

# Speech: David Currie on the CMA's achievements over its first 3 years

It is a great pleasure to welcome you all here today to mark the CMA's first 3 years as the UK's primary competition and consumer agency. I was appointed Chairman designate in July 2012, so it's closer to 5 very stimulating years for me.

I have been witness to some complex and challenging public sector mergers over the years, not all of which were entirely successful – certainly not as successful as the merger which led to the Competition and Markets Authority (CMA).

Making that tricky transition, from the Office of Fair Trading (OFT) and the Competition Commission (CC) – both fine and well-regarded organisations in their own right – was carried out smoothly and with minimal disruption to our work.

We took the best of our predecessor organisations and complemented the talent and dedication of those colleagues with new first-rate professionals who have brought fresh skills and perspectives to our work.

And overcoming the institutional challenges which many new organisations face, we've built a strong agency, which is fit for the challenges of the future and, we hope, a great place to work.

## **More than the sum of our parts**

The merger of the OFT and CC presented us with opportunities to approach previously separate work – but with the same overall purpose, to make markets work well – in a more joined-up and efficient way, whilst maintaining our independence, rigour, fairness and transparency.

As a single agency we have become more than the sum of our parts.

Let me give you a few examples.

In merger control, we've continuously refined how we carry out our work, becoming more effective and more efficient. We've developed a smooth end-to-end approach, with more streamlined processes and a degree of staff transition between the phases that prevents duplication and waste.

Our increasingly targeted approach has meant that in the past year we investigated 57 mergers of the 600 or so brought to our attention, versus an annual average of 84 in the preceding five years.

And we've reduced the average duration of phase 1 investigations to 34 working days, compared to around 40 in the final years of the OFT.

All this while continuing to ensure mergers that might lead to worse consumer

outcomes through higher prices, lower quality or reduced innovation, are mitigated, prevented or remedied.

A second example is how we design, test, implement and monitor remedies arising from our merger and market investigations.

As a single organisation, we have ensured better continuity in the handling of remedies throughout their lifetime.

We can learn from each stage to inform the next, applying lessons from monitoring existing remedies to how we design new ones. This helps to ensure that new remedies reflect a clearer understanding of how consumers actually behave and which will better address the problems we are trying to solve or prevent.

And we are taking advantage of the opportunities to look again at existing remedies, making sure they remain appropriate today, so that we don't impose unnecessary burdens on businesses.

We are better joined up between the different parts of our toolkit, for example carrying out a consumer law review as part of a market study into care homes, and launching a competition enforcement investigation based on information we gleaned from a merger investigation.

We are also working more effectively with the sector regulators across our toolkit, building on the enhanced concurrency arrangements that were put into place when the CMA was created.

We know there's more to do based on our experiences to date, which is, for example, why we have recently consulted on changes to how we conduct market investigations.

We're continuing to refine how we work, and to invest in our technology and our people, to make further progress towards our ambition to be a world-leading competition and consumer agency.

## **What difference have we made?**

So, at the end of 3 years – our first 1,000 (or so) days – what difference have we made?

One of the reasons why this is a good time to look back is that, for the first time, the evaluation of our impact on consumers is based solely on CMA work.

We have a target, set for us by government, to deliver £10 of direct consumer benefit for every £1 we spend. This is a challenging target, indeed the toughest target of its type in the world, and illustrates the high expectations for what the CMA will achieve.

It is a useful target to have, as it touches directly on value for money for the taxpayers who fund us and provides a compelling reason for not cutting, and arguably increasing, our budget.

It is measured over a 3-year period, and so previous calculations included the work of our predecessor organisations. Now, it's all down to the CMA.

Our preliminary calculations suggest that over our first 3 years we have carried out work which we expect will deliver over £3 billion of direct financial benefit to consumers.

We are therefore well on track to exceed our 10 to 1 target. We await the external academic validation of our calculations, but at this stage we can afford to be quietly confident.

£3 billion is an impressive figure. And it shows that we're a good investment for the taxpayer and that we've made a real difference for millions of households and businesses across the UK.

The calculation actually underestimates the full impact of our work. It does not take account of indirect effects, for example, of how our enforcement cases, and the way we reinforce these to businesses in relevant sectors through our compliance activities, deter others from engaging in anti-competitive and unfair trading practices which harm consumers.

The benefit of that deterrence to consumers is very real, it's just frustratingly difficult to quantify accurately.

It also does not take into account the role our merger control activities play in ensuring anti-competitive mergers do not take place, as advisers inform boards of the likely regulatory risks.

## **Making markets work better**

We've had a particularly big impact over the past year in markets for goods and services which people rely on every day, and the anticipated effects of our wide-ranging and transformative remedies in our energy and retail banking market investigations account for quite a chunk of this latest calculation.

These market investigations into 2 of the biggest sectors of the UK economy were very ambitious projects for a fledgling agency to carry out. Along with our legal services market study, they cover a combined turnover of over £80 billion.

But they are markets at the heart of people's lives – and thus exactly where we need to be working.

We've laid the foundation for making these vital markets work much better for households and businesses across the whole of the UK over the long term, as well as stepping in with short-term protections where necessary – including for some of the most hard-pressed in our society.

And let us not forget regulatory appeals, which is an important part of our role, but one which is often overlooked by mainstream commentators.

The decisions being challenged in such appeals often concern significant sums of money for the regulated companies, influence billions of pounds of

investment each year, are key to the UK's outstanding record in attracting foreign direct investment and affect millions of people across the UK.

## **Stepping up enforcement**

We also made a clear commitment to step up our enforcement of competition and consumer law, which is central to our purpose as an agency. And in the past year we have sharply done so.

We launched 10 new civil competition enforcement investigations in 2016/17, compared to 8 in 2015/16 and an average of 6.8 in the preceding 5 years.

We reached findings that competition law had been broken in 9 investigations in 2016/17, and we issued the single biggest fine in the history of the UK competition regime, and we imposed the first ever company director disqualification for breaking competition law.

In 2015 we imposed total fines of £1.1 million from 2 infringement decisions; in 2016 we imposed £142 million from 8 infringement decisions.

Without a doubt, substantial fines on companies help to cement our reputation as a determined and effective enforcer, and help to deter others from breaking the law.

But sanctions on individuals arguably provide a greater deterrent than penalties on organisations, which is why the company director disqualification and the criminal convictions through guilty pleas in 2 separate cases really matter.

So we will continue to seek further director disqualifications and pursue criminal investigations where appropriate.

And through our consumer enforcement work we're helping, for example, to ensure that people can trust online reviews of products and services, aren't misled on price discounts when buying groceries, and get a fair deal from their cloud storage provider.

Our consumer and competition enforcement work are complementary. Whilst the legislation differs, from a consumer's perspective, it doesn't matter what tool or law we use. What matters is that we protect ordinary people from unfair dealing.

With greater enforcement comes a higher risk of litigation, and we currently have 3 of our decisions facing challenge in the Competition Appeal Tribunal.

We are comfortable with this oversight: the UK has one of the toughest judicial regimes in the world, which ensures that our legal analysis and our procedural approach must meet the highest standards.

We have a good track record of success in defending our decisions and I'm optimistic that we can maintain that.

## **A strong voice for competition**

Over our first 3 years, we've been a strong voice for competition and consumers, across the UK and internationally, challenging policymakers on matters ranging from taxis to higher education to the EU digital single market.

And we've built strong relationships across government, within the legal community and across the consumer, regulatory and devolved landscapes. Solid relationships which are helping us to fulfil our mission to make markets work well for consumers, businesses and the UK economy. We have many of you in this room to thank for that joint working.

## **What does it all matter?**

Let me take us back to what this means for consumers – for all of us.

Using just a few examples, since April 2014 we've made a difference in important parts of millions of people's lives: how they heat their homes and cook their meals, how they insure their car at home and hire one abroad, how they bank, how they get good legal representation, how they do their weekly shop, and how they find good deals on restaurants, hotels and days out.

## **Looking ahead**

I'd like to end by talking a little about the future.

Big challenges no doubt lie ahead, for the CMA and for all of us here.

First, Brexit, although I am constrained in what I can say here today due to restrictions in the run-up to the general election. However, after the election we will continue to provide expert advice to the government on the implications for the regimes we operate.

Add to this ongoing debates about how markets can best work for all consumers, and endlessly evolving markets and business practices, for example in digital commerce, and these are exciting times.

Times which make it all the more important that the CMA continues to be a confident, well-resourced, independent and unified competition and consumer agency, with a set of powers that allows us to be fully effective.

This is important for ensuring better outcomes for millions of consumers, and driving greater economic growth.

Throughout the period ahead we will continue to promote the benefits of competition for people right across the UK. Whilst interventions that unlock greater competition may be less immediate in their effects, they can be phenomenally powerful over the longer term, putting choice at the hands of the consumer and unleashing the innovation of businesses to transform markets for the better.

Equally, we won't shy away from stepping in to protect people, when short-

term measures are needed.

And I firmly believe that the CMA is best placed to determine the right solution to the problems in markets at the heart of people's lives, and best placed to foster a competition culture across the UK, where businesses, citizens and government all recognise the value of competition for protecting consumers.