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**INTERACTIONS BETWEEN COMPETITION AUTHORITIES AND SECTOR REGULATORS –  
Contribution from the United Kingdom**

**- Session III -**

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This contribution is submitted by the United Kingdom under Session III of the Global Forum on Competition to be held on 1-2 December 2022.

More documentation related to this discussion can be found at: [oe.cd/icar](https://oe.cd/icar).

Please contact Ms. Lynn Robertson [E-mail: [Lynn.Robertson@oecd.org](mailto:Lynn.Robertson@oecd.org)], if you have any questions regarding this document.

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## *Interactions between Competition Authorities and Sector Regulators*

### **- Contribution from the United Kingdom -**

#### **1. Introduction**

1. The UK's Competition and Markets Authority (CMA) welcomes the opportunity to contribute to the OECD's roundtable discussion on interactions between competition authorities and sector regulators.
2. Almost every household and business in the UK relies on the services provided by regulated industries, including energy, water, telecommunications, transport and financial services such as banking, insurance, and payments. Spending on these services forms a large part of the household budget (particularly for low-income families). It has been estimated that these sectors account for an estimated 25% of GDP.<sup>1</sup> It is therefore vital that consumers of these services enjoy the benefits that competition generally brings, in terms of downward pressure on prices, and upward pressure on service and quality standards.
3. Cooperation between the UK's sector regulators and the CMA, in its role as the UK's principal competition authority, plays an important part in delivering effective regulation, whether via *ex post* enforcement of antitrust laws or *ex ante* pro-competitive regulation. This paper describes the UK's framework for facilitating cooperation between the sector regulators and the CMA. The paper will focus in particular on the UK's competition concurrency arrangements, in which certain competition law enforcement powers are shared between the national competition authority and the regulator responsible for the sector concerned.

#### **2. Scope of this paper**

4. There are a diverse range of bodies with regulatory responsibilities for specific sectors of the UK economy,<sup>2</sup> including:
  - Economic regulators in the privatised utility sectors.
  - Regulators responsible for upholding standards in sectors such as education, food and healthcare.
  - Environmental regulators.
  - Financial services regulators.
  - Regulators for transport sectors such as roads, railway services and civil aviation.

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<sup>1</sup> Speech by David Currie, then Chairman of the CMA, given at the July 2014 Chatham House Competition Policy Conference on the subject of competition policy in regulated markets, accessible at the following link <https://www.gov.uk/government/speeches/david-currie-speaks-about-competition-policy-in-regulated-markets>

<sup>2</sup> There are also regulators which operate across the whole economy in respect of certain issues, including regulators concerned with information rights, product standards, environmental standards and intellectual property rights. These regulators are not included within the scope of this paper.

5. There are therefore a diverse range of business sectors which might be classified as subject to some form of sector specific regulation. However, the term ‘regulated sectors’ in the UK generally refers to a specific set of business sectors within the economy, summarised in the following table along with the corresponding sector regulator:

**Table 1. Sector regulators and business sectors**

Sector Regulator	Business Sector
Civil Aviation Authority (CAA)	Airport operation and air traffic services.
Office of Communications (Ofcom)	Broadcasting, electronic communications and postal services.
Gas and Electricity Markets Authority (Ofgem)	Electricity and gas in England, Wales and Scotland. <sup>1</sup>
Financial Conduct Authority (FCA)	Financial services in the UK and the provision of claims management services in England, Wales and Scotland.
Payment Systems Regulator (PSR)	Participation in payment systems.
Office of Rail and Road (ORR)	Railway services and roads.
Water Services Regulation Authority (Ofwat)	Water and sewerage services in England and Wales.
Northern Ireland Authority for Utility Regulation (NIAUR)	Electricity, gas, water and sewerage services in Northern Ireland.

Note: 1. Some Sector Regulators have responsibility across the whole of the UK. Whereas other regulators are responsibility are limited to particular nations within the UK (which comprise of England, Scotland, Wales and Northern Ireland).

6. This paper focusses specifically on the relationship between the CMA and the sector-specific regulators listed above, which will be referred to as the ‘**Sector Regulators**’ for the remainder of this paper.

7. As requested in the call for contributions, this paper will focus on how the Sector Regulators cooperate with the CMA with respect to its enforcement functions in its role as a competition authority. The paper will therefore not focus on co-operation between the CMA and Sector Regulators on other types of enforcement, such as consumer protection. Nor will the paper focus on cooperation on other functions of the CMA (which include advising on public subsidies, monitoring of the functioning of the UK’s internal market and public advocacy on the value of competition.

### 3. Overview of the UK’s competition regime

8. It is a long-standing feature of the UK’s competition regime that the Sector Regulators hold certain competition law enforcement powers in respect of the sectors they regulate.

9. The Sector Regulators exercise these competition law enforcement powers alongside the UK’s principal competition authority, which from 2014 has been the CMA.<sup>3</sup> Both the CMA and the relevant Sector Regulators have competition law enforcement powers in the sectors for which they are responsible. The powers are therefore described as being held concurrently, and the arrangements are referred to as the ‘concurrency arrangements’.

<sup>3</sup> In 2013-2014, the institutional architecture of the UK competition regime was changed with the creation of the CMA. The CMA is the product of a merger between two bodies: the Office for Trading (‘OFT’) and the Competition Commission (‘CC’). Under the previous arrangements, the CC had responsibility for Market Investigations on in-depth merger reviews. The OFT had responsibility for antitrust enforcement, market studies, the making of Market Investigation references to the CC, and decisions to refer mergers to the CC for in-depth (or ‘phase II’) review.

10. The concurrency arrangements do not extend to all the competition law enforcement functions held by the CMA. The different types of competition law enforcement within the UK competition regime, and how these powers are shared, are summarised below:

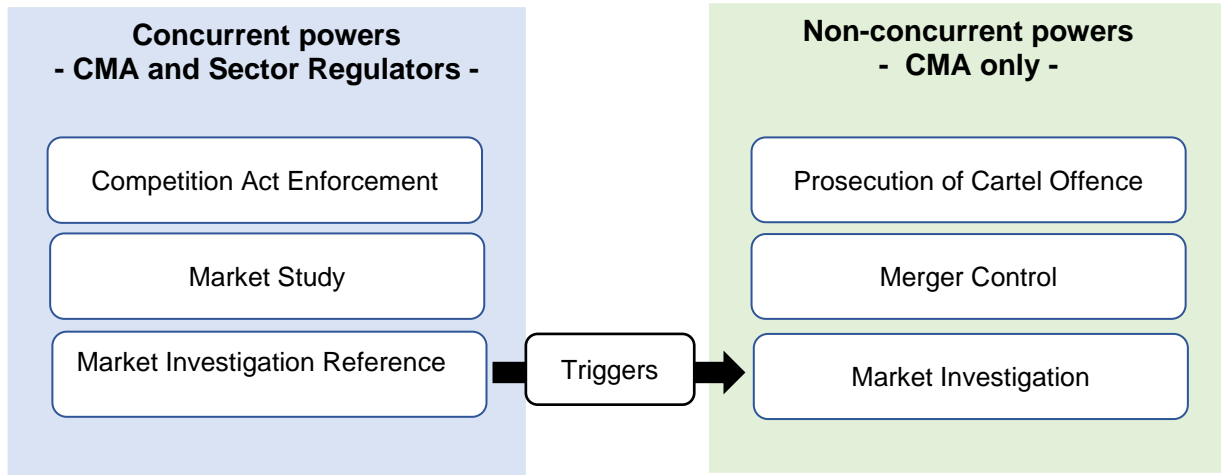
**Table 2. Types of enforcement in the UK**

Type of enforcement	Summary
<b>Competition Act Enforcement</b>	The Competition Act 1998 establishes civil prohibitions on anticompetitive agreements and abuse of a dominant position. It creates an administrative enforcement regime for the relevant authorities in respect of breaches of the prohibitions. The enforcement regime includes evidence gathering powers and powers to issue financial sanctions of up to 10% of an undertaking's worldwide turnover. The Sector Regulators have Competition Act 1998 enforcement powers ( <b>'Competition Act Enforcement'</b> ) in their sectors, alongside the CMA.
<b>Cartel Offence</b>	The <b>'Criminal Cartel Offence'</b> is a criminal offence committed by individuals participating in certain types of cartel activity. The Criminal Cartel Offence is distinct from the civil prohibitions on anticompetitive agreements under the Competition Act 1998. <sup>1</sup> For instance, only the most serious types of anticompetitive conduct are criminalised under the Criminal Cartel Offence. In addition, the offence is committed by natural persons, rather than undertakings. The CMA has powers to investigate and prosecute the Criminal Cartel Offence before a criminal court. These powers are not shared with the Sector Regulators
<b>Market Studies</b>	<b>'Market Studies'</b> are investigations which: examine whether markets have features with effects which are adverse to the interests of consumers; and assess the extent which steps can and should be taken to remedy, mitigate or prevent any such adverse effects. Market Studies are examinations into the causes of why particular markets may not be working well and not investigations into the legality of conduct. <sup>2</sup> Market Studies include legal powers to require the production of information. They must be completed within a statutory deadline of 12 months, with a report setting out the findings of the study and any recommendations. Market Studies do not enable the imposition of remedies. One possible outcome of a Market Study is a decision that the Market Investigation should be undertaken (see further below). The CMA shares Market Study powers with the Sector Regulators.
<b>Market Investigations</b>	<b>'Market Investigations'</b> are investigations into whether a market has features which prevent, restrict or distort competition. Market Investigations may also concern features which are present across multiple markets. Market Investigations are distinct from Market Studies, amongst other reasons, because: They are more detailed examinations into competition problems, subject to an 18-month deadline for completion. If competition problems are found, there are powers to require businesses to implement remedies to the problem. These remedies may be behavioural or structural (such as requiring divestment). Market Investigations are always conducted by the CMA. Sector Regulators do not share these powers. However, Sector Regulators do have powers to refer a market to the CMA for a Market Investigation. The process for referring a market to the CMA for investigation is called a <b>'Market Investigation Reference'</b> . The CMA therefore conducts a Market Investigations either in response to a Market Investigation Reference it has made to itself, or in response to a Market Investigation Reference made by a Sector Regulator.
<b>Merger Control</b> <sup>3</sup>	The CMA has powers to investigate mergers that have the potential to lead to a substantial lessening of competition. If a merger stands to reduce competition, the CMA can block it or impose remedies to address its concerns. These powers are not shared with the Sector Regulators.

Note: <sup>1</sup> The same conduct may be investigated as both an infringement of the Competition Act, as well as the Criminal Cartel Offence. <sup>2</sup> Although a Market Study may lead to a decision to launch a separate Competition Act Enforcement case, depending on what it finds. <sup>3</sup> Under the UK's National Security and Investment Act, there is a separate regime in which the Government can scrutinise and intervene in certain acquisitions that could harm the UK's national security. This paper is not concerned with the arrangements under the National Security and Investment Act. Further references to 'merger control' refer only to the review of mergers by the CMA.

11. The concurrency arrangements between the CMA and the Sector Regulators can therefore be illustrated as follows:

Figure 1. Arrangements between the CMA and the sector regulators



12. The areas in which the Sector Regulators are able to exercise these concurrent powers are defined by law. The perimeters of their concurrent powers are not precisely the same as the remit of their regulatory powers more generally:

Table 3. Regulators and concurrent powers

Regulator <sup>1</sup>	Matters in relation to which regulator have concurrent powers
Civil Aviation Authority (CAA)	<ul style="list-style-type: none"> <li>• Airport operation services.</li> <li>• Air traffic services.</li> </ul>
Office of Communications (Ofcom)	<ul style="list-style-type: none"> <li>• Broadcasting and related matters.</li> <li>• Postal services.</li> <li>• Electronic communications.</li> </ul>
Gas and Electricity Markets Authority (Ofgem)	<ul style="list-style-type: none"> <li>• The supply of gas in Great Britain.</li> <li>• The supply of electricity in Great Britain.</li> </ul>
Financial Conduct Authority (FCA)	<ul style="list-style-type: none"> <li>• Financial services.</li> <li>• Claims management services in Great Britain.</li> </ul>
Payment Systems Regulator (PSR)	<ul style="list-style-type: none"> <li>• Matters relating to the participation in payment systems, including the operation of payment systems and the provision of infrastructure and payment services.</li> </ul>
Office of Rail and Road (ORR)	<ul style="list-style-type: none"> <li>• The supply of services relating to railways.</li> </ul>
Water Services Regulation Authority (Ofwat)	<ul style="list-style-type: none"> <li>• Water and sewerage services in England and Wales</li> </ul>
Northern Ireland Authority for Utility Regulation (NIAUR)	<ul style="list-style-type: none"> <li>• Electricity, gas, water and sewerage services in Northern Ireland</li> </ul>

Note: <sup>1</sup>The regulator for healthcare provision in England previously had concurrent competition law powers in respect of the provision of healthcare services in England. These powers were removed under the Health and Care Act 2022.

13. Each of the Sector Regulators has sector specific duties and objectives, set out in law. For example, one of Ofwat’s statutory duties relates to the resilience of the water and sewage system. When the Sector Regulators exercise their Competition Act 1998 powers, these sector specific duties and objectives are disapplied. In contrast, the exercise of Market Study powers does not disapply any sector specific objectives and duties which would ordinarily apply.

#### 4. The development of the concurrency arrangements

14. The current system of concurrency has been in place since March 2000, when the Competition Act 1998 introduced prohibitions on anti-competitive agreements and abuses of a dominant position.

15. The concurrency arrangements are the product of two policy decisions. The first was that *ex ante* regulation to protect consumers and open sectors up to market competition can be effectively complemented by *ex post* competition law enforcement in these sectors.

16. The second decision – following from the first – concerns which body should be responsible for enforcement within these sectors: either the dedicated sectoral regulator, or the cross-economy competition authority. The decision was to make both responsible to make best use of the complementarity of skills of both types of body. The Sector Regulators have a knowledge and expertise of the sectors they regulate, including the participants, technologies, commercial relationships and regulatory frameworks. On the other hand, the competition authority has an in-depth competition experience and economy wide-perspective. It is considered that the risk that concurrent powers may lead to inefficiency or inconsistency in application can be mitigated by effective cooperation between the bodies sharing the powers.

##### 4.1. Reform: 2011-2014

17. In 2011, the UK Government expressed concern over the effectiveness of the concurrency arrangements, which had been in place for 11 years. In particular, the Government expressed concern that the Sector Regulators were using their concurrent powers infrequently:

*‘[...] Sector Regulators have made only two antitrust infringement decisions (and many more non-infringement decisions) and two [Market Investigation References] [...] This compares with infringement decisions (21 for Chapter I / Article 101 and 4 for Chapter II / Article 102) and 9 MIRs made by the OFT [the CMA’s predecessor as the UK’s main competition authority] across the economy as a whole. Given that regulated sectors contain many of the most dominant companies and uncompetitive market structures and cover services of considerable consumer interest, this comparative lack of activity in the regulated sectors seems surprising.’<sup>4</sup>*

18. The Government also highlighted the potential for greater consistency between the CMA and Sector Regulators in their approach to competition enforcement.<sup>5</sup> It considered the potential for reforms to the concurrency arrangements with the twin objectives of improving the use of the

<sup>4</sup>‘A competition regime for growth: a consultation on options for reform’, UK Government consultation issued in March 2011, paragraph 7.7

<sup>5</sup>‘A competition regime for growth: a consultation on options for reform’, UK Government consultation issued in March 2011, paragraphs 5.35, 7.15 and 7.33.

concurrent competition powers in the regulated sectors and improving the co-ordination between the different bodies with concurrent competition powers.

#### 4.2. The introduction of the ‘enhanced’ concurrency arrangements

19. The Government considered that one option (though not one it favoured) would be to end the concurrency arrangements so that the CMA would be the only body with responsibility for enforcing competition law. It noted that this might simplify the landscape of competition authorities and bring a higher frequency of cases and greater consistency to enforcement.<sup>6</sup>

20. The Government ultimately decided to retain the concurrency framework to allow the continued integrated application of sectoral and competition law powers:

*‘The Government has decided to retain concurrent competition powers. This will continue to allow the integrated application of sectoral and competition law powers, the application of the Sector Regulators’ industry expertise and ongoing sector surveillance to competition cases, and avoid regulated businesses habitually having to deal with two separate bodies with different objectives and approaches when competition issues arise. It will also avoid causing the regulators to rely even more heavily on their sector-specific powers than they do now to fulfil their duties, as they would not have access to ex-post competition powers.’<sup>7</sup>*

21. However, the Government introduced a number of reforms to enhance and strengthen the concurrency arrangements. These included:

- A duty on Sector Regulators intended to reinforce the ‘primacy’ of competition law.
- A requirement on the CMA to publish annual reports on the operation of the concurrency arrangements.
- A power for the Government to remove concurrent competition powers from a Sector Regulator.
- Provisions to support the allocation of cases between the CMA and Sector Regulators.
- Provisions to support cooperation between the Sector Regulators and the CMA on individual cases.

22. The latter two reforms will be discussed in further detail in the subsequent section detailing how the concurrency arrangements work in practice. The first three reforms are discussed below.

#### 4.3. A new duty on Sector Regulators

23. The new duty on Sector Regulators required them to consider whether it would be more appropriate to use Competition Act Enforcement powers before taking enforcement action under

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<sup>6</sup>‘A competition regime for growth: a consultation on options for reform’, UK Government consultation issued in March 2011, paragraphs 7.13- 7.16

<sup>7</sup>‘Growth, Competition and the Competition Regime’, UK Government’s March 2012 response to March 2011 consultation, Paragraph 8.13

their sector-specific regulatory powers.<sup>8</sup> This new duty was intended to reflect the ‘primacy’ of competition law, as explained by the Government at the time:

*‘While there is unlikely to be a large increase in the number of cases because of a change to the form of primacy, the Government expects there might be some increase over time, especially when taken together with the other concurrency and wider reforms proposed. It should encourage the regulators to consider whether their general competition law powers may be more appropriate for dealing with an issue earlier in the process of the regulators’ interaction with firms. This should improve overall case management by ensuring that the choice of the most appropriate powers is made at an early stage. This option should also enhance cooperation between the CMA and Sector Regulators, as the Sector Regulators will be encouraged to develop a more similar approach to competition issues as that of the CMA’.*<sup>9</sup>

24. The explanatory notes to the legislation introducing the reform explained that ‘the intention behind this change in emphasis was to encourage regulators to turn their minds to the question of whether the CA 1998 route is more appropriate at an earlier stage’.<sup>10</sup>

#### **4.4. Annual reports on the concurrency arrangements**

25. The Government introduced a requirement on the CMA to publish an annual report on the concurrency arrangements, referred to as the ‘Annual Concurrency Report’. The report must include information about the activities of the CMA and the Sector Regulators in relation to the exercise of all concurrent functions. The Government considered that the Annual Concurrency Report would:

*‘[...] demonstrate how general competition law is being applied in the regulated sectors, and how the CMA and Sector Regulators are working together to improve the operation of the competition regime. This will give the CMA and Sector Regulators an incentive to work effectively together and help ensure that Parliament can hold them to account’.*<sup>11</sup>

26. The CMA has published eight Annual Concurrency Reports (as well as a baseline report when the new concurrency regime came into effect). These reports provide a helpful summary of how the concurrency arrangements have operated over the year and are published on the CMA’s website.<sup>12</sup>

#### **4.5. A power to remove concurrent functions**

27. The Government introduced a provision which allowed it to remove concurrent powers from a Sector Regulator. The power is only exercisable where the Government considers it appropriate to do so for the purpose of promoting competition, within any market or markets in the United

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<sup>8</sup> Some Sector Regulators were already under an explicit duty to give consideration to Competition Act Enforcement before exercising certain sector-specific powers.

<sup>9</sup> Growth, Competition and the Competition Regime’, UK Government’s March 2012 response to March 2011 consultation, Paragraph 8.18

<sup>10</sup> Explanatory Notes to the Enterprise and Regulatory Reform Act 2013, paragraph 378

<sup>11</sup> Growth, Competition and the Competition Regime’, UK Government’s March 2012 response to March 2011 consultation, Paragraph 8.34

<sup>12</sup> The latest report for the period 1 April 2021 to 31 March 2022 is available at the following link: <https://www.gov.uk/government/publications/annual-report-on-concurrency-2022>



Kingdom, for the benefit of consumers. The Government provided the following rationale for this reform:

*'The Government want to send a further signal about the need for the strong and effective use of competition powers across the regulated sectors. The Government therefore propose [...] that if the new concurrency arrangements do not work and a regulator fails to produce better outcomes, the Secretary of State will have a power to ensure that [...] the CMA take sole responsibility for applying concurrent competition powers in that regulated sector. This will be a reserve power and the Government see its existence as being entirely consistent with our aim throughout to see improvements in the concurrency regime.'*<sup>13</sup>

## 5. The concurrency arrangements in operation

28. The concurrency arrangements rely on effective cooperation between the CMA and Sector Regulators. There are a number of legal and institutional mechanisms in place to ensure the CMA and Sector Regulators work well together, including:

- Legal obligations to co-operate.<sup>14</sup>
- Bilateral memorandums of understanding ('MOUs') between the CMA and each of the individual Sector Regulators.<sup>15</sup>
- Public guidance on the operation of the concurrency arrangements, and how the bodies with concurrent powers will co-operate (the '**Concurrency Guidelines**').<sup>16</sup>
- The work of the UK Competition Network ('UKCN'); a network of regulators with concurrent powers.

29. The process for cooperation depends on the type of enforcement concerned. There are differences between the processes in place for Competition Act Enforcement compared to Market Studies.

### 5.1. Cooperation on specific Competition Act Enforcement cases

30. The current arrangements for cooperation on Competition Act Enforcement derive from the reforms introduced by the Government in 2014. The rationale for these changes was stated as follows:

*"Greater information sharing and consultations will make cooperation more effective, by giving it structure and making clear that the competition bodies have a duty to share information about cases and consider the advice of other bodies with relevant expertise. [...] To the extent that the CMA is more proactive and better equipped to manage cases than the Sector Regulators, this could*

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<sup>13</sup> Comments made by Lord Marland, a UK Government minister, during the passage of the relevant legislation through the UK Parliament: House of Lords Debate, 18 December 2012, Column 510

<sup>14</sup> These are largely contained in The Competition Act 1998 (Concurrency) Regulations 2014

<sup>15</sup> These are published on the website of the UKCN, and are available at the following link: <https://www.gov.uk/government/groups/uk-competition-network>

<sup>16</sup> 'Concurrent application of competition law to regulated industries: CMA10', available on the CMA's webpages at the following link: <https://www.gov.uk/government/publications/guidance-on-concurrent-application-of-competition-law-to-regulated-industries>

*lead to more competition cases with resulting benefits for consumers and the wider economy.”<sup>17</sup>*

### **5.1.1. Allocation**

31. As explained above, neither the CMA nor the relevant Sector Regulator has exclusive jurisdiction to exercise Competition Act Enforcement powers in a particular sector. It is therefore necessary to have a process whereby a particular case is allocated between the CMA and Sector Regulators which share jurisdiction, to prevent simultaneous enforcement against the same conduct.

32. Where the CMA or a Sector Regulator is proposing to exercise its Competition Act Enforcement powers, it is obliged to notify any other authority who it considers may have concurrent jurisdiction. The CMA and one (or more) regulators must then agree who is to investigate the case.

33. If agreement cannot be reached in a reasonable time, the CMA has powers to determine which regulator is to investigate the case.<sup>18</sup> Where the CMA is exercising this power, it may decide to allocate a case to itself, where it considers this would further the promotion of competition, within any market or markets in the United Kingdom, for the benefit of consumers.

34. The Concurrence Guidelines supplement this legal framework by setting out in further detail factors which may be relevant to the decision on which body with concurrent powers should investigate a particular case. The general principle is that the decision on allocation of the case should depend on who is best placed to carry out the enforcement action. The Concurrence Guidelines also includes a list of issues to be treated as factors in deciding who is best placed.<sup>19</sup> These include:

- The sectoral knowledge of a Sector Regulator and the CMA.
- Whether the case affects more than one regulated sector and/or non-regulated sectors not subject to concurrent competition law powers.
- Previous contacts between the parties or complainants and a Sector Regulator or the CMA.
- Experience in dealing with any of the undertakings which may be involved in the proceedings.
- Experience in dealing with any similar issues which may be involved in the proceedings.
- Whether the CMA considers it necessary to exercise Part 1 function relation to a case in order to develop United Kingdom competition policy or to provide greater deterrent and precedent effect for the benefit of competition and consumers, either within the relevant regulated sector, or more widely.

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<sup>17</sup> Growth, Competition and the Competition Regime’, UK Government’s March 2012 response to March 2011 consultation, paragraphs 8.29-8.31

<sup>18</sup> The bilateral MOUs between the CMA and Sector Regulators also supplement the legal framework by committing to certain time periods in which allocation decisions should be made.

<sup>19</sup> See paragraph 3.22 of the Concurrence Guidelines

- Whether the case being allocated to the CMA and supported by the relevant Regulator (or vice versa) will provide the best combination of competition and sector-specific expertise.

35. Neither the CMA nor a Sector Regulator can commence an investigation until the process of allocating the case has concluded. Once a case has been allocated to a particular body, others may not exercise competition enforcement powers in respect of the case (subject to the arrangements for transfer below). These rules prevent two different bodies investigating the same conduct.

### 5.1.2. Transfer

36. In addition to the process for initial allocation, there is a separate procedure for cases to be transferred from one body to another mid-way through the investigation by agreement between the transferor and transferee (whilst taking into account the views of interested parties).

37. In addition to a process for transfer by agreement, there is a separate procedure for the CMA to direct that a case is transferred to it, on the basis that the CMA investigating the case (rather than the regulator) would further the promotion of competition, within any market or markets in the United Kingdom, for the benefit of consumers. The CMA's power to require transfer of a case to itself is only exercisable before any statement of objections has been issued.

38. When consulting on the introduction of this power, the Government said that it *'expects the power to take cases will be rarely used, but it will provide a backstop if the other proposals to improve the operation of concurrency do not work.'*<sup>20</sup>

### 5.1.3. Sharing of information and expertise

39. The CMA and Sector Regulators are under a legal obligation to put in place arrangements to share with other regulators with whom they share jurisdiction a variety of information relating to a particular Competition Act Enforcement case, including:

- Where a body with concurrent powers has reasonable grounds for suspecting a breach of competition law, it is under a legal obligation to share with the CMA or relevant Sector Regulator details of any information that an infringement may have taken place. This applies whether or not it intends to actually launch an investigation.
- Once a case is commenced, the body conducting the investigation must share drafts of certain key documents produced as part of the Competition Act Enforcement process. This includes drafts of statements of objections, infringement decisions, decision to impose interim measures commitments, and a number of other types of document.<sup>21</sup>

40. These legal requirements on information sharing are facilitated and supplemented by the bilateral MOUs between the CMA and individual Sector Regulators and the Concurrency Guidelines. The MOUs establish expectations on the time periods in which information will be shared and the length of time that should be provided to allow for regulators to provide comments and advice on concurrent cases.

41. These information sharing arrangements are central to the effective functioning of the concurrency arrangements. For instance, the sharing of key case documents allows the Regulator leading the case to consider the advice of other Regulators with relevant expertise. Requiring

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<sup>20</sup> Growth, Competition and the Competition Regime', UK Government's March 2012 response to March 2011 consultation, paragraph 8.12

<sup>21</sup> As specified in The Competition Act 1998 (Concurrency) Regulations 2014, paragraph 9.

Regulators to share information about potential breaches of competition law, even if it does not intend to launch a case, allows other regulators to consider whether they might take enforcement action, or engage in a joint discussion on the priority which should be given to the case.

42. Although there are arrangements for the sharing of information, including draft decisions and notices, it is not a requirement under the concurrency arrangements that the CMA and relevant Sector Regulator agree with the decision in question. Decisions on how to progress cases, including the final decision, are the sole responsibility of the investigating authority.<sup>22</sup>

43. The CMA and relevant Sector Regulator may also share skills, expertise and best practice to assist with the completion of Competition Act investigations. The CMA tends to share procedural and substantive advice, including examples or templates of the various types of documents that are necessary to prepare in order to carry out investigation (for instance, a formal written information notice), as it has the in-depth experience of Competition Act Enforcement. It may also include practical advice and assistance on the processes involved in progressing Competition Act Enforcement, such as the use of digital forensics or giving access to the businesses under investigation to the relevant authority's case file. Sector Regulators may also share with the CMA sector-specific knowledge in relation to Competition Act Enforcement.

#### *5.1.4. Sharing of staff*

44. Secondments of staff between the CMA and the Sector Regulators have an important role to play in supporting the concurrency arrangements. The legal framework for the concurrency arrangements make provisions specifically to ensure that seconded staff can legally exercise competition enforcement powers as if they were an employee of the regulator carrying out the enforcement activity. This enables the sharing of staff either to provide additional resource (which may be necessary to enable the CMA or a Sector Regulator to prioritise a Competition Act Enforcement case) or to provide a specific expertise, where that would be particularly useful in a Competition Act case. For instance, the CMA has on occasion shared staff members with Sector Regulators to assist with the conduct of unannounced inspections (or 'dawn raids') and the Sector Regulators have seconded staff to the CMA to provide knowledge of the relevant sector. In the period April 2021 to March 2022, there were approximately fifteen staff working on secondment between the CMA and the Sector Regulators.

#### *5.1.5. Leniency*

45. The UK's competition regime includes a process for granting lenient treatment to undertakings who come forward with information in relation to cartel activity, and cooperate fully with any subsequent investigation. Leniency may involve immunity or reductions in financial penalties, immunity from criminal prosecution for individual employees and officers, as well as protection from competition disqualification orders.

46. The exact form of leniency will depend on a variety of factors, one of which is whether the business is the first to apply for leniency or whether its application follows that of other businesses. This is referred to as the position of the business in the 'queue'.

47. If businesses could disclose that they had participated in cartel activity to both the CMA and the relevant Sector Regulator, that could create the risk of there being multiple leniency 'queues' at different bodies, particularly if different participants in the same cartel alerted different bodies to their cartel contact.

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<sup>22</sup> Although there is the mechanism for the CMA to transfer a case to itself after the investigation has begun, but before a Statement of objections has been issued.

48. The potential for multiple leniency queues could generate significant uncertainty for businesses. Uncertainty of this kind would potentially undermine the intended incentives of a leniency regime or creates additional burdens for businesses who consider they need to make leniency applications to all relevant authorities. In order to avoid these risks, the CMA and the Sector Regulators have developed a set of arrangements for the handling of leniency applications in the regulated sectors. Under these arrangements, the CMA is treated as the single port of call for leniency, which guarantees that there is a single queue for leniency. The arrangements also cover the handling of the different stages of the leniency process in cases that are allocated to the Sector Regulators.

#### 5.1.6. Concurrent Competition Act Enforcement in practice

49. The following table summarises the concluded concurrent Competition Act Enforcement cases in the last five years (October 2017 – October 2022), not including cases closed on the grounds of administrative priority. The table shows which regulator lead the investigation and any other regulators with shared jurisdiction (as the CMA shares jurisdiction in all cases, this is not shown).

**Table 4. Competition Act Enforcement cases in the last five years**

Market	Regulator	Launch - Conclusion	Summary
Supply of bulk mail delivery services	Ofcom	Apr 14 – Aug 18	Infringement of the Chapter II prohibition by a business with a near monopoly on certain delivery services discriminating against a competitor.
Airport parking	CMA (CAA shared jurisdiction)	Dec 17 – Oct 18	Infringement of the Chapter I prohibition by two businesses who entered into an agreement restricting price competition in relation to airport parking.
Asset management	FCA	Jun 16 – Feb 19	Infringement of the Chapter I prohibition by three asset management firms who shared strategic information.
Cross-border intraday electricity trading	Ofgem (NIAUR shared jurisdiction)	Dec 18- Jun 19	Investigation into a suspected breach of Chapter II prohibition based on a business failing to take steps to enable a rival to participate in electricity trading auctions between Great Britain and Ireland. The investigation concluded with the industry body offering commitments, with no decision made on whether there was an infringement.
Supply of gas and electricity to domestic customers	Ofgem	Aug 16 - May 19	Infringement of the Chapter I prohibition by two energy suppliers who entered into agreement which prevented them targeting one another's customers through face-to-face sales.
Express parcel delivery for businesses	Ofcom	Jul 18 - Nov 19	Infringement of the Chapter I prohibition in relation to businesses who agreed to allocate customers for the retail supply of express parcel delivery services to business customers.
Home insurance price comparison websites	CMA (FCA Shared jurisdiction)	Sep 17 – Nov 20	Investigation into a suspected breach of Chapter I prohibition based on a price comparison website using clauses known as 'wide most favoured nation clauses' in contracts with home insurance providers. The CMA's decision was set-aside following a successful appeal by the business under investigation
Over-the-counter energy prepayment services in Great Britain	Ofgem (PSR and FCA shared jurisdiction)	Aug 17 - Nov 21	Investigation into a suspected infringement of Chapter II prohibition based on the use of exclusivity clauses. Investigation concluded with the business concerned offering commitments, with no decision made on whether there was an infringement.
Prepaid Cards	PSR	Oct 17 - Jan 22	Infringement of Chapter I prohibition by businesses engaging in cartel conduct in respect of the supply of pre-paid cards.

Supply of electric vehicle charge points	CMA (Ofgem shared jurisdiction)	Jul 21 – Mar 22	Investigation into a suspected infringement of Chapter I and II prohibitions based on exclusivity arrangements between supplier of EV charge points and operators of motorway service areas. Investigation concluded with the businesses concerned offering commitments, with no decision made on whether there was an infringement.
Smart water meters at business premises	Ofwat	Jun 19 – Mar 22	Investigation into a suspected infringement of the Chapter II prohibition based on the approach taken to the roll out of a smart metering programme. Investigation concluded with the business concerned offering commitments, with no decision made on whether there was an infringement.
Provision of train driver psychometric testing services	ORR	Mar 21- Apr 22	Investigation into a suspected infringement of the Chapter I prohibition based on the rules of membership of an industry group for rail psychometric assessment centres restricting access to the market. The investigation concluded with the industry body offering commitments, with no decision made on whether there was an infringement.

### 5.1.7. Case study

50. The operation of these arrangements can be demonstrated through a hypothetical case study, which will allow a more detailed explanation than might be possible in connection with a real case.

#### Box 1. Hypothetical Case Study of Competition Act Enforcement under Concurrency Arrangements

##### **Allocation**

The CMA receives a complaint from a business regarding competition concerns in respect of the supply of water. The CMA shares the complaint with Ofwat.

Ofwat and the CMA meet to discuss the merits of the complaint. Ofwat inform the CMA that it is concerned that the conduct described by the complaint may represent a breach of the Chapter II prohibition (abuse of dominance)

Ofwat considers that the threshold is met to launch a Competition Act investigation, and that it proposes to do so. Before commencing the investigation, the CMA and Ofwat agree that Ofwat is the best placed to investigate the case, with the CMA supporting them. They consider the following factors:

- The regulatory framework for the supply of water is a significant part of the economic context for the suspected infringement and analysing the effect of the conduct on competition will require sectoral expertise.
- The suspected infringement is of a well-recognised category of abuse, and the decision would not represent a significant new precedent with implications for dominant undertakings across the economy.

Ofwat has the project managers and economists to carry out the investigation, but its legal staff with Competition Act expertise cannot be re-allocated from their current projects. The CMA therefore agrees that if Ofwat proceed with the case, they can second a member of their legal team to work on the case for a period of 1 year.

##### **The investigation**

The CMA and Ofwat meet regularly to discuss the progress of the investigation. The CMA shares with Ofcom templates of information gathering notices, advice on

preparation for an interview with a witness and a project management framework for providing access to the case file.

Ofwat shares a near-final draft of its Statement of Objections before it plans to issue it to the businesses under investigation. The CMA reviews and comments on the draft, providing feedback on various aspects of the draft. The same process is followed when Ofwat is near to issuing its final infringement decision.

***Collaboration after the investigation***

Following the conclusion of the case, Ofwat presents to the UK Competition Network, the network of bodies with concurrent powers (discussed further below), to share lessons it has learnt from the case, which could usefully be applied to future enforcement.

**5.2. Market Studies and Market Investigation References**

51. The Sector Regulators share powers with the CMA to conduct Market Studies, and to refer markets to the CMA for a Market Investigation. There are significantly fewer formal requirements for the exercise of these functions, compared to Competition Act Investigations.

***5.2.1. Legal framework***

52. Unlike in Competition Act Enforcement, there is no formal process for allocating cases between the Regulators with shared powers. However, the CMA and Sector Regulators must consult one another, before they exercise their concurrent Market Study and Market Investigation reference functions for the first time in relation to a particular matter.<sup>23</sup> Once either the CMA or Sector Regulator has commenced a Market Study or made a Market Investigation Reference in relation to particular matter – i.e. exercised one of the shared powers - the regulator with whom it shares the power may not exercise the same function (e.g. launch a Market Study on the same subject matter). This ensures that the sharing powers does not result in two simultaneous market studies or Market Investigations on the same subject matter.<sup>24</sup>

53. The CMA has the power to modify certain licence conditions imposed by Sector Regulators, in order to give effect to its chosen remedy at the conclusion of a Market Investigation. Where the CMA is considering modifying a licence condition for this purpose, it is legally required to consider the duties and objectives of the relevant Sector Regulator.<sup>25</sup>

***5.2.2. Cooperation***

54. Although the legal framework for Market Studies and Market Investigations contains much fewer provisions on cooperation compared to Competition Act Enforcement, the CMA and relevant Sector Regulators will still work closely on market studies and Market Investigations.

55. In particular, while the focus of Competition Act Enforcement is on the conduct of particular businesses, the focus of market studies and Market Investigations can be on *any* feature of a particular market (or a feature across markets). Market studies and Market Investigations may therefore consider how a particular market is regulated, and the impact that any regulations have on consumers and/or competition.

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<sup>23</sup> Part 2 of Schedule 9 of the Enterprise Act 2002

<sup>24</sup> Part 2 of Schedule 9 of the Enterprise Act 2002

<sup>25</sup> Section 168 of the Enterprise Act 2002

56. It follows that one outcome of a Market Study or Market Investigation can be a recommendation from the CMA to a Sector Regulator, that they should take action or change an existing approach, in order to address competition concerns arising in regulated sectors. This can increase the value of cooperation between the CMA and relevant Sector Regulator, but also requires the CMA to preserve a degree of independence from the individual regulatory regimes in regulated sectors, so that a Market Investigation can make objective recommendations on any impacts of the regime on competition. For instance, in 2014 Ofgem made a Market Investigation reference to the CMA in respect of the energy market. Following a two-year investigation, the CMA made a series of recommendations to Ofgem relating to its regulation of the market.

57. A Market Investigation in a regulated sector may find that new rules on market participants would be an effective and proportionate remedy to a competition problem. In these circumstances, the CMA must consider whether to impose the requirements itself using its legal powers and take responsibility for monitoring and enforcing the remedy. Alternatively, it may be preferable for the requirements to be introduced as part of the sector-specific regulatory regime. In some cases, the CMA has introduced new requirements under its own powers, but with the intention that these requirements be ‘sunset’ upon the introduction of new rules by the relevant Sector Regulator.

58. For example, following its Market Investigation in the market for retail banking, the CMA introduced new requirements on banks regarding how it alerted customers to their use of overdraft facilities, which took effect from February 2018. At the same time, the CMA recommended that the FCA research and implement measures to increase customers’ engagement with their overdraft usage. The FCA completed this research in December 2018 and introduced new rules relating to overdraft alerts under its sectoral powers in 2019. This allowed the CMA to revoke the rules it had introduced on overdraft alerts at the same time.

## **Box 2. Case study of cooperation in markets cases: FCA and Investment Consultants**

### ***Launch of the investigation***

In 2017, the FCA referred the market for investment consultancy services and fiduciary management services to the CMA for an in-depth Market Investigation.

The FCA considered it had reasonable grounds for suspecting that features of the market were restricting or distorting competition, which is the legal threshold required to trigger the Market Investigation. The FCA decided that a Market Investigation was appropriate, given its assessment of the scale of the suspected problem, the availability of appropriate remedies and the alternatives to a Market Investigation.

### ***Assistance during the investigation***

The CMA worked closely with the FCA during its investigation. This allowed the CMA to benefit from the FCA’s sector-specific knowledge, and to take into account the FCA’s ongoing work. The investigatory cooperation included the FCA making available to the CMA substantial pieces of evidence it had gathered from its own market reviews, conducted under sector specific legislation.

The CMA issued its final report on the Market Investigation in December 2018. It identified a number of competition problems in the market and decided they should be addressed by a package of remedies.

### ***Cooperation on remedy design***



The package of remedies included new rules applying to market participants. It also included recommendations to other public bodies, including a recommendation to the FCA on one aspect of how it regulated the market in question.

The CMA made this final decision on remedies having benefited from a series of discussions with the FCA on its proposals and the design of the remedies. This cooperation included discussion of how the CMA's remedies would interact with sector-specific regulatory obligations.

The CMA's said in its decision that it 'does not intend to act as a parallel regulator to [the FCA] in the longer term', and that the FCA was better placed to supervise the new rules for market participants. The CMA decided to introduce the new rules by its own powers in the first instance, but said it intended to disapply these rules as and when the FCA introduced equivalent sector specific requirements.

### 5.3. Broader cooperation, outside of specific enforcement cases

59. There are broader institutional arrangements in place to facilitate broader cooperation between the CMA and the Sector Regulators that takes place outside specific Competition Act Enforcement cases, market studies and market studies. These arrangements include the following aspects:

#### 5.3.1. *Bilateral meetings and the sharing of knowledge*

60. The CMA and Sector Regulators have committed through their bilateral MOUs to meet regularly at multiple levels of each organisation, and to designate an individual from both organisation with responsibility for the two organisations' relationship.

61. These bilateral meetings allow the CMA and relevant Sector Regulator to keep each other abreast of relevant work they are considering undertaking, and to share information about the state of competition in the specific sectors in which they have shared competition powers.

#### 5.3.2. *The UK Competition Network*

62. The UK Competition Network ('UKCN') is a network comprising the CMA and the Sector Regulators with which it shares competition powers under the Concurrency Arrangements. The multi-lateral cooperation through the UKCN complements the regular bilateral meetings which the CMA holds with Sector Regulators.

63. The UKCN seeks to facilitate the use of competition powers and the development of pro-competitive regulatory frameworks.<sup>26</sup> This cooperation has an important function in ensuring consistency in the application of the competition regime but also in facilitating the sharing of best practice and knowledge. As part of this function, the CMA and Sector Regulators hold regular discussions on current topics of interest and give presentations based on their experiences of specific issues from their competition work.

64. In 2021-2022, some of the individual topics covered during meetings of the UKCN included a presentation from the UK's Department for International Trade on progress with free trade agreement negotiations; presentations from the CMA on a project on the role of environmental sustainability in its work; the establishment of a unit within the CMA to begin work on a new

<sup>26</sup> Further information about the purpose of the UKCN can be found in a 'Statement of Intent' issued when the network was founded: <https://www.gov.uk/government/publications/uk-competition-network-statement-of-intent>

regulatory regime for digital markets; Government plans for reforms to the UK's competition laws; and the process for seeking the disqualification of a company director on the basis of competition law non-compliance. Discussion on these topics was accompanied by a range of presentations from the CMA and regulators on many of the investigations and markets being carried out.

65. The UKCN convenes multi-lateral meetings between the CMA and Sector Regulators at various levels of seniority to ensure effective cooperation. There are therefore 'working level' meetings, meetings of senior directors from the CMA and Sector Regulators as well as meetings of the organisations' CEOs.

## 6. Cooperation on competition enforcement outside of the concurrency arrangements

### 6.1. Merger Control

66. Sector Regulators do not share powers with the CMA in respect of merger control, and there are no legal requirements for the CMA to cooperate with sectoral regulators on its competition-based assessments of mergers. In certain circumstances, the CMA's review of mergers takes into account non-competition-based considerations in making its decisions on whether a merger should be allowed. In these rare cases, there are specific roles for certain Sector Regulators provided for by law. These are summarised below.

#### *6.1.1. Public interest cases*

67. The UK merger control regime allows for certain public interest considerations other than competition to be taken into account in specific cases.<sup>27</sup> These considerations are not taken into account in all cases, but only following a formal intervention by Government ministers. Interventions are made in only in a very small minority of cases. In a case where a public interest issue consideration is being considered, the CMA has a role in considering the public interest issue and any competition issues, but Government Ministers may take the final decision on whether to allow a particular merger, rather than the CMA.

68. These arrangements are described in this paper because where the public interest issue in question relates to the media, there is a formal role for Ofcom to provide Government ministers with advice on the public interest issue.<sup>28</sup>

#### *6.1.2. Special rules for mergers between water enterprises*

69. Where a merger involves two water companies, the merger can in certain circumstances be considered as part of a special regime applying to water mergers. This special merger regime allows the CMA to consider the impact the merger would have on the ability of Ofwat to make comparisons between different businesses in the sector, as part of carrying out its regulatory functions (such as setting price controls). Under this special regime, there is a legal requirement for the CMA to take into account the views of Ofwat when considering the merger.

#### *6.1.3. Cooperation on mergers in regulated sectors*

70. Outside the specific legal regimes in respect of media-related public interest cases and mergers between water businesses, there are no statutory roles for Sector Regulators in the merger control

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<sup>27</sup> Examples of potential public interest considerations include media plurality, or the public interest in maintaining stability in the financial system.

<sup>28</sup> A public interest consideration relating to the media may include matters such as the need for plurality of ownership, or the need for a wide range of broadcasting.

process. The legal framework for the CMA's assessment of mergers between enterprises operating in regulated sectors is the same as for any merger in a non-regulated sector.

71. However, the CMA will in practice work closely with the relevant Sector Regulator when reviewing mergers in regulated sectors, with the CMA likely to seeking the relevant Sector Regulator's views. The CMA is not bound by the Sector Regulator's views but will consider them carefully.

72. The UK's merger control system does not involve mandatory notification (though merging parties may choose to notify the CMA). The CMA must therefore track merger activity to determine whether any unnotified merger may give rise to competition concerns. The scanning for such non-notified mergers is carried about by the CMA's merger intelligence function. The Sector Regulators support the CMA in scanning for merger activity by providing intelligence about merger activity in their sectors.

## 6.2. Examples

73. The following examples are intended to illustrate the type of assistance the Sector Regulators frequently provide the CMA when considering mergers in the regulates sectors:

- In 2018, Ofgem commented on aspects of an anticipated merger between SSE Retail and Npower; two businesses active in the retail supply of energy to domestic customers. The CMA took Ofgem's views into account when considering whether to proceed beyond the initial 'phase I' review to a more in-depth 'phase II' review of the merger. During the in-depth investigation, Ofgem attended a hearing at the CMA where it commented on various issues relevant to the CMA's decision.
- In 2020-2021, the CMA reviewed a joint venture between Liberty Global plc and Telefónica S.A to merge their UK operating businesses. The CMA worked closely with Ofcom and benefitted from its expertise in the telecommunications markets during its Phase 2 investigation.

74. The Annual Concurrency Reports include numerous examples of the support the Sector Regulators have given the CMA in carrying out its merger control functions.

## 7. Cooperation in functions outside of competition law

75. Outside of competition law, the Sector Regulators have powers to regulate under specific sector legislation. These powers include making *ex ante* decisions on issues such as:

- Price control decisions.
- Access charge control decisions.
- Licence modifications.
- Interconnection code modifications.

76. Coupled with these *ex ante* powers, the Sector Regulators have certain *ex post* powers relating specifically to their sector specific powers. For instance, the power to take enforcement action for breach of a licence condition.

### 7.1. Role of the CMA in *ex post* enforcement of sector specific requirements

77. There is no legal framework which provides the CMA a role in relation to the Sector Regulators' *ex post* enforcement of the sector specific regulatory requirement. Furthermore, there

are limited arrangements for the CMA to cooperate with the Sector Regulators in relation to this aspect of their work.

78. The CMA will often receive complaints relating to the conduct of businesses in regulated sectors. Some complaints may relate exclusively to concerns to be addressed through competition law enforcement. Often, they raise concerns which could potentially relate to the compliance of the business in question with a particular obligation they have under sector specific rules. In these circumstances, the CMA can share the details of the complaint with the relevant Sector Regulator under the legal framework governing the disclosure of information to another public authority. The legal framework allows the CMA to disclose to Sector Regulators information it has gathered through its own functions, for the purpose of facilitating the Sector Regulator from discharging certain specified statutory functions.<sup>29</sup>

## 7.2. Role of the CMA in *ex ante* decisions by Sector Regulator

79. The CMA has a formal role in respect of certain *ex ante* decisions by Sector Regulators. The subject of this paper is cooperation between competition authorities and Sector Regulators on *enforcement cases*. *Ex ante* regulatory decisions are not types of ‘enforcement’, but the role of the CMA in respect of these decisions is an important part of the wider context for the cooperation between the CMA and Sector Regulators. The paper will therefore briefly summarise the arrangements.

80. For some types of *ex ante* regulator decisions, appeals are made to the Competition Appeal Tribunal. The Competition Appeal Tribunal is a specialist judicial body with cross-disciplinary expertise in law, economics, business and accountancy.

81. For other types of *ex ante* decisions, the CMA has a formal role in the decision-making process. This applies, in particular, to price control decisions and certain decisions to amend licence conditions. For some of these decisions, the CMA’s role is as an appellate body, where businesses can appeal against the decision to the CMA, on the basis that the decision was wrong. For other decisions, businesses may seek a redetermination of the issue from the CMA, which differs from an appeal in that the CMA essentially re-takes the decision, rather than deciding on the merits of the original decision by the Sector Regulator.

82. The CMA’s appellate function in respect of certain *ex ante* regulatory decisions means the CMA must exercise care in its engagement with Sector Regulators not to impair its ability to properly discharge these functions or be perceived to have done so.

## 7.3. The UK Regulator’s Network

83. The UK Regulators Network (‘UKRN’) is a member organisation established in 2014, whose objective is to facilitate cooperation and communication between its members to promote better outcomes for consumers and the economy. The UKRN’s members include the Sector Regulators with concurrent competition enforcement powers, and certain additional regulators, including the Regulator of Social Housing, The Financial Reporting Council, The Pensions Regulator, the Information Commissioner’s Office and the Single Source Regulations Office.

84. The CMA is not a member of the UKRN but participates as an observer. Participation in the UKRN allows the CMA to strengthen its relationships with other regulators and collaborate on certain joint projects.

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<sup>29</sup> This legal framework creates the potential for the CMA to disclose the information the purpose of facilitating the exercise by the Sector Regulator of any functions it has under a schedule of specific legislation.

#### 7.4. Cooperation on digital regulation

85. The market power of a small number of digital firms creates challenges for competition in digital markets. The UK Government has recognised that a new pro-competitive approach is needed to oversee the most powerful digital firms and has set out plans for a new regime.<sup>30</sup> In the meantime, the CMA continues to apply its existing tools in these markets, including Competition Act Enforcement and markets work.

86. The nature of digital services means that consumer issues and harms often interact with more than one regulatory regime at any given time. For instance, actions to address data protection concerns may have impacts on market competition. This creates an important role for cooperation between regulators with responsibilities for different aspects of digital markets.

87. For the purposes of this paper, ‘digital markets’ are not treated as a regulated sector with an assigned sectoral regulator. This paper is therefore not intended to focus on the CMA’s regulatory cooperation in digital markets. But for completeness, the Digital Regulation Cooperation Forum (DRCF) was established in July 2020 to support regulatory co-ordination in digital markets, and cooperation on areas of mutual importance. The CMA is a member of the DRCF, along with the FCA, Ofcom and the ICO. Further information about its work, including its workplan for 2022 to 2023, are available on its website.<sup>31</sup>

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<sup>30</sup> The Government consulted on a new pro-competition regime for digital markets in July 2021. The Government set out its plans for a new regime in its response to the consultation, published in May 2022, and available at the following link: <https://www.gov.uk/government/consultations/a-new-pro-competition-regime-for-digital-markets/outcome/a-new-pro-competition-regime-for-digital-markets-government-response-to-consultation>

<sup>31</sup> <https://www.gov.uk/government/collections/the-digital-regulation-cooperation-forum>