

CMA welcomes government proposals on new powers

- Changes would see the CMA given power to declare companies in breach of consumer law, without taking them to court first, and levy fines accordingly.
- Proposals would also enhance the CMA's competition powers, increasing their speed and effectiveness.
- Separately, planned powers for the CMA's Digital Markets Unit include creating enforceable codes of conduct for the biggest tech firms.

The Competition and Markets Authority (CMA) has today published responses to 2 Government consultations: [Reforming competition and consumer policy](#) and [A new pro-competition regime for digital markets](#).

The CMA's responses welcome the reforms proposed by the government and the CMA stands ready to offer the government assistance and support as they are taken forward.

Enforcing competition and consumer protection laws

The proposals from the Department for Business, Energy and Industrial Strategy (BEIS) include granting the CMA the power to determine whether consumer protection law has been broken and to take appropriate action, including fines. This brings its consumer protection law powers in line with existing competition powers.

The proposals will also allow the CMA itself to secure an end to a firm's unlawful trading practices and, where appropriate, to order refunds for people who have been left out of pocket by illegal practices. At present, the CMA can only achieve this by first bringing court proceedings or if suitable undertakings are voluntarily provided by the firm.

BEIS also plans to improve protection for consumers who buy goods and services online, for example by expressly banning the commissioning of fake reviews, and by strengthening the law on misleading subscriptions – such as those that trap people by masquerading as “free” or as a “special offer”. Tackling these issues will help consumers shop with confidence, which is particularly important given recent increases in online shopping.

Alongside the recommendations made by BEIS, the CMA is clear that large digital platforms should take greater responsibility for monitoring and removing content and banning sellers that breach consumer law on their sites. The CMA is also asking the government to amend existing consumer laws to make them clearer and more efficient to apply in relation to tech giants and other consumer markets.

While these proposals will allow the CMA to tackle consumer law breaches with

more impact, the CMA also suggests the resourcing of trading standards services should be considered to ensure the public bodies which share responsibility for protecting consumers operate effectively.

In relation to the CMA's role in applying competition laws, the CMA strongly welcomes the government's proposals – including enhanced investigative and enforcement powers – with a view to enhancing the effectiveness of CMA investigations. Many of these proposals are in line with the CMA's own calls for reform to improve the effectiveness of the competition regime, including higher penalties for non-compliance with the CMA's information requests.

Planned changes to the CMA's merger jurisdiction thresholds will help it to review potentially harmful mergers where powerful firms are looking to buy emerging competitors or leverage their strong position into other markets.

Digital markets

The CMA sees the government's proposal to provide the DMU – which is currently operating within the CMA in non-statutory "shadow" form – with the necessary powers to tackle problems in digital markets as a major, positive step towards better protecting consumers and supporting businesses. This is consistent with legislative changes under discussion, or recently introduced, in other major economies.

Some powerful digital firms are showing signs of entrenched market power, which is leading to a worse deal for consumers and businesses across the UK. This significant market power is likely to result in reduced competition, and less innovation and growth in the UK economy. The CMA, and other leading international competition authorities, consider existing competition tools insufficient to address these challenges.

The proposals outlined by the government will help tackle these issues by enabling the DMU to implement codes of conduct for digital firms which, if broken, can result in meaningful remedies and, if appropriate, big penalties.

The proposals would also give the DMU powers to intervene in the market to boost competition in the long run, as well as new powers to scrutinise – and, if necessary, block – mergers involving the most powerful digital firms.

Andrea Coscelli, Chief Executive of the CMA, said:

This is a significant milestone on the road to helping the CMA make markets work better for consumers and businesses. These changes will enable us to take swifter, stronger action against companies which break the law and to tackle tech giants whose market power is a threat, using DMU powers. The CMA will be able to respond more quickly and effectively to the many concerns raised with us about poor outcomes for consumers and small businesses in a number of UK markets.

Firms that refuse to refund their customers – as has been the case

with a number of holiday companies during the pandemic – could also face legal orders and hefty fines.

We look forward to working with the government to progress these recommendations.