Speech: Addressing the challenges that vulnerable consumers face

I'd like to thank Baringa Partners for the opportunity to speak at this event on vulnerable consumers.

The CMA's core mission is to make markets work well for the benefit of consumers. We do this through the promotion of competition. More vigorous competition helps all consumers, and particularly the most vulnerable, by giving businesses the incentive to supply goods and services at affordable prices and with better value for money. It means that a supplier risks losing customers (and therefore revenue) if it prices too high or supplies low-quality goods or services that are poor value for money. But where competition is weaker, the pressures and incentives to supply products which are affordable and value for money are correspondingly weaker. And that's why our statutory duty is to promote competition for the benefit of consumers, and why we focus so much of our efforts on protecting consumers from practices and transactions that weaken competition.

Competition leads to good consumer outcomes. And within this context, we recognise that some particularly vulnerable consumers, may need additional consideration.

Helping vulnerable consumers is an extremely important part of the CMA's mission. It's one of the key strategic priorities in our Annual Plan and it's one of the main areas of focus of the Government's recent consumer Green Paper and draft strategic steer to the CMA.

But what do we mean by consumer vulnerability? Well, in a broad sense, the term encompasses a circumstance or situation in which consumers are prevented from being able to make informed choices to engage effectively in a competitive market, and can struggle to get a good deal as a result. In this sense, many consumers who would not usually be considered vulnerable, may experience vulnerability in certain contexts or points in their lives when making important decisions. For example, when we need to make a purchase at a stressful time (such as choosing a funeral provider or a residential care home for an elderly relative at short notice), or if we feel under pressure to make a choice with limited time to consider other options. Or indeed if we're required to make a choice when we don't fully understand the options available to us: with the ever-growing complexity and interconnectedness of digital markets, this is likely to become an increasingly important issue for more and more of us in the future. All of these are examples of what we call 'market-specific vulnerability'.

But we are also interested in understanding to what extent groups of consumers with certain characteristics face enduring problems across markets. I'm referring to, for example, individuals with mental health problems or disabilities; those on low incomes, the elderly, or families with stretching parenting responsibilities. Consumers with such characteristics can find it more difficult to get a good deal, often because they don't have resources and/or time to negotiate a better outcome for themselves.

It's important that we understand the perspectives of these groups and the challenges they face when purchasing key services such as those represented here today – utilities, banking, insurance. Because understanding these challenges is the key to developing interventions that will be of greatest help to vulnerable consumers. And that's why I'm delighted to have the opportunity to speak to you all today, because as business leaders you will have a unique perspective on both the nature of the challenges that vulnerable consumers face and how to overcome them.

The CMA has, through its work, sought to improve outcomes for vulnerable consumers in a range of different markets. And I think there are some very good examples of action we have taken that has made (and will make) a real difference to the lives of many vulnerable consumers.

For example, our care homes market study has helped to ensure that people who are at a highly vulnerable stage in their lives are supported in making decisions about the care that's right for them. Our consumer enforcement cases into online gambling websites are helping to clamp down on practices that risk exploiting those with a gambling addiction, most recently resulting in two firms agreeing to make it easier and fairer for consumers to withdraw their money. And in our energy market investigation, we introduced a price cap that is currently saving consumers on prepayment meters – a group which includes some of the most vulnerable members of society – some £300 million a year. Several of the projects we have currently under way, notably our market study into funeral services, are also focussed on addressing consumer vulnerability.

But I acknowledge that there is more for us to do. That's why we have been undertaking a programme of work this year on vulnerable consumers, to learn more about how people's circumstances can affect their ability to engage in markets and get a fair deal, and what we and others can do to help.

As part of this work we have held, jointly with leading consumer groups and charities, four roundtables to explore different dimensions of consumer vulnerability. With Citizens Advice we considered vulnerability in digital markets, with the Joseph Rowntree Foundation we organised a session on the challenges facing people on low incomes, and with the Money and Mental Health Policy Institute [who are also here this evening], we discussed the issues faced by those suffering from mental health problems. And only yesterday, with Age UK we discussed the challenges of identifying and addressing vulnerability for older consumers. We will be holding a fifth roundtable later in the autumn with Scope, the disability charity, and we will also be visiting the devolved nations to understand and explore the issues in Scotland, Wales and Northern Ireland.

In summer we hosted a Symposium, focused on the challenges facing vulnerable consumers and the potential solutions to these challenges. In his opening speech, our new Chairman Andrew Tyrie talked about new and continuing forms of consumer detriment, and considered the role of the CMA in helping to address this.

We welcomed insights on these matters from a wide spectrum of contributors – from representatives of government departments and regulators, to consumer groups and think tanks, to business to academia. Not to mention the most recent Nobel prize winner for economics, Professor Richard Thaler. We discussed the challenges for vulnerable consumers in regulated and digital markets, and the wider implications of thinking about and addressing these challenges for competition policy and the political economy

Our work has also involved research. We have, for example, commissioned research into measuring the extent to which those on low incomes pay more for the same goods and services than those on higher incomes across different markets (often known as the 'poverty premium'). And we have recently commissioned qualitative research with consumers on low incomes and other characteristics associated with vulnerability, to capture insights and learn more about their experiences in key markets. This research will add an extra layer of insight into the experiences of vulnerable consumers to our work.

These various strands of work have been tremendously valuable to us, in improving our understanding of the problems. We have started to build up an informed picture of the challenges that vulnerable consumers face in different markets. So, what does this picture look like?

Well, it is decidedly complex and wide-ranging. First, it shows us that existing areas of challenge for consumers become particularly pronounced for those who can be considered vulnerable. Our energy market investigation found that those on low incomes, with low qualifications, living in rented accommodation or aged above 65, were more likely to be disengaged with the market across a range of indicators, and to get a poor deal as a result. For example, those on low incomes or living in rented accommodation were less likely to shop around and switch suppliers, and subsequently ended up paying more for their energy. This issue – of long-standing customers on default tariffs being charged more for goods and services than new customers – is sometimes called the 'loyalty penalty'. Consumers with particular characteristics can feel the impacts of such a 'penalty' much more severely than others – perhaps because they have less money overall to spend, or are in debt.

Such consumers may therefore require additional support. In doing so, it is important that we do not weaken incentives for consumers to shop around. As I mentioned earlier, a competitive economy is beneficial to all. If consumers stop shopping around and switching, the pressure on suppliers to provide competitive deals is reduced. The result – higher prices for all – can be particularly detrimental for the types of consumers I have identified as being vulnerable, such as those on low incomes.

Second, we see that whilst new developments create opportunities, they also create new challenges and exacerbate existing ones. For example, online and digital transactions represent a large and growing part of the economy. We welcome the benefits to consumers which digitisation can bring, including increased choice, convenience, lower prices and the increased spurs to efficiency of companies trading online. We must, however, ensure that less digitally literate consumers are not left behind. So, while some consumers have instant access to more, better deals online, others are excluded because they don't have a computer, or easy access to the internet. Again, drawing on our experience with energy, roughly half of those who have been on expensive default tariffs for three years or more either didn't have access to the internet or didn't feel confident using price comparison websites. Others may be at greater risk of getting a poor deal because they lack the skills, confidence or capacity to navigate these new digital arenas.

And third, our work has highlighted that there are new challenges that arise for vulnerable consumers because of their different, and sometimes unique, needs. Taking the example again of switching to get a better deal – in addition to the barriers all consumers face relating to inertia and behavioural biases, consumers with mental health problems can experience severe anxieties at even the thought of having to speak with someone to switch, or be unable to concentrate for the length of time required to complete the relevant forms. Such individuals may also be reluctant to disclose that they have a mental health condition because of fears that they will be stigmatised. This creates particular challenges for businesses – how do you identify such individuals? How do you avoid them 'dropping off the radar'? How do you provide support in a way that maximises the chance that those who need it most will use it, without weakening incentives for switching generally?

These and other considerations have potentially significant implications for how we might go about supporting vulnerable consumers to get better outcomes.

Let us now turn to the matter of solutions, or remedies. Because as important as it is to understand the experiences of vulnerable consumers, it is equally important to use this understanding to identify what problems need addressing, and how to address them.

I would like briefly to set out what I see as the three main themes and considerations, before opening up to a wider discussion.

First, we need to focus on what works. This may sound obvious, but in practice it is incredibly challenging to know what this is. We need to ask ourselves – What does effective intervention in markets look like? How is remedies design different when thinking about vulnerable consumers? And to what extent do we and other bodies charged with protecting consumers such as sector regulators, need to go beyond behavioural nudges and information remedies, to more interventionist remedies?

A lot of good work has been done over the years by sector regulators to seek to improve outcomes for consumers, including the particularly vulnerable. The CMA regularly engages with sector regulators, for example through the UK Competition Network, to share experiences and lessons learned. This has allowed approaches to remedies to develop over time, and we see ongoing dialogue with regulators as key to producing increasingly effective remedies. We have made some good progress recently through testing and trialling of remedies. Ofgem has conducted trials of a number of remedies we recommended in our energy market investigation – some of the prompts to consumers that we designed in energy increased switching rates four-fold for some of the most disengaged consumers. Ofgem's recent collective switch trial has generated very promising initial results, increasing the switching rate by a factor of eight amongst some of the most disengaged.

These initial positive results take us a step closer to knowing what works. But there is still more to learn.

In understanding better what works, it is essential that we – regulators, business, Government and others – do not work in isolation. We need to share our experiences and the lessons learned. This evening I invite you all to talk about the challenges your businesses have faced in trying to develop effective solutions to support vulnerable consumers, and in particular how to test them to make sure they're effective, so that we might all benefit and come closer to realising this goal.

Second, increased data-sharing offers significant opportunities to help vulnerable consumers to engage in markets. Advances in digital technology and data science mean that businesses are increasingly able to capture and use data about their customers and the wider world to develop different business models and approaches to pricing. The CMA welcomes many of the changes which technology and increased digitisation of commerce brings to address market-wide problems. In energy, we introduced measures to enhance the role of third party intermediaries (including price comparison websites and intermediaries that help with switching such as Flipper). In the retail banking sector, as a result of our market investigation, the CMA has introduced Open Banking. This is a series of reforms which require UK banks to share their customer's current account data, subject to that customer's permission. This enables consumers to share their data with third parties (such as via apps) to help them find better deals. Open Banking also has the potential to help vulnerable consumers, including offering opportunities for users to grant permission to family members for support in managing their finances. The potential benefits of these approaches can be significant. So we need to ask ourselves – how can we better use data portability – to develop innovative solutions that improve outcomes for vulnerable consumers, in a secure and effective way?

Because there are also new risks and challenges that arise from data-sharing – such as digital exclusion and the potential for new types of abuse through greater access to consumer data.

The third and final theme is the extent and nature of intervention by regulators and other bodies charged with protecting consumers, to incentivise firm behaviour. There may be a potential role here for further principles-based regulation, which has the advantage of avoiding the need for complicated, prescriptive rules and can therefore generate changes relatively quickly and flexibly. For example, through its 'Treating Customers Fairly' principle, the FCA seeks to ensure that all regulated firms conduct their business in a way that will help customers get fair treatment. The FCA has highlighted key outcomes it would expect to see from businesses putting the principle into practice, rather than prescribing how it should be assessed and implemented. This allows businesses to uphold regulatory requirements in a way that works for them whilst also setting a standard against which the regulator may enforce.

A related consideration is the effect of reputation as a driver for firm behaviour, something that I'm sure you will know about. What is the role for regulators to play in enhancing reputational incentives? What does it look like? How far does it go? We know from the consumer Green Paper that there is Government support for regulators to play a role in incentivising firms to support consumers, and particularly the vulnerable, by drawing on reputational risk. The idea of published 'performance scorecards' is just one of the ways identified to try to encourage businesses to 'play the long game'. There are also considerations and potential trade-offs here for businesses who need to make sure that supporting vulnerable consumers is commercially viable. I am keen to hear your views on the potential for regulators to use these and other ways to shape business behaviour to get better outcomes for vulnerable consumers. What are the key challenges here? What are the risks? What are the alternatives?

In setting out the main themes, I have raised a number of questions for thinking about potential remedies for supporting vulnerable consumers. As I said at the start, we know there is more to be done to find out the answers.

In these uncertain times, with rapid political, social, economic and technological developments and a greater focus on those in society who are struggling, this evening's event provides a timely opportunity to reflect on and discuss consumer vulnerability. You've heard from me about the CMA's work in this area, what we've learnt and where our gaps in knowledge lie. I want to hear about your experiences of supporting vulnerable consumers – the challenges but also the success stories, the innovative ideas that you're taking forward, where you think there will be new opportunities to take advantage, and how we might do so.

One thing that is clear, that is crucial, is for regulators, businesses and others to work together to address effectively the challenges that vulnerable consumers face. This needs to happen one way or another. If businesses do not address it, a combination of legislation and regulatory interventions will follow. And that is why I am delighted to be here this evening, to consider the different dimensions of vulnerability and explore what businesses and regulators can do to help vulnerable consumers.