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**ANNUAL REPORT ON COMPETITION POLICY DEVELOPMENTS IN THE UNITED KINGDOM**

**-- 2015 --**

**29-30 November 2016**

*This report is submitted by the United Kingdom to the Competition Committee FOR INFORMATION at its forthcoming meeting to be held on 29-30 November 2016.*

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## **1. Executive Summary**

1. Building upon the foundation laid in its first year, the CMA in its second year has continued to play an important role in making a difference for consumers, businesses and the UK economy.

### ***1.1 Effective enforcement***

2. A primary policy intention behind the reforms which led to the creation of the CMA was to combat anti-competitive agreements and practices with robustness and vigour while pursuing cases with fairness and rigour. The CMA continues its commitment to the firm enforcement of the law against businesses which do not comply with their responsibilities.

3. In its review of the competition regime, the National Audit Office found that the CMA has made significant progress in improving how the competition regime works. It highlighted the need to increase civil competition enforcement cases and the understanding of competition law among businesses, an ambition which the CMA fully shares. The initiatives which the CMA proposed during the NAO's review are now part of the CMA's long-term programme for ongoing development.

4. The CMA launched eight new CA98 enforcement cases. It concluded three criminal enforcement cases and six CA98 enforcement cases. The CMA ended 2015-2016 with 13 live CA98 cases and one live criminal enforcement case.

5. The CMA imposed fines for breaches of the CA98 in two cases: the estates and lettings agents case and the ophthalmologists case. The CMA also imposed fines of almost £45m in a long-running case in the pharmaceutical sector ('pay for delay') and issued a Statement of Objections in another. For the first time, the CMA made use of its power to fine an organisation for not responding on time to a statutory request for information. In a parallel civil case under CA98, the firms involved admitted to their participation in an illegal cartel and agreed to pay fines of £2.6 million, pending a final decision. An individual also pleaded guilty in another case when an illegal criminal cartel was found in the supply of precast concrete drainage products between 2006 and 2013.

6. The CMA does not believe that enforcement is the only tool for the deterrence of wrongdoing. Tough enforcement should be supported with activities that support those businesses that want to abide by the law. In order to help small businesses comply with the law, identify where they could become victims of illegal practices and to report these to the CMA, a wide range of accessible and tailored materials has been produced by the CMA. The CMA wants to embed a competition culture in all businesses and is making progress towards that end.

### ***1.2 Making markets work well***

7. The CMA made progress in its market investigations into the energy and retail banking sector, coming up with a comprehensive package of remedies developed in those investigations. The CMA seeks the implementation of remedies to address the problems it found was facing households and business across the UK. It also launched a market study into the £30 billion legal services market in England and Wales.

8. The CMA provided remedies to tackle competition problems in the energy market which create consumer detriment of £1.4 billion per year. The CMA has subsequently sought swift and effective implementation of these remedies to deliver real impact for consumers and customers of small businesses.

9. Two calls for information were also concluded by the CMA focusing on emerging, digital markets, which furthered its understanding of these evolving markets.

10. A project that examined competition in passenger rail services was also concluded by the CMA, finding that increased on-rail competition could result in a range of benefits for passengers and taxpayers.

11. In addition, the CMA has conducted three regulatory appeal cases in 2015 and had two telecoms appeals referred to it in January 2015. One regulatory appeal involved electricity distribution costs, which account for nearly 20% of the average annual electricity bill.

### ***1.3 The mergers regime***

12. Improvements in merger control have demonstrated one of the benefits of a single authority. The process has been streamlined to make it quicker with new ways found to make both phases work well. The CMA's interventions were increasingly targeted in 2015/2016, with 62 Phase 1 reviews compared to an average of 84 in the preceding five years. To minimise the burden on business, the CMA has made judicious use of its powers to accept undertakings in lieu of a Phase 2 reference. The CMA used this power in nine cases. If the CMA's concerns are not met, it refers the case to an in-depth investigation, which it did in 11 cases. This way of working has minimised the burdens on business while protecting consumers.

### ***1.4 Competition, productivity and deregulation***

13. The CMA seeks to minimise unnecessary regulation. It operates a voluntary notification merger regime and, where appropriate, apply the 'de minimis' threshold or accept undertakings in lieu. Having inherited historic merger and market remedies from our predecessors, we completed reviews of 69 of these to ensure that businesses are not constrained by unnecessary regulation. In 51 of the cases we removed the remedies or found that they had lapsed. The CMA has continued to promote competition as an alternative to regulation with sector regulators.

14. The CMA has continued to influence domestic and international policy. It has made contributions to the regulation of London and Liverpool taxi markets and to the developments on the Buses Bill and Higher Education Green Paper. For the first time, the CMA used its power to make formal recommendations on legislation, on the draft Energy Bill. The CMA has publicly commented on EU digital single market proposals.

15. The CMA showed how competition boosts productivity in a report in July 2015, driving efficiency and innovation. In its Productivity Plan and its competition plan, 'A Better Deal', the Government recognised the role competition and minimal regulation can play in addressing the productivity gap.

### ***1.5 Strengthening the CMA***

16. The CMA is developing its agility to balance the resources needed for the work it initiates with the peaks and troughs of non-discretionary work. As a single competition organisation, the CMA has the ability to flexibly allocate its skilled staff to where they are most needed. The CMA is increasingly efficient without sacrificing its high professional standards of fairness and legal and economic rigour.

### ***1.6 Strengthening our partnerships***

17. The CMA has continued to strengthen its domestic and overseas partnerships across the competition landscape while working with our partners on specific matters. The CMA works closely and constructively with its partners in the International Competition Network and the European Competition Network. In the European Commission's review of the merger of Hutchinson and Telefonica, the CMA intervened to argue for a prohibition of the merger to protect consumers.

18. The CMA was honoured to undertake the presidency of the International Consumer Protection and Enforcement Network in June 2015 and it took the opportunity to equip partners to carry out robust and collaborative enforcement within the Network.

19. In the UK, the CMA has worked with its partners in the UK Competition Network. It has also built upon relationships formed in the devolved nations in its aim to be recognised and understood across all nations of the UK, including work on the Scottish government's plans for a strategic assessment of markets in Scotland. The CMA maintains strong relationships with sector regulators and has supported individual regulators make progress with their increasing casework.

## **1.7 Challenges ahead**

20. The CMA moved into its third year aiming to successfully conclude the cases it has started, to launch more cases in markets across the UK, particularly on competition enforcement front. The CMA seeks a successful outcome to its market investigations in the banking and energy sectors and to implement effective remedies where necessary. It also plans to carry out its work more swiftly where possible without detriment to robustness, procedural standards or fairness.

21. The CMA will be challenged by a rapidly evolving economy and intense change to online and offline trading that brings opportunities and risks for consumers. The CMA's role may evolve with a government consultation on refinements to the UK competition regime and following the decision of the majority of the public to vote for the UK to leave the European Union. The CMA looks forward to engaging in these discussions. It will continue to work hard to find efficiencies in its processes and to attract suitably qualified staff within the context of its budget and a competitive labour market.

## **2. Changes to competition laws and policies, proposed or adopted**

### **2.1 Summary of new legal provisions of competition law and related legislation**

22. On 26 May 2015, the CMA acquired additional powers under section 37 of the Small Business, Enterprise and Employment Act 2015, which revised existing powers of the CMA under section 7 of the Enterprise Act 2002. The additional powers enable the CMA to make and publish written recommendations to ministers on the impact on proposals for Westminster legislation on competition within any UK market(s) for good and services.

23. The Consumer Rights Act 2015 amends section 49C of the Competition Act 1998 to permit a person to submit a voluntary redress scheme to the CMA for approval.

24. The rules of the Competition Appeal Tribunal (CAT) have changed to enable the CMA to be notified of new CAT private actions and to intervene in such actions.

### **2.2 Other relevant measures, including new guidelines**

25. Between April 2015 and March 2016, the CMA published the following guidance in relation to its functions, including:

- Remedies: Guidance on the CMA's approach to the variation and termination of merger, monopoly and market undertakings and orders<sup>1</sup>

<sup>1</sup> <https://www.gov.uk/government/publications/remedies-guidance-on-the-cmas-approach-to-the-variation-and-termination-of-merger-monopoly-and-market-undertakings-and-orders>

- Approval of redress schemes for competition law infringements<sup>2</sup>
- Supporting NHS providers considering transactions and mergers<sup>3</sup>
- Market studies and investigations - guidance on the CMA's approach<sup>4</sup>
- Water and sewerage mergers<sup>5</sup>
- Rules of procedure for merger, market and special reference groups<sup>6</sup>

26. The CMA continued its publication of guidance for business with the aim of raising compliance with competition law:

- Care home medicines case: cartel enforcement lessons<sup>7</sup>
- Competition law: information for chartered accountants<sup>8</sup>
- Medical practitioners: advice on competition law<sup>9</sup>

27. The CMA also published the following guidance:

- Short guide on what are super-complaints<sup>10</sup>
- Video guides on illegal anti-competitive activities<sup>11</sup>
- Competition law checklist: identify where your business is at risk<sup>12</sup>
- Competing fairly in business: at-a-glance guide to competition law<sup>13</sup>

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<sup>2</sup> <https://www.gov.uk/government/publications/approval-of-redress-schemes-for-competition-law-infringements>

<sup>3</sup> <https://www.gov.uk/government/publications/supporting-nhs-providers-considering-transactions-and-mergers>

<sup>4</sup> <https://www.gov.uk/government/publications/market-studies-and-market-investigations-supplemental-guidance-on-the-cmas-approach>

<sup>5</sup> <https://www.gov.uk/government/publications/water-and-sewerage-mergers-cma49>

<sup>6</sup> <https://www.gov.uk/government/publications/cma-rules-of-procedure-for-merger-market-and-special-reference-groups>

<sup>7</sup> <https://www.gov.uk/government/publications/care-home-medicines-case-cartel-enforcement-lessons>

<sup>8</sup> <https://www.gov.uk/government/publications/competition-law-information-for-chartered-accountants>

<sup>9</sup> <https://www.gov.uk/government/publications/medical-practitioners-advice-on-competition-law>

<sup>10</sup> <https://www.gov.uk/government/publications/what-are-super-complaints>

<sup>11</sup> <https://www.gov.uk/government/publications/video-guides-on-illegal-anti-competitive-activities>

<sup>12</sup> <https://www.gov.uk/government/publications/competition-law-checklist-identify-where-your-business-is-at-risk>

<sup>13</sup> <https://www.gov.uk/government/publications/competing-fairly-in-business-at-a-glance-guide-to-competition-law>

### **2.3 *Government proposals for new legislation***

28. The Investigatory Powers Bill, which is currently in the House of Lords, will preserve the CMA's covert investigation powers, including its ability to access communications data.

## **3. *Enforcement of competition laws and policies***

### **3.1 *Civil action against anticompetitive practices, including agreements and abuses of dominant positions***

29. In 2015-2016, the CMA concluded six competition enforcement cases and ended the year with 13 live cases.

#### **3.1.1 *Summary of activities of competition authorities***

##### **3.1.1.1 Estate and lettings agent**

30. In May 2015, the CMA published its decision finding that an association of estate and lettings agents in Hampshire, three of its members and a newspaper publisher infringed competition law. The CMA imposed penalties on the parties totalling over £735,000. A number of the parties decided to introduce company-wide competition law compliance programmes, which included commitment by senior management to, and accountability for, future competition law compliance. They took certain steps to identify and assess potential competition law risks. This mitigating factor merited a 5% discount on the fine. The CMA found that the parties had entered into agreements and had established rules that prevented members of the trade association from advertising their fees or discounts in the local newspaper.

##### **3.1.1.2 Ophthalmologists**

31. In July 2014, the CMA opened an investigation into the conduct of the Consultant Eye Surgeons Partnership in the privately funded ophthalmology sector.

32. In August 2015, the CMA issued a decision that found that CESP had infringed competition law and imposed upon it a fine of £500,000. This was reduced to £382,500 following settlement and the adoption by CESP of a comprehensive compliance programme.

33. CESP admitted that it had recommended that its members refuse to accept lower fees offered by an insurer and that they charge insured patients higher self-pay fees. It also admitted to circulating among members detailed price lists for procedures to be used with insurers, which did not pass on lower costs made it harder for insurers and patients to obtain lower prices. CESP also facilitated the sharing of consultants' future pricing and business intentions, which enabled the alignment of responses.

##### **3.1.1.3 Pay for delay**

34. In February 2016, the CMA issued an infringement decision to a number of pharmaceutical companies which it considered were directly involved in an infringement of competition law or were liable as parent companies or successors. The CMA found that GlaxoSmithKline plc, a supplier of branded paroxetine, agreed to make payments and other value transfers totalling more than £50 million to suppliers of generic paroxetine. The CMA has found that these payments and other value transfers were aimed at delaying the potential entry of generic competitors into the UK market for paroxetine. These 'pay for delay' agreements deferred potential competition and the possibility of the National Health Service benefiting from the significant price reduction that could have resulted from the generic competition. The CMA imposed fines of almost £45 million on the parties involved.

#### 3.1.1.4 Interchange fees

35. In May 2015, the CMA closed its investigations of MasterCard's and Visa's multilateral interchange fees after it was confirmed that an EU regulation that will cap these fees will soon come into force. In November 2014, the CMA announced that as a result of the impending Interchange Fee Regulation (IFR) it was not planning, at that time, to progress the investigations. The IFR was approved by the Council of the European Union in April 2015 and caps on interchange fees took effect later that year.

#### 3.1.1.5 Hotel online booking

36. In the light of a judgment of the Competition Appeals Tribunal and following a fresh look at the case, the CMA decided in September 2015 to close the investigation into discounting restrictions in the hotel online booking sector on administrative priority grounds. The CMA maintains a careful watch over the market in the UK and Europe and has committed to liaising with other competition authorities and the European Commission on the matter.

#### 3.1.1.6 Pharma sector

37. The CMA closed its investigation into conduct in the pharmaceutical sector on the grounds of administrative priorities in June 2015. The CMA determined that further investigation no longer fitted within the CMA's casework priorities, and the CMA considered that continuation of the investigation in order to determine whether an infringement had been committed was not warranted. The evidence that the CMA had gathered to date suggested that further investigation of the conduct on which the CMA had focused would, in the particular circumstances of the case, have had limited, if any, impact on consumer welfare.

### 3.1.2 *Description of significant cases, including those with international implications*

38. See above.

### **3.2 *Criminal action against anticompetitive practices***

39. The CMA concluded three criminal enforcement cases during the year.

#### 3.2.1 *Galvanised steel tanks*

40. The CMA carried on an investigation and prosecution begun by the OFT into cartel conduct in respect of the supply in the UK of galvanised steel tanks for water storage. Three individuals were charged with an offence under section 188 of the Enterprise Act 2002, the criminal cartel offence, with one defendant pleading guilty and two others being acquitted following trial by jury. In September 2015, the guilty individual was given a suspended six-month prison sentence and 120 hours community service over his involvement in the cartel.

#### 3.2.2 *Pyramid selling confiscation orders*

41. Following the conviction of six individuals for operating and promoting a pyramid scheme in 2014, the CMA secured a total of £535,454 in confiscation orders.

### 3.3 *Mergers and acquisitions*

#### 3.3.1 *Statistics on number, size and type of mergers notified and/or controlled under competition laws*

42. The CMA reviewed 62 mergers from industries and businesses across the UK, 20 of which created a realistic prospect of a substantial lessening of competition (SLC). The CMA exercised its power to accept Undertakings in Lieu of a reference to a Phase 2 investigation in nine of these cases, referred 11 to in-depth Phase 2 investigations.

#### 3.3.2 *Qualifying mergers which created a realistic prospect of a substantial lessening of competition*

##### 3.3.2.1 99p Stores / Poundland

43. The CMA concluded in September 2015 that a merger between 99p Stores and Poundland would not be expected to result in a substantial lessening of competition. The CMA found that, along with Poundworld, the companies are each other's closest competitors, but after the merger they would still face competition from other value retailers

##### 3.3.2.2 Pennon Group / Sembcorp Bournemouth Water Investments

44. In November 2015, the CMA cleared the merger of two water companies, having concluded that the merger was not likely to prejudice Ofwat's ability to compare water companies' performance and set price controls.

##### 3.3.2.3 BT Group / EE

45. The CMA cleared the £12.5 billion acquisition of EE by BT, bringing together the UK's largest fixed telecoms business and the UK's largest mobile telecoms business. After considering in detail responses to the provisional findings, as well as the extensive evidence gathered during the inquiry, the CMA inquiry group decided that the merger was not expected to result in a substantial lessening of competition in any market or markets in the UK, including in relation to the supply of retail mobile, wholesale mobile, mobile backhaul, wholesale broadband and retail broadband services.

##### 3.3.2.4 GTCR UK / Gorkana

46. In June 2015, the CMA accepted undertakings in lieu of reference under the Enterprise Act 2002 for the completed acquisition by GTCR Canyon UK Investments Limited of Discovery Group Holdings Limited (Gorkana). GTCR offered to sell two subsidiary businesses to AIMediadata Limited (a subsidiary of Access Intelligence plc) to remedy the competition concerns identified by the CMA during its phase 1 investigation.

##### 3.3.2.5 Inter City Railways / InterCity East Coast franchise

47. In June 2015, the CMA accepted undertakings in lieu of reference under the Enterprise Act 2002 for the acquisition by Inter City Railways Limited of the InterCity East Coast rail franchise. The undertaking commits Stagecoach, the owner of Inter City Railways Limited, to a price cap on certain fares and provide for the ongoing monitoring of such rail fares by the CMA. Undertakings also require that decisions that could impact upon the competitiveness of coach services against InterCity East Coast journeys, such as those relating to fares, timetables, frequency and service quality, be taken by Stagecoach's joint venture partner. Fare decisions as to seats sold through Stagecoach's website will be subject to scrutiny by the joint venture partner.

##### 3.3.2.6 Greene King / Spirit Pub Company

48. In June 2015, The CMA accepted undertakings offered by Greene King to remedy competition concerns identified as a result of its acquisition of Spirit. Greene King offered to sell 16 pubs in order to address the competition concerns identified.

3.3.2.7 Joseph Ash / W Corbett & Co (Galvanising)

49. The CMA formally cancelled its inquiry concerning the merger of two steel finishing companies in July 2015 when the proposed merger was abandoned.

3.3.2.8 Linergy / Ulster Farm By-Products

50. In January 2016, the CMA cleared Linergy's completed acquisition of Ulster Farm By-Products. The companies' process animal by-products and fallen stock through rendering plants located in Northern Ireland. The companies own different categories of rendering plant, operating in different markets, and so the inquiry group of the CMA members looking at the merger concluded in its final report that it did not result, and may not be expected to result, in a substantial lessening of competition.

3.3.2.9 Müller UK & Ireland Group / Dairy Crest Group

51. The CMA accepted a remedy in October 2015 to resolve competition concerns arising from Müller's proposed purchase of Dairy Crest's dairy operations. Under the undertakings offered by Müller, it agreed to arrangements which will provide for the expansion of an existing supplier to serve national grocery retailers with fresh liquid milk in Wales and the South West of England.

3.3.2.10 The Original Bowling Company / Bowlplex

52. The CMA accepted a remedy in December 2015 in relation to The Original Bowling Company's acquisition of Bowlplex. TOBC offered to sell 6 ten-pin bowling centres to Essenden Limited, owner of Tenpin Limited, to remedy the competition concerns identified by the CMA during its phase 1 investigation.

3.3.2.11 Pearson VUE / Learndirect's computer-based testing

53. The CMA received assurances that the anticipated acquisition of Learndirect Limited's computer-based testing business by Pearson VUE has been abandoned and formally cancelled its inquiry in January 2016. The CMA had found that the acquisition might lead to price rises and lower service quality for customers, including examination boards and the Driver and Vehicle Standards Agency.

3.3.2.12 BCA Marketplace / SMA Vehicle Remarketing

54. In December 2015, the CMA accepted undertakings offered by BCA, a used vehicle marketplace, to remedy competition concerns identified as a result of its acquisition of SMA. BCA offered to sell an auction site in Newcastle to a suitable buyer to remedy the competition concerns identified by the CMA.

3.3.2.13 Celesio / Sainsbury's Pharmacy Business

55. The CMA opened an inquiry in September 2015 into the anticipated purchase of Sainsbury's pharmacy business by Celesio.

3.3.2.14 Fenland / Fishers Services' Cleanroom Laundry business

56. The CMA opened an inquiry in October 2015 into the anticipated acquisition by Fenland Laundries Limited of the cleanroom laundry business of Fishers Services Limited. The CMA looked in particular at the effect the merger might have on the supply of services to the higher cleanroom laundry

standard. The CMA found competition concerns and referred the proposed acquisition for an in-depth investigation. The parties subsequently abandoned the proposed acquisition.

#### 3.3.2.15 Ladbrokes / Coral

57. In December 2015, the CMA opened an inquiry into the anticipated merger between Ladbrokes plc and certain businesses of Gala Coral Group Limited. Ladbrokes and Coral are, respectively, the second and third largest bookmakers in the UK by number of shops. They also provide betting and gaming products online, ‘on-course’ at certain racecourses, and by telephone - as well as each operating 2 greyhound tracks. The proposed merger was fast-tracked for an in-depth investigation in January 2016.

#### 3.3.2.16 Reed Elsevier / Jordan Publishing

58. The CMA opened an investigation in July 2015 into the anticipated acquisition of the assets comprising the Jordan Publishing business by Reed Elsevier (UK) Limited (trading as LexisNexis). LexisNexis undertook to sell a number of titles and to also license certain family law precedents to another company. The CMA accepted these undertakings and did not refer the proposed merger to an in-depth investigation as a result.

#### 3.3.2.17 Iron Mountain / Recall

59. In October 2015, the CMA opened an investigation into the anticipated acquisition by Iron Mountain Incorporated of Recall Holdings Limited, providers of records management services. The CMA subsequently concluded that the merger may result in a substantial lessening of competition in the Aberdeen and Dundee areas and required Iron Mountain to sell Recall’s existing operations in Aberdeen and Dundee, known as C21 Data Services, in order to preserve competition.

#### 3.3.2.18 MRH (GB) / Esso Petroleum Company

60. In September 2015, the CMA opened an investigation into the acquisition by MRH (GB) Limited of 78 petrol stations from Esso Petroleum Company Limited. After the CMA found that there could be a substantial lessening of competition, MRH offered to sell a number of assets. The CMA accepted these undertakings and did not refer the acquisition of the 78 petrol stations to an in-depth investigation.

#### 3.3.2.19 Regus Group / Avanta Serviced Office Group

61. In September 2015, the CMA opened an investigation into the completed acquisition by Regus Group Limited of Avanta Serviced Office Group plc. It found that there was or may be a substantial lessening of competition as a result of the merger. Regus undertook to sell a number of serviced office spaces in London which it had acquired. They also offered a behavioural remedy with respect to one site. The CMA accepted these undertakings in lieu of a reference to phase 2.

#### 3.3.2.20 Clariant / Kilfrost

62. The CMA opened an investigation in November 2015 into the anticipated acquisition by Clariant of the European aircraft de-icing fluid and rail de-icing fluid business of the Kilfrost Group. It was provisionally found by the CMA that the merger could lead to higher prices for aircraft de- and anti-icing fluids or a reduction in choice and quality, particularly in relation to security of supply and that the merger could be blocked. Clariant and Kilfrost decided to abandon the transaction.

### 3.4 *Market investigations and market studies*

63. In 2015-2016, the CMA continued its work on a number of significant markets cases.

3.4.1 *Legal services*<sup>14</sup>

64. In January 2016, the CMA initiated a market study of the supply of legal services in England and Wales. This led to the publication of an interim report in July 2016 setting out its initial finding that competition in legal services for individual and small business consumers is not working as well as it might.

3.4.2 *Aggregates, cement and ready-mix concrete*<sup>15</sup>

65. The CMA successfully completed the implementation of the remedial action that had arisen from the Competition Commission's market investigation into the supply or acquisition of aggregates, cement and ready-mix concrete. This included two divestiture remedies and, in addition, two further remedy measures aimed at reducing the transparency in the cement markets: a prohibition on the cement suppliers from sending generic price announcement letters and restrictions on the disclosure and publication of cement production and sales volume data.

3.4.3 *Private healthcare*<sup>16</sup>

66. The CAT set aside part of the CMA's market investigation into the private healthcare market in January 2015. The CMA subsequently reconsidered the matter. The CMA found an adverse effect on competition due to HCA, the largest private hospital operator in central London, facing weak competitive constraints which led it to charge higher prices to private medical insurers. Having consulted on six possible remedies, the CMA provisionally concluded that none of these additional remedies would be both effective and proportionate.

3.4.4 *Energy market*<sup>17</sup>

67. In March 2016, the CMA published its proposals to reform the energy market and open up competition. The CMA proposed 33 remedies with measures aimed directly at customers to encourage more switching and a temporary safeguard price control for prepayment customers. The CMA also set out a wide range of measures to bring about changes in the electricity wholesale market, push forward technical developments and tackle regulatory and policy issues, all with the aim of reducing customers' bills.

3.4.5 *Retail banking*<sup>18</sup>

68. The CMA continued its market investigation of retail banking for small and medium sized enterprises (SMEs). This work led to a provisional decision on remedies being published in May 2016 with the CMA outlining a wide-ranging package of proposals which sought to tackle issues hindering competition in personal current accounts and services for SMEs.

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<sup>14</sup> <https://www.gov.uk/cma-cases/legal-services-market-study>

<sup>15</sup> <https://www.gov.uk/cma-cases/aggregates-cement-and-ready-mix-concrete-market-investigation>

<sup>16</sup> <https://www.gov.uk/cma-cases/private-healthcare-market-investigation>

<sup>17</sup> <https://www.gov.uk/cma-cases/energy-market-investigation>

<sup>18</sup> <https://www.gov.uk/cma-cases/review-of-banking-for-small-and-medium-sized-businesses-smes-in-the-uk>

### 3.4.6 *Payday lending*<sup>19</sup>

69. The CMA published a final order in August 2015 in relation to its market investigation of the payday lending sector. The order required that online payday lenders publish details of their products on at least one price comparison website which is authorised by the Financial Conduct Authority. The CMA recommended that the FCA implement additional standards for payday loan PCWs. The order also requires online and high street payday lenders to provide existing customers with a summary of their cost of borrowing.

## 3.5 *Litigation*

### 3.5.1 *Eurotunnel*

70. The CMA asserted jurisdiction over Groupe Eurotunnel SE's acquisition of the assets previously owned by SeaFrance. The CMA successfully defended its decision in the CAT, but this was overturned by the Court of Appeal. In December 2015, the Supreme Court upheld the CMA's decision.

### 3.5.2 *Ryanair*

71. In July 2015, the Supreme Court refused Ryanair's application for permission to appeal the Court of Appeal's decision in a case that concerned the Competition Commission's order that Ryanair reduce its shareholding in Aer Lingus.

### 3.5.3 *Ryanair material change of circumstances*

72. The CMA's decision in June 2015 not to find a material change of circumstances arising from International Airlines Group's bid for Aer Lingus was challenged by Ryanair. The CAT dismissed the appeal in July and the Court of Appeal dismissed the appeal in October.

### 3.5.4 *Tobacco*

73. The OFT's decision not to repay Gallaher and Somerfield a sum equal to their fine plus interest was subject to judicial review proceedings. In January 2015 the High Court dismissed their claims. However, in June 2016, the Court of Appeal allowed their appeal.

### 3.5.5 *Private health care*

74. In July 2016, the Court of Appeal dismissed an appeal by the Federation of Independent Practitioner Organisations in relation to the CMA's investigation into the private healthcare market. The CMA had found in April 2014 that there was not an adverse effect on competition arising from the exercise of buyer power by private medical insurers and the CMA's remedy requiring more publicly available information on consultant fees.

## 4. **The role of competition authorities in the formulation and implementation of other policies**

75. The CMA received and used new powers to make written recommendations to Ministers on proposals for Westminster legislation by commenting on the new Energy Bill. The CMA's recommendations were accepted and concern for competition was written into duties of the Oil & Gas Authority.

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<sup>19</sup> <https://www.gov.uk/cma-cases/payday-lending-market-investigation>

76. The CMA contributed to the Higher Education Green Paper and student information consultation. As a result, the developing Higher Education policy increasingly reflects the importance of a level regulatory playing field and student choice.

77. The CMA's contribution to the development of the Buses Bill and written advice to local transport authorities has improved understanding of the balance between competition and partnership working amongst policy makers in the sector.

78. The CMA engaged with HM Treasury and the Department for Business, Innovation and Skills on the competition plan. This resulted in the Government committing to implementing OFT recommendations on dentistry, school uniforms, and pharmacies.

79. Comments were submitted by the CMA to the Transport for London and City of Liverpool consultation on private hire vehicle regulation, markets where traditional operators are being challenged by new operators. TfL withdrew some anti-competitive proposals following our comments.

80. A response was provided by the CMA to BIS' Switching Principles consultation. The emerging lessons from the CMA's energy and retail banking market investigations fed into the Call for Evidence.

81. The CMA has also engaged with the devolved administrations and legislatures on a number of regulatory issues and has contributed to the Scottish Government's plans for a Strategic Assessment of markets in Scotland and will continue to work with it as it develops proposals on competition policy.

## **5. Resources of competition authorities**

### ***5.1 Resources overall (current numbers and change over previous year):***

#### ***5.1.1 Annual budget (in your currency and USD):***

82. The CMA's budget in 2015-2016 was £72.54m.

#### ***5.1.2 Number of employees (person-years):***

83. The CMA employed a total of 641 staff members. Approximately 264 of the total staff worked and 226 of the non-administrative staff worked on competition enforcement, 34 of which were economists and 52 were lawyers and 140 were other professionals.

### ***5.2 Human resources (person-years) applied to:***

84. The CMA estimates that approximately 140 members of staff worked in enforcement against anticompetitive practices and approximately 88 members of staff worked in mergers. Eight members of staff have been engaged in advocacy efforts.

### ***5.3 Period covered by the above information:***

85. 1 April 2015 – 31 March 2016

## **6. Summaries of or references to new reports and studies on competition policy issues**

86. See above.