The Competition and Markets Authority
25 Cabot Square
London, E14 4QZ

By email: mergerefficienciesreview@cma.gov.uk

1 July 2026

Re: UK Private Capital response to consultation on draft revised merger efficiencies guidance

UK Private Capital is the association of the UK private capital industry. We represent 600 firms including the wider ecosystem of professional advisers and investors. Private capital consists of private equity and venture capital which make long-term investments to grow British businesses and build a better economy. Private credit and venture debt provide active and engaged debt finance to businesses.

The private capital industry backs 13,000 UK businesses, nine in 10 of which are small or medium-sized enterprises. Businesses backed by the industry employ 2.5 million people across the UK and contribute 7% to GDP. In 2025, £25bn was invested by private capital into UK businesses in sectors across the UK economy, ranging from consumer products to emerging technology. This increased investment has fuelled the growth of businesses across the UK, with more than half (57%) of the businesses backed in 2025, located outside of the capital.

UK-based private capital specialists have raised £190bn of funds, known as dry powder, which is expected to be invested over the next three to five years. The industry invests for a better future by backing some of the UK's best loved businesses, developing the companies of the future and delivering solutions to global problems.

UK Private Capital welcomes the opportunity to respond to this consultation and appreciates the CMA's willingness to engage with the private capital industry. Recent engagement has been positive, allowing for direct dialogue, and fostering a more constructive relationship between the regulator and the industry. We encourage the CMA to continue this and are confident that future collaboration will help create stronger foundations for UK growth and investment.

UK Private Capital views on merger efficiencies

UK Private Capital welcomes the CMA's recognition that mergers can create efficiencies, including through cost savings or greater innovation, as outlined in the Merger Assessment Guidelines (MAG). However, the MAGs also note that it has been rare for efficiency claims to be accepted in the past by the CMA because the evidence supporting those claims is difficult to verify and substantiate.

Whilst our members welcome the shift in tone in the Draft Revised Guidance, businesses will need to wait and see how it is interpreted and applied in practice. In our view, the evidentiary bar for merger efficiencies has been too high and there was a lack of clarity on what counts as an efficiency. The CMA's experience to date – that it has been rare for a merger to be cleared on the basis of a rivalry-enhancing efficiencies – demonstrates that the test has been applied excessively restrictive and left little scope for parties to demonstrate efficiencies in practice. We have been informed of cases where members didn't progress as they thought the CMA would not clear the merger (despite the efficiencies we forecasted) and because the CMA has no ability to discuss potential transactions with investors. The parties in question never got to disprove the assessment that the CMA would not consider or approve it.

Generally, a substantial amount of information is required for the CMA to recognise efficiencies, and the burden of proof is set very high. Our members have noted that when evidence of efficiencies is put forward in general terms in a Merger Notice, they have rarely influenced outcomes as the CMA has not been receptive to them. This has had the effect of discouraging merging parties from submitting evidence and explanations regarding efficiency claims because there has been a general impression that they would not be considered fully. The merger efficiencies regime has therefore not been working as it should.

In our response to the merger remedies consultation, we noted that we think the CMA has a narrow interpretation of rivalry enhancing efficiencies, and urged the CMA to confirm that objective, verifiable evidence will meet the CMA's evidentiary threshold where quantification is impractical. Our members welcome paragraphs 7-9 of the Draft Revised Guidelines that sets out more clearly the types of evidence that the CMA is likely to place weight on in assessing efficiencies but notes that the CMA would continue to have a wide margin of discretion in applying the guidance so businesses will need to wait and see how much weight the CMA places on these types of evidence in practice.

Whilst our members welcome the more proportionate tone and additional clarity provided in the Draft Revised Guidelines, the real test will be how the CMA applies its guidelines to future transactions. We would encourage the CMA to apply the merger efficiencies regime pragmatically so that consideration is given to all types of evidence and efficiencies are assessed pragmatically in the context of the specific market. Our members also welcome the CMA's proposal for increased engagement with parties at an early stage to support efficiency claims. This would help the merging parties to present the most relevant evidence and allow the CMA to thoroughly assess claims without incurring excessive time and resource implications. This would also improve predictability and reduce unnecessary Phase 2 escalation, and ensure the CMA's approach supports innovation and investment while safeguarding competition.

We have set out below our members' views on the sections included in the consultation. If you have any questions or would like to discuss any of the above in more detail, please do not hesitate to contact Ciaran Harris charris@ukprivatecapital.co.uk or Tom Taylor ttaylor@ukprivatecapital.co.uk.

Yours sincerely,

[redacted]

Clare Gaskell
Chair, UK Private Capital Legal Committee

Questions for consideration

Q1. Overall, are the changes introduced by the Draft Revised Guidance sufficiently clear and useful?

Our members welcome the further detail in the Draft Revised Guidance on how the CMA assesses evidence on merger efficiencies. In particular, the detail on the types of evidence the CMA is likely to place evidentiary weight on is clear and useful.

In considering whether efficiencies are merger-specific, our members welcome that the CMA will consider whether potential alternatives would be commercially rational for the merger firms. In this respect, businesses would welcome further reassurance that the CMA will give appropriate weight to the views of the business people making these complex decisions in often fast moving markets rather than looking at alternatives in a static and standalone scenario.

Our members welcome the clarity that when considering the time required for efficiencies to arise, the CMA will have regard to the market-specific context and that this may mean that certain dynamic efficiencies may not be fully realised for a period of several years.

Our members also welcome the CMA's encouragement for parties to engage on efficiencies early in the review process and the explicit statement that this in no way implies that the parties accept the existence of an SLC.

Q2. What, if any, aspects of the Draft Revised Guidance do you consider need further clarification or explanation, and why?

Our members hope that, as the CMA's decisional practice in the area develops, it will be possible for the CMA to give more examples and detail to help businesses better understand the CMA's approach in practice.

Whilst we welcome the more pragmatic tone to whether efficiencies are merger-specific, this is an area where businesses would welcome further reassurance that the assessment would be grounded in the realities of the business world rather than academic hypothesis.

Our members are also aware that the EU is updating its guidance in parallel and there is the potential for divergence in approach and outcomes between the two regimes – for example, the draft EU guidance takes into account resilience as a possible benefit. The business community would benefit from further clarification on how the CMA would likely approach cases that could result in different outcomes in these two important jurisdictions.

Q3. Are the changes to the Draft Revised Guidance consistent with the CMA's '4Ps framework' and likely to promote pace, predictability, proportionality and engagement in relation to merger efficiencies? Are there any additional changes that may further contribute to these priorities?

Our members welcome the CMA's explicit encouragement for parties to discuss efficiencies with the case team at an early stage and the examples of stages at which this may occur (eg. through information requests, update calls, data request and other informal meetings at Phase

1 as well as at teach-ins and initial substantive meetings during Phase 2). We would anticipate that this process would improve pace and more proportionate outcomes.

In relation to "predictability", without further detail and examples it is likely that businesses will need to wait and see how the CMA applies the Draft Revised Guidance in practice before being able to confidently predict how the CMA will assess efficiencies in practice.

Q4. Do you have any other suggestions regarding the content of the Draft Revised Guidance?

We do not have any further suggestions.