Costain Feedback on Interim Report: Civil Engineering Market Study

Costain is grateful to the Competition and Markets Authority (**CMA**) for the opportunity to comment on its Interim Report (**Report**) released on 17 December 2025. Given the comprehensive nature of the Report, Costain has commented only by exception in this document where it has a (potentially) material matter to bring to the CMA's attention. Where Costain has not commented on any section of the Report, this should not be interpreted as an express agreement by Costain with the comments/findings in that section.

General comments:

A. While HS2 was (understandably) outside of the remit of the CMA's market study, analysis of the HS2 project is instructive, as it arguably provides an evidence point for a number of the recommendations set out in the Report on how greater pipeline certainty can improve certain project outcomes (e.g. innovation & skills development). Because of the **long-term, significant value** of the investment in Phase 1 of HS2, a number of innovations have been initiated and implemented on that project. For similar reasons, the HS2 project has supported significant numbers of apprentices and graduates into the industry. As recognised at para 2.56(c) of the Report, HS2 is an example of how innovations can be brought forward by the civil rail industry where there is certainty of a long-term, significant pipeline of work.

B. In paragraph 2.9 of the Report, the CMA notes the percentage of projects in a sample that finished late (and which of these were over budget). The corollary of this point is that, of the sample, 42% of rail projects and 44% of road projects were completed on time. If not considered already, there may be value in the CMA analysing the reasons why these projects were completed on time and how such reasons could be consistently replicated across all rail and road civil engineering projects. These projects are evidence that the market does not always produce poor outcomes even if, as identified in the Report, there are a number of opportunities for improvement.

C. In response to paragraphs 1.5, 2.6 and 3.22, care needs to be taken when making comparisons between UK projects and international projects. This is because the employment, legal, regulatory (including planning processes, safety, health and environment laws, etc), delivery models, funding sources (and conditions) and political landscapes are very different. Wrong conclusions may inadvertently be drawn if these differing landscapes are not fully considered when making such data comparisons.

D. The Report does not appear to consider expressly how the **behaviours** of project participants (public authorities, Tier 1 contractors and others in the supply chain) can directly influence successful completion of projects. The Construction Playbook and NEC contract are based on a philosophy of **collaborative contracting**, where parties work together to solve problems and mitigate/manage risks optimally. The CMA may wish to further consider the impact of behaviours as part of the final stage of its analysis.

E. In relation to paragraphs 2.16 and 2.20-2.31, the Report does not clarify whether the CMA considered the typical margins of the Tier 1 Contractors in reaching the conclusions set out therein. Margin data is in the public domain for the 2024 financial year for listed Tier 1 companies (examples: Balfour Beatty reported a 2.7% margin for its UK Construction

business for FY2024; Costain reported a 3.4% margin for the same period; Kier reported a 3.9% adjusted operating margin for FY ending 30 June 2025). Competitive term deposit rates are currently 4+%. These Tier 1 contractors are not making super-profits. By contrast, accounts filed with Companies House by other participants in the supply chain (e.g. plant suppliers) suggest higher margins. Healthier margins at the Tier 1 level would result in increased funds for innovation, skills investment, etc. CMA may wish to consider the extent to which these (limited) margins are impacting upon the level of new entrants to the Tier 1 market. Costain also mentioned in its original response to the CMA's s74 information request that there has been increased private equity interest in the sector in recent years (e.g. M-Group; Keltbray/Aureous; Mace; Adler & Allan acquisitions), which the CMA may wish to consider.

F. In its Interim Report Summary (**Summary**) published on 17 December 2025, at Figure 1.1 (page 10) the CMA published a diagram setting out its view as to the drivers, actions and outcomes in the civil engineering market. It would be instructive for CMA, as part of the final stages of its work, to test its draft recommendations set out in Table 1.1 of the Summary against the content of Figure 1.1 and to also consider any previous initiatives targeted at addressing challenges in the sector. For example, in July 2025 NISTA published the Infrastructure Pipeline – has the CMA sighted evidence to suggest that this publication has resulted in greater investment by the sector? If not, are there reasons for this (which could be considered as part of the CMA's recommendations)?
A similar example is the procurements already undertaken by Crown Commercial Services (**CCS**) - if there are opportunities for public authorities to use the frameworks already established by CCS but they have declined to do so, are there specific reasons for this (which could be addressed in the CMA's recommendations)?

Specific Feedback:

Question 1: Do you consider that we should be more concerned with barriers to firms expanding rather than barriers to firms entering the civil engineering market in the first place? Are there other forms of barrier not mentioned in our analysis so far which are significant?

Please see Costain's comments above at B and E.

In addition, Costain queries the finding in paragraph 2.11 of the Report that there is only a 4% adoption rate of Building Information Modelling (**BIM**). This does not align with Costain's experience, which is that BIM is adopted on the majority of projects. However, its full functionality is not always used.

Question 2: To what extent do you agree supply chain fragmentation contributes to poor outcomes? Besides pipeline uncertainty, what other factors drive civil engineering firms' preference to use contractors rather than building their in-house capacity?

In addition to pipeline visibility and certainty, **knowledge as to what work from such pipeline is to be carried out by Costain** and consideration of the **type of work**, are the key factors that contribute to Costain's short-, medium- and long-term decision-making with respect to

insourcing vs outsourcing. For example, highly specialised work that is required for only small intervals over the long-term is best outsourced.

Question 3: Are there specific procurement, policy or regulatory barriers that reduce innovation and/or scaling opportunities in the civil engineering market? What would make the most difference to firms' incentives to innovate, and public authorities' incentive and ability to encourage innovation?

Please see Costain's comments above at E.

The scope for innovation could also be improved through greater **visibility and certainty** of the pipeline and awarding **programmes of work** rather than single projects (as these would help support business cases for investment in innovation).

Public authorities could also consider including tender criteria in bid documents in connection with innovation.

It would be challenging for industry-transforming innovations to be promoted (or funded) by a single public authority. To address this, there is an opportunity for NISTA to use its convening power to fund such innovations (or to use its convening power to facilitate funding by a group of industry participants). If such activity was done at an industry level, it is Costain's expectation that some innovations would be self-funding in the short-term and the funding burden on an individual industry participant would be reduced.

Question 4: For what type of projects is there greatest scope for the accuracy of upfront scoping and planning to be improved, to aid delivery on time and on budget? What would help to make upfront scoping and planning more accurate?

Whilst this is not in direct response to Q4, Costain notes that paragraphs 2.51-2.54 of the Report reference the 5-year planning cycle that is currently utilised by Network Rail and National Highways (and much shorter cycles for those public authorities who are subject to annual funding determinations). This should be contrasted with some overseas examples, where it is understood there are 20- or 30-year planning cycles, which better align with the (long) asset life of some infrastructure projects. A **longer planning horizon** would give better visibility and certainty of the pipeline, thereby encouraging in-sourcing and investment, and should also enable better decision-making by public authorities around **pipeline continuity**. Such continuity would help the UK to maintain a highly skilled workforce whilst also avoiding booms/busts.

Question 5: To what extent do you agree early contractor involvement could be used more effectively, and how can this be facilitated?

There are still many instances of where early contractor involvement (**ECI**) is not undertaken, with this contributing to sub-optimal project outcomes. The problem seems to be timing of funding availability. The funding of ECI at an early stage does not add to project cost but rather facilitates savings at later stages of the project. Given this, it is not clear to us why funding for ECI at the appropriate stage is not being made available. ECI can also help public authorities to better navigate the planning process and can support them to compile a higher quality business case for the project.

In relation to the risk that ECI can impact on the procurement competition for later stages of the works, such risk can be easily mitigated by putting in place robust ethical walls (information

barriers) between the team members providing the ECI *and* those team members contributing to a bid for a later phase of the project.

Question 6: To what extent do you agree that the design and use of procurement frameworks could be improved?

Question 7: How could open competition be made less resource intensive as a method of procurement?

Costain spent [✂] during FY2025 on bidding. This figure captures only the internal personnel who are part of Costain's 'work winning team' and a small amount of external costs – it does not include the significant input from personnel in the business who support the bidding process but are not exclusively devoted to work winning (e.g. project management, engineering, legal, etc). Hence the true cost is significantly more than this. Based on the 2024 margin mentioned earlier (3.4%), Costain has to perform a significant amount of work ([✂]) just to fund this bid investment. This cost of bidding is a significant drain on the entire industry (public authorities, and all tiers of the supply chain). If there was a **more intensive use of frameworks** (with less mini-competitions) and/or **greater utilisation of long-term partnerships** (as occurs in some overseas jurisdictions) and/or **standardisation of pre-qualification information (e.g. health and safety, cyber security, insurances, etc)** and/or **standardisation of accreditations**, this would reduce bid activity/cost and funds would be freed up to be better utilised on innovations and other improvements.

Question 8: Where is there greatest scope to improve the evaluation of non-price aspects of bids, such as quality? How can this be better supported and enabled?

In response to paragraph 2.97, it is understandable that public authorities wish to evaluate both price and non-price criteria. The issue is how price criteria are currently being evaluated. For target cost or cost reimbursable projects, the public authority typically asks for a schedule of rates and a Fee % (if the NEC contract is being used). A public authority will typically weight these 'price' criteria as 30% or 40% of the available marks, meaning that (more often than not) the cheapest bidder scores the highest marks. Such criteria do not give any genuine indication of the bidder's ability to: (i) complete the project for the public authority's budget/programme; and/or (ii) achieve the desired outcomes from the project. Rather than using a schedule of rates and/or Fee as the price criteria, there are examples where a **qualitative assessment of pricing/commercial submissions** has proven to be a better indicator of a bidder's ability to deliver the project (e.g. the qualitative assessment of the client's estimate of the project; qualitative assessment of opportunities and/or risks).

There may be procurements where 'whole life cost' may be a better price criteria. This is commonly used in rolling stock procurements to identify the lowest cost option over the asset's lifecycle. This may involve a higher upfront cost in the construction phase, but lower maintenance costs – and a lower total whole life cost – for the public authority over time and hence could generate a lower overall cost for the taxpayer.

Question 9: What factors are most likely to cause significant risks to be misallocated between the procuring body and supply chain, and within the supply chain? How could this be addressed?

Public authorities have fixed and limited levels of funding. It is therefore challenging to achieve a fully optimal allocation of risk (as this inevitably requires the public authority to bear risks that

neither party can control, hence increasing the possibility that the allocated funding will be insufficient for the public authority to complete the project). There is a perception that moving risk to the supply chain helps the public authority deliver the project for its budget. However, if the contractor has to bear risks that it cannot control, it will price these risks into the cost of the project, which is not value-for-money for the taxpayer. There isn't a consistent understanding amongst public authorities of how the supply chain considers (and prices) risk - a better understanding would help optimise risk allocation.

Wider adoption of the Construction Playbook and using a form of the NEC contract with less Z clause amendments would also help to optimise risk allocation. Importantly, these documents are based on collaborative contracting, which involves all parties working together to manage/mitigate risks (irrespective of which party is bearing them). When risks are misallocated to the supply chain, there are then instances where the public authority takes minimal steps to work with the supply chain to deal with an issue, which can often increase the cost of the project and cause delays.

Question 13: How would you rank the relative importance of our proposed measures?

Costain believes the biggest impact will be achieved from adopting the CMA's suggestions with respect to **pipeline visibility and certainty**. The **certainty** element is critical – for example, the West Yorkshire Mass Transit, publicly backed in Q3 2025 by the Government, was then pushed back circa 5 years after a review in Q4 2025. If pipeline visibility and certainty were combined with **early award of programmes of work** – thereby giving long-term visibility to a contractor (and their supply chain) of their allocated workbank – this would enable the supply chain to make business cases for investment (in innovation, skills, etc).

Question 15: What would be the feasibility and impact of extending multi-year capital funding to public authorities currently operating on year-ahead budgets only?

Public authorities are better placed to respond to this question, though Costain refers to its response to Q4 and Q5 above.

Question 16: What information not currently available in published infrastructure pipelines would be most helpful for firms? How would this information change business decisions on resource allocation and/or investment?

See Costain's response to Q13

Question 18: To what extent do you agree that it would be beneficial for public authorities, such as groups of nearby local authorities, to: (i) jointly develop and share engineering expertise and commercial capabilities; (ii) to coordinate or jointly conduct procurement; and (iii) enact comprehensive, standardised sharing of cost and performance data? How could this best be achieved?

See Costain's response to Q7 – greater use of joint procurements would reduce the bidding burden on public authorities and the supply chain, thereby generating the benefits mentioned in Q7. Combined with the initiatives set out in table 4.3 of the Report, there would be greater funds in the supply chain available for investment. The CMA may also wish to consider the likely effects

(once implemented) of the plans announced by the Government in December 2024[1] (to reorganise local authorities into one large authority per area).

Question 20: To what extent, and in what ways, is there scope for procurement processes to be made i) less complex and ii) more standardised across public authorities?

As stated in Costain's response to Q6 and Q7, if there was a **more intensive use of frameworks** (with less mini-competitions) and/or **greater utilisation of long-term partnerships** (as occurs in some overseas jurisdictions) and/or **standardisation of pre-qualification information** and/or **standardisation of accreditations**, this would make procurement processes less time-consuming (and less costly) for all industry participants.

[1] Local government reorganisation: Policy and programme updates - GOV.UK