



## Competition Law Association

British Group of the  
Ligue Internationale du Droit de la Concurrence  
(International League for Competition Law)

[www.competitionlawassociation.org.uk](http://www.competitionlawassociation.org.uk)

[www.ligue.org](http://www.ligue.org)

### Webinar: Summary Note

#### "The Office for the Internal Market and the CMA's work across the nations"

**Date: Tuesday 30 November 2021**

**Speakers:** Rachel Merelie, Senior Director of the Office for the Internal Market  
Jennifer Halliday, Director, Competition and Markets Authority  
Steven McGregor, Head of Devolved Nations, Competition and Markets Authority

**Chair:** James Flynn QC

- Presentation will be in three parts: first a focus on CMA's advocacy role under the Enterprise Act 2002 as amended by the Small Business, Enterprise and Employment Act 2015; second more about the CMA's presence and outreach across the UK nations; third the CMA's new Office for the Internal Market and its functions under the Internal Market Act.

#### **i) The CMA's advocacy role**

- Advocacy is generally the term used by most competition authorities to capture interactions with government and public authorities to remove, limit or prevent public distortions. It is complementary to the CMA's wider case and project work. As with the CMA's remit, CMA's advocacy is cross economy, ranging from airline slot allocation to school uniforms. The CMA uses a range of tools and methods to advocate, including informal correspondence, open letters, consultation responses, and issuing informal and formal advice and reports. It also works to build competition and market expertise within government.
- In fulfilling its advocacy function, the CMA's aim is not to prevent all policies which are detrimental to competition – it recognises that governments have multiple policy objectives to consider and it is right that politicians take these decisions as the elected representatives. Instead, the CMA aims to

ensure effects on competitive outcomes are taken into account at an early stage in the policy-making process with the end goal of benefiting consumers.

- The CMA acts as a trusted and challenging competition adviser to central and devolved governments and public bodies across the UK. It has the power to make recommendations on legislation and it responds to requests for advice from government, seen recently when the Secretary of State for Health asked the CMA to provide advice on reducing costs for consumers in relation to PCR testing for international travel. While the request was from the UK Secretary of State, each of the four nations is able to set its own policy regarding involvement of private testing, and therefore the CMA worked with governments to understand any concerns they had. When the CMA shared its advice with the UK government, with recommendations on how the market could be improved, we followed up with the other governments to explain our work.

## ii) The CMA's outreach in nations and regions

- The CMA has a growing presence in the devolved nations, with a footprint in each of the constituent nations. Most CMA staff in the nations work on UK wide issues but CMA also has a dedicated team that focuses specifically on devolved issues. Role is to ensure CMA is aware of how devolution impacts on its work and that the devolved context informs its current and pipeline of future projects.
- CMA also expanding its presence in the English regions. Manchester will be the home of the Digital Markets Unit, bringing some 200 jobs to the north west of England, while CMA is establishing a micro-economics unit in Darlington.
- Expansion comes on the back of a successful regional pilot in the north west of England, which will be replicated in other regions. As part of this pilot, CMA has engaged and established new relationships with SMEs, which are often unfamiliar with the CMA's work.
- The political and policy landscape is different across the devolved nations, and the devolution agreements are asymmetric. There are differences in government structures, for example coalitions are more common in the devolved governments and there is mandatory power sharing in Northern Ireland. Policy priorities in the four nations also differ.
- The CMA works with stakeholders across the devolved nations as well as the English regions to understand these differences and ensure they are factored into its work.

Approach is underpinned by three broad principles:

- **Understand:** understand how devolution settlements interact with CMA functions within the devolved nations and how policy works. Working to identify differences and engagement opportunities with key stakeholders, the CMA aims to provide targeted intelligence on competition and consumer issues to inform its wider work

- **Inform:** help businesses across the devolved nations and English regions to understand the CMA's role in competition and consumer law, helping to prevent businesses from inadvertently breaking consumer and/or competition law.
- **Advocate:** ensuring devolved/regional institutions understand why competition issues matter and that policies and legislation deliver pro-competitive outcomes. The CMA also works to upskill public bodies to detect signs of anti-competitive conduct.

### iii) **The function of the Office for the Internal Market ("OIM")**

- The OIM has a role separate to other CMA functions, with its capabilities set out in the UK Internal Market Act 2020. It focuses on implementation rather than design of policy, and even-handedness is a key consideration of this work, including in engagement across the four nations.
- The OIM's statutory objective is to support the effective operation of the UK internal market using its economic and technical expertise. It advises all four governments on policies in the context of possible divergence between them and has a monitoring and reporting role. It is then for governments themselves to decide on how to use that advice and balance it against other policy issues, such as health and safety.
- The OIM is required by statute to publish two reports on the internal market: an annual report and a broader, five-yearly report, both of which are first due in March 2023. It will also produce an initial report in spring 2022.
- The OIM has produced a web form for consumers/businesses to describe issues with the internal market. These submissions are an important way to gain intelligence, track emerging issues and provide advice to governments. The OIM cannot, however, act on individual submissions.
- Using its formal information gathering powers, the OIM's analysts work with analysts in each of the Devolved Administrations, the ONS and academics to bring together data gathered and look at how the internal market is working. Stakeholders are keen for the OIM to become a centre of expertise on the internal market.
- Sitting within the CMA, the OIM has its own staff that are dedicated to OIM work, but can also draw on wider CMA expertise as required. Its functions differ from the CMA's, in that the OIM has an advisory rather than enforcement or decision-making role and its analysis focuses primarily on trade rather than competition in the first instance.