

Andrew Tyrie: closer to consumers – competition and consumer protection for the 2020s

The world is changing around us

The image, and to some degree reality, of a competition authority is of a high powered, somewhat remote group of technocrats securing free markets in the public interest.

Most jurisdictions have similar competition frameworks.

They are designed to entrench free enterprise.

Most of them delegate decisions to independent authorities.

That's the consensus.

But it's now at risk of breaking down.

Whether it is President Trump's "America First"...

...the demands of the "gilet jaunes"...

Or the return of a more interventionist industrial policy in the EU..

the received wisdom of the decades that followed the collapse of Communism – that competitive markets, sound money, and openness to international trade are the surest route to prosperity – is being challenged.

And so too are the institutions that support these objectives. Independent central banks and regulators are under attack. They face criticism for their lack of accountability...

...and they can no longer take their legitimacy for granted.

Competition authorities are in the frame here, too. And perhaps with good reason.

The evidence is getting stronger that markets are not working as they should, and certainly not as well as the public have a right to expect.

For instance, the Bank of England has concluded that listed firms' average mark-ups have risen from 20 per cent in 1987 to close to 60 per cent in 2017.

And over the last 20 years, the turnover share of the UK's 100 largest businesses has risen from 21 per cent to 28 per cent.

These trends are exacerbated by the rise of the digital economy.

This massively increases choice and competition.

But it excludes many people altogether.

And it has also rendered previously confident and capable consumers – that's you and me – much more vulnerable to getting bad deals and poor service.

And these are problems for most competition authorities around the world. In a moment, we'll be hearing from Bill Kovacic, one of the world's leading authorities on just this subject.

How should authorities like the CMA respond?

In my view, doing nothing is not an option.

Nor is merely restating the merits of the current framework of independence – strong as the case is.

The most meaningful way to restore confidence in markets is to make them work better in the interests of consumers.

Most of the public won't ever have heard of the CMA. But that is a weakness, not a strength.

If we don't do our bit to help restore confidence in markets, the independent competition and consumer protection framework may be threatened; and along with it, many of the welfare gains it produces.

One possible response is to compromise independence: to place authority for individual decisions on competition matters in the hands of those who are directly accountable to the electorate.

It's all too easily forgotten that independence – and all the benefits that come with it – is only 20 years old.

For nearly half a century after the war, in one way or another, senior ministers took most of the decisions...

...on whether, for example, to make an antitrust reference to the Monopolies and Mergers Commission...

...or to block a merger.

This is a decision for ministers at the top of Government.

It's beyond my paygrade.

But I make one observation.

If competition policy was returned to direct ministerial control, even if it started well, it might end up responding to the organised, concentrated calls of the few, rather than the dispersed and muffled voice of the many.

And it could hand even more power to corporate lobbyists and vested

interests.

A much better response is for us to get closer to consumers.

I joined an institution which – under Andrea’s leadership – was already responding in this way.

The CMA is a different institution from only a couple of years ago.

The evidence is everywhere.

The CMA is tougher on mergers.

It is more active to protect consumers in online markets.

It is more active to reform markets that matter to consumers, like care homes and funerals. It is more robust in making recommendations to government, where the CMA feels it’s not best placed to act.

And last year the CMA made some wide-ranging proposals for changes to our legal framework.

In a nutshell, we are asking for new statutory duties to be imposed on the CMA – to put consumers first, and to act swiftly when things go wrong.

And for those duties to be backed by the powers we need to do the job. Powers to act earlier and more robustly to promote competition.

And to fine companies that treat consumers unfairly.

These statutory changes will be essential if we are to meet public expectations.

Reforming ourselves

But in the meantime, we need to ask ourselves how we can do better still.

We can take reform of ourselves further, even without statutory change, essential though the latter will be.

And we can do that in at least three ways.

First, we can listen more closely to consumers to identify what matters most to them. And you’ll be hearing shortly from James Plunkett on how we’re going to work more closely with Citizens Advice.

They’re on the frontline of consumer detriment.

I’ve seen that from 20 years as an MP.

Second, we can review how we decide which cases to investigate and which tools to deploy.

And we can do more to explain the reasons for our choices and how they will

really benefit consumers.

Third, we can become more visible and vocal on advocating reforms and, if necessary, legislation: on the key microeconomic questions of the day; on the forces shaping markets and consumers' experience of them; on government policy; and on business conduct.

With these reforms, much of which has already begun,.

And with the statutory reforms we have already published, the CMA can and will become a much more effective competition and consumer authority than hitherto.

It will be better equipped – much better equipped – to secure the opportunities and address the challenges of being a standalone regulator outside the EU.

It will be able to cope much better with the pace of change of markets, and able to act much more quickly to protect consumers against new and emerging forms of detriment.

That's what we're determined to deliver.

I'll hand to Andrea to explain in more detail what we are doing and planning.