose for which it is permitted under the relevant 'gateway'.
84. As set out above, when considering a procedural complaint that falls within his or her remit, the PCA must consider '*the process followed in arriving at the decision complained about and the rationality of that decision*' (rule 6(3)(a) of the Rules).

#### *Process followed*

85. As regards the process followed by the SRO in arriving at her decision in respect of the Redaction Issue, this is described in paragraph 15 above. In particular:
- (1) upon sending ECP the FEN, the CMA invited representations as to confidentiality prior to publishing; these were initially requested by 12 December 2025 [CB/13];
  - (2) in a letter from Linklaters LLP to the CMA dated 12 December 2025, ECP sought an extension of the deadline to 19 December 2025 [CB36]; the CMA granted an extension to 16 December 2025 [CB/38];

(3) ECP's solicitors then sent the CMA:

(a) the letter dated 15 December 2025 in which ECP advanced general points on why it considered the identity of ECP should be confidential [CB/39-40]; followed by

(b) the email dated of 16 December 2025, attaching the detailed table of ECP's confidentiality representations [CB/44-50];

(4) the SRO provided a response to the Linklaters' letter of 15 December 2025 on the same date [CB41-43]; and

(5) the SRO then provided a response to ECP's detailed table of confidentiality representations on 17 December 2025 [CB/51-60].

86. In ECP's Complaint, ECP expressed concerns about *'the manner in which the CMA communicated the use of the PCA complaints procedure'*, which it describes as *'highly unsatisfactory'*. Specifically, ECP criticised the fact that it was only informed of the complaints process on the evening of 17 December 2025 ahead of a proposed publication at 11am on 19 December and without the CMA signalling at the same time that it would agree not to publish details of the FIN whilst the complaints process was exhausted. ECP also expresses *'disappointment that the CMA has not yet engaged with it to discuss any concerns that it might have concerning consumer protection in the private car parking industry'*.<sup>72</sup> Neither of these concerns relates to the process followed by the SRO in arriving at her decision regarding the Redaction Issue, however. In ECP's Written Submissions and at my meeting with ECP on 7 January 2026, ECP also referred to the *'extremely fast pace'* at which the proposed publication of the FEN had proceeded at *'a logistically difficult time of year (the Christmas Holiday and New Year period)'*. ECP has not advanced this as a reason why the SRO's decision should not be confirmed, however.

87. I consider that the process followed by the case team and the SRO in arriving at the SRO's decision to reject ECP's confidentiality requests to be appropriate and fair. ECP was given an opportunity to make representations as to the confidentiality of the information in the FEN, which it did, and these were considered by the SRO, and her response to each confidentiality representation is set out in the table which was attached to the SRO's letter dated 17 December 2025, and in the SRO's letter dated 15 December 2025.

---

<sup>72</sup> Paragraph 13, page 3, ECP's Complaint.

Although this was done at some pace, I consider that the time given by ECP to make its confidentiality representations was reasonable, given that the FEN is a relatively short and straightforward decision. The FEN is 21 pages long and ECP had from 10 December 2025 to 16 December 2025 to make its confidentiality representations. Moreover, to the extent that the Complaint elaborates on the arguments advanced by ECP in its submissions to the SRO on 15 and 16 December 2025, these have been considered in the course of the PCA process.

### *Rationality*

88. As regards the rationality of the SRO's decision in respect of the Redaction Issue, I have taken into account:

- (1) the decision of the SRO as set out in her letters to ECP dated 15 and 17 December 2025;
- (2) the specific arguments and concerns raised in ECP's Complaint;
- (3) the submissions made by the CMA case team and by ECP; and
- (4) the applicable legal and policy framework, including the provisions in Part 9 of the EA02.

89. The crux of the argument advanced by ECP in respect to the Redaction Issue is that the SRO failed to take proper account of the harm that ECP says would arise from identifying ECP in the published version of the FEN and in any associated press notice, which ECP submits would be disproportionate to any public benefit in doing so. My findings are set out below.

### *SRO's approach to ECP's arguments in respect of reputational harm*

90. Having considered the process involved in the making of the SRO's decision and the rationality of the decision, I consider it was reasonable for the SRO to conclude that ECP would not be likely to suffer serious harm to its legitimate business interests as a result of the publication of the FEN such as would justify the redaction of its name from the FEN.<sup>73</sup>

---

<sup>73</sup> Although Part 9 EA02 is not explicitly referred to in the SRO's letters of 15 December and 17 December 2025, in considering and setting out the reasons why the CMA concluded that the disclosure of the information was necessary, the SRO had in substance considered that the CMA had a 'gateway' permitting disclosure, namely that the proposed disclosure was for the purpose of facilitating the exercise by the CMA of its statutory functions, as well as the considerations in section 244 of the EA02.

91. The CMA is empowered to publish the FEN under Schedule 5 to the CRA, and I consider that it was reasonable for the SRO to conclude that it was necessary to name ECP in the published version of the decision in the interests of transparency and public understanding of the CMA's decisions, and that anonymising ECP's identity would undermine the policy objective of deterring non-compliance – both by ECP and by others - with legal obligations arising from the CMA's exercise of its investigatory powers. Moreover, I consider it was reasonable for the SRO to reject ECP's request that the CMA substitute '*a parking company*' for ECP in the published version of the FEN on the grounds that this would result in speculation about the identity of the company concerned, leading to confusion and unfairness.
92. On reading the SRO's letters dated 15 and 17 December 2025, I do not consider that these suggest either that the SRO prejudged the question of whether ECP's identity should be revealed or that she failed to give proper consideration to ECP's confidentiality submissions.
93. Given the central policy objective behind the CMA's power to impose financial penalties and publish final enforcement notices (namely to deter non-compliance with legal requirements arising from the exercise by the CMA of its investigatory powers), I also do not consider it unreasonable for the SRO to have said in her letter dated 15 December 2025 that the CMA was '*generally unlikely*' to consider it appropriate to keep confidential the identity of a party which it had found to be in breach of a legal obligation which had resulted in the imposition of a penalty.
94. In view of this, it also seems reasonable to me that the SRO should have considered whether ECP's submissions revealed that any harm it suffered as a result of the CMA publishing its identity in the FEN was likely to be 'disproportionate', recognising that some reputational harm as a result of the publication of the FEN was to be expected.
95. ECP's case on the commercial harm it says it would be likely to suffer from publishing its identity in the FEN rests to a significant extent on its claim that the public would misunderstand the FEN and that this would result in consumers unfairly associating ECP's failure to comply with the IN with egregious conduct causing serious consumer harm. In support of this, ECP cites a number of public statements by the Acting Executive Director of Consumer Protection that the CMA's early enforcement actions under the DMCCA would focus on '*egregious*' breaches of the law. In her decision, the SRO rejects this claim on the grounds that the legal and factual basis on

which the FEN was issued are set out clearly in the FEN (which I agree with) and would also be made clear in any public messaging issued by the CMA in conjunction with the publication of the FEN (which I have no reason to doubt). The SRO's conclusion that any reputational harm flowing from the publication of the FEN would not be disproportionate to the matters set out in the FEN is, in my view, reasonable.

96. Moreover, to the extent that ECP considers that it would suffer significant harm from assumptions on the part of consumers that it was under investigation by the CMA for suspected egregious breaches of consumer law, the SRO also made clear in her decision rejecting ECP's confidentiality request that any press notice issued by the CMA in conjunction with the publication of the FEN would include wording making clear that the CMA does not currently have an enforcement case open against ECP and that no assumption should be made that ECP had infringed substantive consumer law.

*Further submissions by ECP on harm*

97. In its Complaint, ECP made a number of additional submissions which it had not made to the SRO and which were not therefore dealt with in her decision. In particular, ECP submitted that:

- (1) '*industry specific factors*' were likely to heighten media interest and this in turn would increase the publicity associated with the publication of the FEN, which ECP claimed was likely to be '*disproportionately damaging*' to the company and to ECP's '*excellent reputation*';<sup>74</sup>
- (2) the fact that a significant fine had been imposed added to the extreme likelihood of significant media attention and '*purely because of the scale of the fine*' public disclosure would '*create a perception among motorists and [ECP's] clients*' that '[ECP was] *not a professional organisation*' and would '*seriously undermine*' the trust of ECP's clients that ECP operates in '*a compliant, fair and professional manner*';<sup>75</sup>
- (3) there was a '*real risk to ECP in losing some of its retail clients*' following publication, on the basis that retail clients are customer facing and sensitive to adverse consumer protection news;<sup>76</sup> and

---

<sup>74</sup> Paragraph 25, page 5, ECP's Complaint.

<sup>75</sup> Paragraphs 21 to 23, page 4, ECP's Written Submissions.

<sup>76</sup> Paragraph 25, page 5, ECP's Complaint.

(4) publication of the FEN would cause '*serious and lasting harm*' to the directors and their family, who have previously been subjected to '*frightening media pursuits, trolling, victimisation, and humiliation*'.

98. None of these submissions have caused me to alter my conclusions as regards the process followed, or the rationality of the SRO's decision in respect of the Redaction Issue.
99. As regards ECP's submission that heightened media interest in the car parking sector may mean that the publication of the FEN would attract higher publicity than would be the case for other sectors, it does not follow from this that any reputational harm suffered as a result would be likely to be disproportionate to ECP's non-compliance with the IN. Moreover, as the case team point out, there are other ways of addressing any reputational damage that may be caused by any misreporting by the media, which may include taking legal action for any defamation, if necessary. I agree with the case team's submission that this would be more appropriate than pre-emptively withholding ECP's identity.
100. As regards the level of the penalty, whilst I understand that this may add to the likelihood and extent of media attention (which I have addressed), both the reasons for the penalty and the basis on which it has been calculated are explained in the FEN, which sets out clearly the legal and factual basis on which it was issued.
101. As regards ECP's claim that it risks losing retail clients if its identity is revealed with the publication of the FEN, ECP has not provided evidence in support of this claim, which would appear in any event to be predicated on the assumption that consumers would misunderstand the FEN and mistakenly associate ECP's failure to comply with the IN with an egregious breach of consumer law, which was dealt with, in my view reasonably, by the SRO in her decision.
102. As regards the claim that publishing the FEN would cause serious harm to the ECP's directors and their family, ECP provided some further details of the harm it says would result from publication, both at the meeting with me on 7 January 2026 and in ECP's subsequent written submissions. In particular, ECP referred to and quoted from a number of threatening social media posts which ECP said had been directed at its directors and their family. ECP did not provide details of the extent of the problem, however, or the specific context in which the threats had been made. Nor was it explained specifically why the public becoming aware of ECP's non-compliance with the IN and the imposition of a penalty would prompt further threats to the family. As a result and bearing in mind that it was not raised previously with the case team or the

SRO, there is limited weight that I can place on this element of ECP's claim, which has not caused me to alter my conclusions regarding the process followed or the rationality of the SRO's decision in respect of the Redaction Issue.

*ECP's submissions on the public interest and proportionality*

103. In addition to its submissions on the harm that it says would result from disclosing its identity with the publication of the FEN, ECP also makes the following submissions in its complaint:

- (1) redacting ECP's identity would result in minimal prejudice to the public interest; and
- (2) identifying ECP would be inconsistent with the CMA's commitment to proportionality and undermine the CMA's stated objective of supporting compliance and helping businesses do the right thing.

104. As regards ECP's claim that withholding its identity would result in minimal prejudice to the public interest, the SRO took the view, as set out in her letter dated 15 December 2025, that keeping confidential the identity of a party found to be in breach of a legal obligation which results in the imposition of a financial penalty would be likely to '*weaken the deterrent effect of the CMA's decisions*' and conflict with the public interest in understanding the context of final enforcement decisions made by the CMA. I consider this to be a reasonable position for the SRO to have adopted. In particular, it seems reasonable that a deterrent may be expected to be less effective if businesses knew that their non-compliance with information notices would not become public and that they would thus avoid any public censure in the event of a financial penalty being imposed.

105. In its complaint ECP makes a more limited request for its identity to be withheld until after the High Court has determined its appeal against the FEN, on the basis, amongst other grounds, that there is no pressing public interest in not doing so. Given that the appeal will take some time, however, and that the CMA has a significant number of ongoing investigations, I remain of the view that it is reasonable for the SRO to consider that a delay in revealing ECP's identity until after the determination of the appeal would weaken the effect of the FEN in deterring non-compliance with legal obligations arising from the CMA's exercise of its investigatory powers, including information notices.

106. ECP's argument that withholding ECP's identity would be consistent with the suspensory effect of the appeal on the financial penalty is addressed separately below.

107. As regards ECP's claim that identifying it would be inconsistent with the CMA's commitment to proportionality, this effectively amounts to a restatement of ECP's claim that disclosing its identity in the FEN would cause it disproportionate harm, which was rejected – in my view reasonably - by the SRO. Similarly, ECP's claim that it would undermine the CMA's stated objective of supporting compliance and helping businesses do the right thing would appear to be predicated on ECP's contention that its failure to comply with the IN was '*an innocent administrative error*' for which a financial penalty should not have been imposed. Whether or not that is the case will be a matter for the High Court to decide in ECP's appeal against the FEN. As to the relevance of the appeal to the decision to identify ECP in the FEN, this is addressed below.

#### *Implications of ECP's pending appeal against the FEN*

108. In addition to the above submissions, ECP also submits that the redaction of ECP's identity should remain in place until the final determination of its appeal to the High Court against the FEN on the basis that:

- (1) it will be impossible to rectify fully the substantial reputational harm associated with the publication of its identity in the FEN, and
- (2) this would be consistent with the fact that the appeal has the effect of automatically suspending the fine and with the breadth of the appeal, meaning that – in ECP's submission – the appeal amounts in broad terms to a continuation of the FEN process.

At the same time as it filed its appeal against the FEN, ECP also made an application for a withholding order, the terms of which would anonymise its identity during the course of the proceedings.

109. In their response, the case team submit that the fact of the fine being suspended on the lodging of an appeal does not give rise to a bar or a presumption against publication whilst the appeal is pending. I agree with that submission. There is nothing in the legislation or in either the Rules or the Guidance to that effect. Moreover, as the case team point out, in the administrative enforcement regime under the Competition Act 1998, appeals to the Competition Appeal Tribunal against the imposition or amount of a

penalty also have a suspensive effect<sup>77</sup> but CMA decisions are still published, including the identity of the undertaking fined.

110. As regards the rectification of any reputational harm to ECP as a result of the publication of the FEN, it is not clear to me – and ECP has not advanced reasons or evidence in support of its claim - why ECP's appeal, if it is successful, would not have the effect of rectifying any such harm. I have already addressed ECP's submissions regarding the extent of the harm which it says it would suffer as a result of publication – whether or not it would be fully rectified by a successful appeal – and have rejected ECP's claims that this would be such as to render the SRO's decision to reject ECP's redaction request unreasonable.
111. As a result, I am not persuaded that the fact that an appeal has been issued means that publication of ECP's identity with the FEN would be unreasonable. Nor is my conclusion affected by the fact that ECP has also applied for an anonymity withholding order. ECP's withholding application applies to the appeal proceedings and it will be for the court to decide whether it should be granted. The decision whether to publish the FEN and the timing of publication is a separate matter for the SRO and it will be open to ECP, if it wishes and if so advised, to apply to the court for injunctive relief against any such decision to publish the FEN.
112. During ECP's meeting with me and in ECP's Written Submissions, ECP submitted that there was no justification for publication at this stage, particularly when an appeal against the FEN had been issued and ECP was confident that the appeal had a '*strong likelihood of success*'.<sup>78</sup> ECP also submitted that given the '*serious procedural errors undertaken by the CMA*' – as well as the newness of the legislation, which was so far untested - '*it would be prudent for the CMA ... to await the determination of the Court before publishing the FEN*'.<sup>79</sup> I have already dealt with ECP's broad argument that there was no justification for publication pending the outcome of its appeal. As regards ECP's submissions regarding the likelihood of its appeal succeeding, it is not clear to me how this is relevant to the balancing exercise required by section 244 of the EA02 when deciding whether to disclose specified information under Part 9 of that Act. Moreover, at the time of the SRO's decision, no appeal had been brought. Given that all enforcement decisions are subject to the possibility of appeal, I do not consider that it would in any event be reasonable to expect the SRO to take account pre-emptively of the merits of a possible future challenge when balancing the likelihood of serious harm against the purpose for which the disclosure is being contemplated. The

---

<sup>77</sup> Section 46(4) of the Competition Act 1998.

<sup>78</sup> Paragraphs 27, page 5, ECP's Written Submissions.

<sup>79</sup> Paragraphs 14, page 3, ECP's Written Submissions.

fact that an appeal has now been brought does not affect my conclusion as to the reasonableness of the SRO's decision.

113. Accordingly, my conclusion that the SRO's decision that any reputational harm arising from disclosing ECP's identity with the publication of the FEN would not be disproportionate to the matters set out in the FEN is not affected by the fact that the FEN has been appealed or that ECP has applied for an anonymity withholding order.

*Consideration of the individual confidentiality redactions requested by ECP*

114. ECP's Complaint does not include representations on each of the individual redactions that ECP sought when making its confidentiality representations to the CMA on 16 December 2025 [CB/44-50], but nevertheless states that ECP seeks to have these redactions accepted (paragraph 65 of ECP's Complaint).

115. I have, therefore, considered the rationality of the SRO's decision in respect of each of the redactions sought by ECP, and set out my findings in the Annex.

**Overall conclusions**

116. My conclusions are therefore as follows:

- (1) as regards Issue 1, having considered the process followed and their rationality, I confirm the decisions of the SRO in relation to the Redaction Issue;
- (2) as regards the other issues raised in Issue 1, namely whether the decision to publish the FEN *per se* and the decision as to the timing of publication were properly made, I do not consider that these fall within the remit of the PCA process;
- (3) as regards Issues 2 and 3, I do not consider that these are within the remit of the PCA process, on the grounds that there is no procedural decision from which a significant procedural issue arises.

117. I note that the original time indicated by the SRO that the CMA would publish the FEN has now passed as a result of this complaints process. The timing for publication of the FEN will be a matter for the SRO, which it will be for the CMA case team to communicate to ECP.

Stephen Blake  
Procedural Complaints Adjudicator  
23 January 2026

## ANNEX

1. As noted above, I have carefully considered the submissions that have been made on behalf of ECP. I have also carefully considered the points made by the CMA case team.
2. In relation to each request, I have considered the reasonableness of the SRO's conclusions.

### **Redaction of specific proposed wording in the FEN**

3. The requests for redactions are summarised below as they were not particularised in the Complaint from ECP itself but were detailed in the confidentiality representations made on behalf of ECP by its former solicitors on 16 December 2025.

#### *(1) Company names*

- (a) ECP sought to have references to 'Euro Car Parks Limited' (headings to paragraphs 1 and 67), 'Euro Car Parks' (paragraphs 2, 4, 14, 15, 16, 17, 20, 21, 22 (a)- (c), 24, 25, 27(a)-(b), 29, 31, 32, 33, 34, 36, 37(a)-(c), 39, 44, 46, 47(a)-(b), 55, 62(d), 66), 'ECP Holdings' and 'ECP Holdings plc' (paragraphs 52, 53 and 57) redacted from the FEN (Confidentiality representations of Euro Car Parks Limited [CB/45-46]).
- (b) For the reasons set out at paragraphs 79 to 119 of this decision, it was reasonable in my view for the SRO to reject ECP's confidentiality request.

#### *(2) Figures revealing the turnover of ECP Holdings and Euro Car Parks*

- (a) ECP sought to have the figures that relate to its turnover redacted from paragraphs 53 and 57(a)-(b) of the FEN.
- (b) ECP stated that these figures could be used to reverse engineer its identity. (Confidentiality representations of Euro Car Parks Limited [CB/46-50]).
- (c) The SRO correctly noted that these figures are not themselves confidential as they are contained in ECP's accounts at Companies House. ECP's argument that these figures should be redacted, therefore, relies on its arguments for redacting the company names. Given my conclusion as to the reasonableness of the SRO's decision to reject ECP's request for the redaction of its name and that of its

holding company, the reason for redacting ECP's financial information so as to avoid its identity being reverse engineered falls away.

(3) *The amount of the financial penalty*

- (a) ECP asserts that references to the amount of the financial penalty in paragraphs 4 and 66 should be replaced by an indication of the range within which the penalty falls, of '£[400,000-500,000]'. ECP states that the amount of the penalty is open to appeal and publication of the exact figure will 'likely lead to further confusion about the nature of what has happened' (Confidentiality representations of Euro Car Parks Limited [CB/47]).
- (b) I consider that it was reasonable for the SRO to conclude that as the penalty calculation was made on the basis of publicly available information it was appropriate to publish the exact figure. I also consider that it was reasonable for the SRO to conclude that – contrary to ECP's argument that publication of the exact figure would create confusion - the publication of a range would in fact have the opposite effect.

(4) *Information relating to the involvement in the company, and location at the time of service of the IN, of the director who was served with the IN*

- (a) ECP seeks to have references to the fact that the director served by the CMA with the IN was not involved in the day-to-day management of ECP, does not regularly attend ECP's office and was not in the country at the time the IN was served redacted from paragraphs 27(b)(i) and 36 of the FEN.
- (b) ECP states that this information is not public and it would cause harm to ECP's interests by affecting its relationship with its clients if it were known. It also states that this information would allow the identity of the director to be reverse engineered.
- (c) I consider that it was reasonable for the SRO to reject ECP's confidentiality representations in respect of this information. ECP provided this information to the CMA in order to support its case that it had a reasonable excuse for non-compliance with the IN. It is therefore important that a reader of the FEN understands that the CMA considered that this was not sufficient for there to be a reasonable excuse for non-compliance. Further, I note that the FEN does not identify the director and I do not consider that ECP have explained how

the information could be used to reverse engineer the identity of the director.

(5) *Reference to the starting point for the fixed penalty appearing to be 'affordable'*

- (a) ECP seeks redaction of the reference to the fact that the starting point for the fixed penalty is of an amount that appears to be '*affordable*' for the Respondent while still acting as a meaningful deterrent (Confidentiality representations of Euro Car Parks Limited [CB/50])
- (b) ECP states that this is an unnecessary descriptor of its financial position and would significantly harm its legitimate interests.
- (c) I consider that it was reasonable for the SRO to conclude that (i) it was necessary to publish the information as it allows the reader to understand the proportionality of the financial penalty, and (ii) it does not harm ECP's legitimate business interests for there to be a reference to the affordability of the penalty, particularly given that ECP's turnover information is already publicly available.