Mergers

Draft revised merger efficiencies guidance

Summary of responses to the consultation

3 September 2026

Contents

1. Introduction

Background

1.1 In January 2026, the CMA launched a formal review of its approach to rivalry-enhancing efficiencies in mergers, seeking input from all interested parties (the **Merger Efficiencies Review**). The Merger Efficiencies Review has involved extensive evidence gathering, including a public call for evidence (the **Call for Evidence**), a detailed literature review, and direct third-party engagement, including with businesses and investors.[1]

1.2 On 3 June 2026, the CMA published a draft revised version of its efficiencies guidance for consultation with interested parties (the **Draft Revised Guidance**).[2] The Draft Revised Guidance was published alongside a consultation document (the **Consultation Document**) which explained the CMA's proposed amendments.[3]

1.3 The consultation on the Draft Revised Guidance ran from 3 June 2026 to 1 July 2026. The CMA received 14 responses to the consultation, including from legal advisors, economic consultants, trade associations and academics.[4] The CMA has reviewed the consultation responses to consider what further revisions are required to the Draft Revised Guidance. The key proposed revisions are summarised in this document.

1.4 The CMA is now publishing an updated version of the Merger Assessment Guidelines (**CMA129**), incorporating the final revisions to the Draft Revised Guidance (the **Final Revised Guidance**). The Final Revised Guidance will take effect from 3 September 2026 and will apply to cases where the formal phase 1 investigation commences on or after 3 September 2026.

1.5 The CMA would like to thank everyone who has participated in the Merger Efficiencies Review.

Purpose of this document

1.6 This consultation document is not intended to be a comprehensive record of all views expressed, nor to be a comprehensive response to all individual views. Instead, it sets out the general views received and those issues that

[1] Responses to the Call for Evidence are available here.
[2] See the Draft Revised Guidance.
[3] See the Consultation Document.
[4] Responses to the consultation will be published alongside this document.

the CMA considers are useful to address directly. Non-confidential versions of all responses to the consultation are available on the consultation webpage.

1.7 This document should be read in conjunction with the Consultation Document, which contains further detail on the reasoning for the CMA’s updates in the revised guidance.

2. Issues raised relating to the CMA's approach to rivalry-enhancing efficiencies

2.1 The Draft Revised Guidance proposed changes in four key areas:

(a) The CMA's framework for assessing rivalry-enhancing efficiencies;

(b) The evidence-base;

(c) Dynamic efficiencies and innovation; and

(d) The CMA's efficiencies process.

2.2 Overall, the large majority of respondents welcomed the CMA's proposed changes within the areas above, saying that they added clarity to the CMA's approach to merger efficiencies and were consistent with the '4Ps'.[5] This document therefore focuses on those areas where respondents submitted that further changes or clarifications to the CMA's proposed approach were required. It considers each of the four areas in paragraph 2.1 in turn.

The CMA's framework for assessing rivalry-enhancing efficiencies

Summary of responses

2.3 Some respondents stated that the Draft Revised Guidance should include more detail on certain aspects of the efficiencies framework:

(a) Some respondents stated that the guidance should provide more detail on the pass-through of efficiency benefits to consumers, for example with respect to non-price parameters, or cases where prices may increase alongside improvements in other parameters such as quality.

(b) Several respondents stated that the Draft Revised Guidance could be improved through the use of examples and case studies, which would provide further clarity on the CMA's application of its efficiencies framework (see 'The CMA's efficiencies process' section below).

2.4 Several respondents commented on how the Draft Revised Guidance describes merger specificity:

[5] The 4Ps – pace, predictability, proportionality, and process – are designed to support growth, investment and business confidence in the UK's competition regime.

(a) Some respondents stated that the guidance sets too high a bar for merger specificity, and that merger specificity should be more clearly linked to whether an efficiency would occur in the counterfactual.

(b) One respondent stated that the guidance should address cases where the merger allows for faster delivery of an efficiency, in which case the earlier delivery of benefits should be considered as merger specific.

(c) One respondent stated that footnote 6 of the Draft Revised guidance should be removed, as it asserts that non-merger routes to efficiencies are always preferable for consumers, which may not always be the case in practice.

2.5 Several respondents welcomed the recognition in the Draft Revised Guidance that 'efficiency offences' are likely to be rare in practice, although some stated that this could be strengthened to state that efficiencies offences will only be considered in exceptional circumstances. One respondent further stated that the CMA should provide more detail on how it will assess efficiency offences, and the circumstances in which they may occur.

The CMA's views

2.6 The CMA's view is that the Draft Revised Guidance provides an appropriate level of detail regarding the CMA's approach to efficiencies. For example, the Draft Revised Guidance sets out a range of different scenarios in which efficiencies might arise, the types of evidence that merger firms can provide to support their efficiency claims, and how the CMA will approach each limb of its efficiencies framework. Some respondents supported the overall level of detail in the Draft Revised Guidance, noting that the CMA will take a case-by-case assessment and should therefore avoid overly prescriptive guidance.

2.7 However, in light of the specific feedback received, the Final Revised Guidance includes additional detail clarifying the CMA's approach to 'sufficiency', including the pass-through of benefits to consumers.

2.8 With regard to merger specificity:

(a) In assessing whether a claimed efficiency is merger-specific, the CMA considers whether it could realistically be brought about by other means. Where the CMA considers that an alternative means is feasible and that it would be commercially rational for the merger firms to pursue them, it does not follow that such alternative means would necessarily form part of the counterfactual.

(b) In principle, there may be scenarios in which a merger leads to certain benefits being realised sooner than they would otherwise have been. The CMA would consider the relevant evidence as to whether this is a rivalry-enhancing efficiency, assessing not only merger specificity but also (for example) that this is sufficient to offset any competitive harms resulting from the merger. The Draft Revised Guidance provides detail on the type of evidence firms can use to support such efficiency claims, and how they will be assessed against the CMA's efficiencies framework

(c) The CMA agrees that footnote 6 makes a general assertion regarding merger benefits, which may not always apply in practice. This footnote has therefore been removed from the Final Revised Guidance.

2.9 With regard to efficiency offences, the CMA considers that the wording in the Draft Revised guidance provides appropriate reassurance to merger firms about the likelihood of such concerns. Further detail on how the CMA would assess efficiency offences would not be appropriate as this will depend on the facts of each case.[6]

The evidence base

Summary of responses

2.10 Several respondents expressed concern regarding footnote 2 of the Draft Revised Guidance, which suggested that the CMA would place greater evidentiary weight on internal documents generated prior to contemplation of the merger. Respondents stated that this sets an unnecessarily high evidentiary bar as many materials such as synergies analyses, deal valuations, and integration plans, can only be generated once the merger is in contemplation.

2.11 Some respondents stated that the Draft Revised Guidance should place greater emphasis on the role of bespoke analysis in evidencing efficiencies and should note that this is not necessarily less probative than other evidence and can play a role in 'many' cases, rather than only 'some'.

2.12 Some respondents stated the CMA should provide further clarity on the extent of evidence required to support efficiency claims, particularly to illustrate the

[6] The CMA's approach to assessing theories of harm is set out in detail in the Merger Assessment Guidelines (CMA129), including chapter 7 regarding vertical and conglomerate effects.

different requirements at phase 1 compared to phase 2 and provide examples of evidence relating to pass-through.

The CMA's views

2.13 The CMA agrees that many of the materials relevant for evidencing efficiency claims may be generated after the merger is in contemplation, such as synergies analysis and transaction valuation. The Final Revised Guidance therefore clarifies that the CMA will consider a document's probative value having regard to the context, purpose and effect of the internal document, for example whether it was a document for the board or executive decision making. It will also consider the robustness of any analysis and conclusions and the extent to which the document is consistent with other evidence.

2.14 The CMA considers that the Draft Revised Guidance is clear that bespoke analysis can provide useful evidence in certain cases, for example regarding the ability and incentive to innovate and/or regarding pass-through. At the same time, the Draft Revised Guidance does not imply that such evidence is necessary to support all efficiency claims. The CMA does not consider that it is necessary to amend this text.

2.15 Regarding the extent of evidence required to support efficiency claims, the Draft Revised Guidance provides examples of scenarios in which efficiencies might arise, and the types of evidence that merger firms can use to support their efficiencies claims. The Final Revised Guidance supplements this with some further information on the types of evidence and analysis that can be used to demonstrate pass-through. The CMA considers that it would not be helpful to provide further guidance on evidentiary expectations, given the case-specific nature of assessments, and therefore the difficulty in providing general guidance that would be helpful to merger firms (as noted by some respondents).

Dynamic efficiencies and innovation

Summary of responses

2.16 Some respondents stated that there should be further guidance on how merger firms can provide evidence on dynamic efficiencies:

(a) Some respondents stated that this should make clear that qualitative evidence such as expert testimony and evidence from previous mergers can be sufficient to establish likelihood, and that the level of evidence required should be proportionate to the nature and scale of the claimed efficiency.

(b) One respondent stated that the guidance should include a dedicated section for dynamic efficiencies, describing the categories of evidence that are likely to be probative, and the circumstances in which dynamic efficiency claims are likely to succeed.

(c) One respondent stated that further detail should be provided on how consumer benefits will be assessed for dynamic efficiencies. This respondent stated that the CMA should recognise that benefits may occur on non-price parameters of competition, and set out the factors it will consider in assessing whether dynamic efficiency benefits will be passed through to consumers.

2.17 Some respondents stated that the guidance should go further in acknowledging the impact of fixed cost efficiencies, for example through increased capacity for investment and innovation.

The CMA's views

2.18 The CMA considers that the Draft Revised Guidance already provides sufficient guidance on appropriate sources of evidence, including those relevant for dynamic efficiencies, and is clear on the role of qualitative evidence. The CMA does not consider that more detail would be appropriate, particularly in the context of the case-specific nature of assessments (as noted by some respondents).

2.19 Similarly, the CMA does not think that it is necessary to have a dedicated section for dynamic efficiencies, as most of the guidance in relation to the framework and appropriate evidence, may apply to both static and dynamic efficiencies.

2.20 The CMA considers that the Draft Revised Guidance already acknowledges that fixed cost savings may impact the ability or incentives of the merged firm to innovate or invest, for example by raising the expected returns on investment.

2.21 Finally, the CMA agrees that the benefits of dynamic efficiencies may occur through non-price parameters of competition. The Final Revised Guidance clarifies this point, and provides additional detail on how the magnitude of benefit to consumers may be assessed in such cases.

The CMA's efficiencies process

Summary of responses

2.22 Several respondents stated that the CMA should publish examples or case studies demonstrating how the CMA analyses efficiencies in practice. Respondents stated that this would provide merging parties with clearer guidance on what claims are likely to be accepted, and the level and types of evidence required.

2.23 Several respondents supported the emphasis in the Draft Revised Guidance on early engagement. However, one respondent stated that CMA should confirm the timeframes for early engagement, and another respondent requested more clarity on how parties' initial submissions should be framed to promote effective early engagement.

The CMA's views

2.24 The CMA agrees that examples or case studies may provide greater clarity on how the Final Revised Guidance will be applied in practice.

2.25 The CMA will include details of its assessment of efficiency claims in published decision documents, where the claims formed an important part of the CMA's assessment. The CMA notes that it will not always be proportionate to include detailed discussions of efficiency claims, for example where claims are speculative or not substantiated by evidence, or where the claims were not relevant to the CMA's decision (eg in straightforward clearance decisions).

2.26 In due course, the CMA intends to publish a template request for information (**RFI**) for rivalry-enhancing efficiencies, indicating the types of evidence the CMA might request during a merger review, and outlining some example responses. The CMA will also consider whether it would be helpful to publish further examples or case studies once the Final Revised Guidance has been applied in future cases. The CMA's analyses of rivalry-enhancing efficiency claims in previous cases are available on the case pages of its website.[7]

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[7] See, for example, the CMA's investigation into the anticipated joint venture between Vodafone Group Plc and CK Hutchison Holdings Limited concerning Vodafone Limited and Hutchison 3G UK Limited (2024), the CMA's investigation into the acquisition by Microsoft of Activision Blizzard, Inc. (2023) and the CMA's investigation into the anticipated acquisition by Thermo Fisher Scientific Inc of the electron microscope peripherals business of Roper Technologies Inc (the Gatan business) (2019).

2.27 The CMA agrees with the importance of early engagement on efficiency claims, as emphasised in the Draft Revised Guidance. It does not consider that more detailed guidance on the timing of engagement is necessary, as this is already explained in paragraph 41 of the Draft Revised Guidance. This paragraph notes that merger firms should include an explanation of their claimed efficiencies in the Merger Notice, and sets out the range of opportunities for merger firms to engage with the CMA on these points throughout the merger review process.