

# Competition Policy Update: Competition and Consumer Policy Reforms

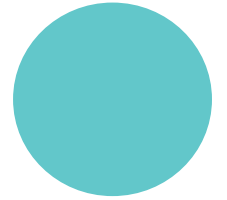
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# Cross cutting

- Government's competition strategy
  - Strategic steers to CMA
  - State of competition reports
  - Sustainability commission
- New and improved administrative penalty powers
  - Breaches of commitments, undertakings, orders and interim measures
  - Non-compliance with information-gathering powers, including provision of false or misleading information
  - Turnover-based financial penalties
- Consideration of decision-making reform
  - Remove Rules on separation and collective decision-making (CDGs) in CA98
  - Potential Panel streamlining
- Greater international cooperation
  - Part 9 updated to facilitate information sharing
  - New investigative assistance powers in competition and consumer civil enforcement investigations



# Markets

- Government is keen to facilitate the swifter use of our current markets tools, across a wider range of markets.
- Key proposals for a more flexible and swifter regime:
  - CMA powers to impose remedies at end of a market study
  - Single market inquiry tool to replace existing MS and MIR processes
- Greater powers to accept binding commitments
  - At any stage of a MIR to close ‘all or part of’ an investigation



# Markets

- Potential expansion of powers to impose interim measures
  - where urgent need to prevent significant damage, or to protect the public interest
  - Likely to mirror CA98 powers?
- Enhanced ability to review and revise remedies
  - Especially where remedies are not as effective as expected
- New power to require businesses to participate in trials to test potential CMA remedies



# Mergers

- New jurisdictional thresholds
  - Turnover threshold raised to £100 million
  - “Safe harbour” where each party has worldwide revenues of £10 million or less
  - New threshold where one party has share of supply of 25% and UK revenues of £100 million



# Mergers

- Procedural reforms
  - Revisions to fast-track procedure
  - Phase 2 reviews limited to issues identified at Phase 1
  - Possibility of earlier Phase 2 remedies
  - Possible restrictions on ability to extend Phase 2 timetable



# Antitrust

## Procedural enhancements for faster enforcement

- Access to file Interim Measures process and mandatory confidentiality rings
- Streamlined settlement procedures and 'early resolution' for Ch II cases



## Stronger investigative and enforcement powers

- Duty of preservation of evidence
- Upgrades to domestic search and interview powers



## CA98 and the courts

- Interim Measures change in standard of review
- Leniency immunity applicants to have immunity from liability for damages
- Requested views on whether any CAT reform is needed

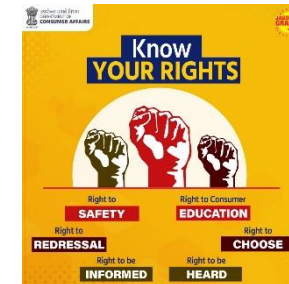
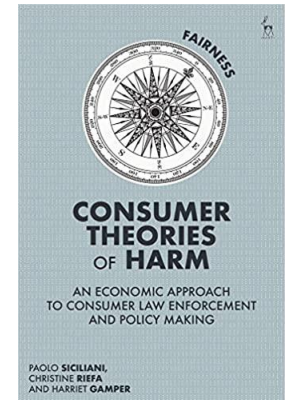
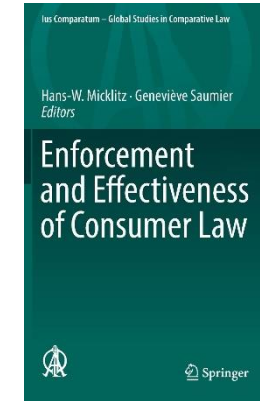


## Other reforms

- Mechanism for the CMA to reclaim settlement and leniency discounts
- Greater protections for whistle blowers
- Revisit threshold on immunity from CA98 fines

## Consumer Rights

- Subscription traps – new potential rules on upfront consent, better information and easier cancellation
- Fake reviews – new potential CPRs blacklisted practice
- Online exploitation and dark patterns
  - Behavioural techniques
  - Drip pricing
  - Paid-for search results
- Non-compliance with cancellation / refund rights
- Prepayment protections (e.g. for savings schemes)
- Formation of contracts (transfer of ownership)
- Changes to regulations



## Consumer Enforcement

- Enhanced civil (EA02) options (fining powers)
- Administrative model
  - CMA to make initial decisions
  - Appeal to court or tribunal
  - 10% turnover fines
- ADR and collective redress
  - Shortened periods for traders to handle before ombudsman etc
- Trading Standards Enforcement approaches
- Business Guidance changes
- International Co-operation agreements

