



# DBT Strategic Steer to the CMA

UK Finance consultation response

March | 2025

## Introduction and executive summary

1. UK Finance is pleased to respond to the consultation from the Department for Business and Trade (DBT) on its strategic steer to the Competition and Markets Authority (CMA). We are the collective voice for the banking and finance industry. Representing 300 firms across the sector, we are a centre of trust, expertise and collaboration at the heart of financial services, championing a thriving sector and building a better society.
2. The UK's financial services and professional services sector is one of the UK's most important assets, accounting for 9% of the UK's total economic output. UK financial services alone produces £209 billion in GVA.<sup>1</sup> However, the UK's globally preeminent position in financial services is not assured and it needs a modern, dynamic regulatory environment to help it prosper. The CMA is an important part of this regulatory mix.
3. Economic growth is the central mission of the Government, and we have been encouraged by the role ministers want regulators to play in supporting this critical goal. We are therefore pleased to see the strategic steer highlight the role that the CMA should play in supporting growth and investment as it carries out its statutory functions.
4. We note that the CMA is engaging closely with the Government on its approach to supporting the growth mission, and we acknowledge the recent encouraging statements made by the regulator on how it plans to deliver this. While the proof will be in the regulatory action that the CMA actually takes, we were encouraged to see the CMA place significant focus on growth in the drafting of its annual plan, which it recently consulted on. This is an important step and UK Finance was pleased to have had the opportunity to demonstrate how the regulator can improve its approach in our consultation response.
5. We note the CMA's response to the Prime Minister's letter to sector regulators, asking for specific actions to boost economic growth. We were pleased to see the CMA acknowledge the important role of 'enabling' sectors in driving growth. Financial services should be regarded as one such enabling sector, as recognised in the Government's Industrial Strategy Green Paper.
6. Despite the statements by the CMA, we believe there is significantly more it could do to support growth. The strategic steer is an important lever in this respect. In this consultation response, we identify three specific ways in which we think the steer could be strengthened. Specifically, we recommend that the DBT should direct the CMA to:
  - **Better prioritise pro-growth and pro-investment interventions:** We would like to see greater ambition from the regulator, including considering

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<sup>1</sup> [City Stats Fact Sheet](#), The City of London Corporation, November 2024

whether it is appropriate to extend its new proposals to improve its merger process to all of its work, specifically market remedies, and by undertaking a holistic review of its current slate of market investigation remedies with an onus on removing outdated and burdensome remedies. Alongside this, we would also like to see the CMA review its enforcement practices to ensure regulatory action under the existing Orders are wholly proportionate and necessary in all instances, including by reference to the risk of actual consumer harm. Failure to take action promptly in this respect, risks undermining the objective to promote effective competition and will have the unintended consequences of stifling growth and innovation.

- **Improve the transparency of its activities:** DBT could develop new transparency requirements for the CMA, akin to the requirements for financial regulators as set out in Financial Services and Markets Act (FSMA) 2023. This should include a Cost Benefit Analysis Panel to scrutinise the CMA's work. At the moment, the cost and benefits of such remedies are only assessed once, and not on an ongoing basis, so the ongoing impact on competition is not being considered by the CMA. The CMA's consideration of its market investigation remedies in particular is an area that needs further clarity.
  - **Improve the proportionality of its regulatory work:** We were pleased to see that proportionality is one of the key tests that the CMA has set for itself in its annual plan. It is crucial that the CMA examines carefully its approach to proportionality, especially in the context of market investigation remedies.
  - Separately, and although it is vital that regulators work closely with the CMA to ensure that regulatory activities are cohesive, DBT should acknowledge the role that sector expert regulators such as the Financial Conduct Authority (FCA) and Payment Systems Regulator (PSR) can and should play in addressing competition issues in the sectors they regulate, before these are escalated to the CMA. In addition, to support business confidence, DBT should clarify how the CMA should prioritise and use its new enforcement powers, with a focus on proportionality.
7. We expand on these recommendations below in response to the *Delivering investment and economic growth* component of the draft strategic steer. Our consultation response also comments on the two further areas (*engagement with government* and *accountability*) identified by DBT, including where the CMA could go further. If you have any question about this submission, please contact Matthew Young, Principal, Strategic Policy, [matthew.young@ukfinance.org.uk](mailto:matthew.young@ukfinance.org.uk)

### **Delivering investment and economic growth**

8. UK Finance strongly supports the strategic steer's focus on economic growth and agrees that the CMA should be asked to give appropriate consideration to ensuring that its actions prioritise growth and investment – however we believe there is more that the CMA could do, including to ensure that, where the CMA declines to act (especially where this could have an impact on growth), that the

CMA has to explain how its decisions are justified. Below we set out in greater detail how DBT should encourage the CMA to go further in pursuit of this goal. We would caution, however, that growth does not directly correlate to speed, and so to achieve growth, the CMA must work efficiently, effectively and pragmatically to focus on delivering the right outcomes in a prompt but duly considered manner.

*Better prioritise pro-growth and pro-investment interventions*

9. The CMA's oversight for international merger and acquisition deals, as well as its considerable enforcement powers, mean that its activities have considerable influence on the level of inward investment into the UK and the attractiveness of the UK as a place to do business. To that end, while the proof will be in the action the CMA actually takes, we were pleased that the CMA's draft annual plan placed economic growth at the heart of its thinking and identified "helping the UK economy to grow productively and sustainability" as one of its key 'medium term priorities'.
10. UK Finance also welcomes the further proposals to drive growth, investment and business confidence set out by Sarah Cardell, CEO of the CMA, in a [blog post](#) released on the day the strategic steer was published. We support these new proposed reforms, aimed at improving the CMA's merger process, including plans to minimise the length of the CMA's merger investigations and the planned review of its merger related remedies (where, of course, this would not result in sub-optimal outcomes through a lack of robustness). We would like the CMA to explore whether it would be appropriate for it to expand these new proposals to other areas of its regulatory activity.
11. Furthermore, our members have shared their concerns with how the CMA's markets regime operates, and how the CMA has overseen and dealt with market investigation remedies, and the tendency it has to keep those remedies in place for years if not decades, (including on the basis that the relevant CMA team does not have sufficient resource). Therefore, one of the most impactful interventions that the CMA could undertake to drive growth and competition is to review and revoke the existing historic CMA remedies that apply to the financial services sector, especially the Retail Banking Market Investigation Order 2017, the remaining part of the SME Undertakings 2002 and the PPI Market Investigation Order 2011.
12. As we set out in our response to the CMA's annual plan consultation, there have been significant changes to the PCA and SME banking markets since the CMA (and its predecessor) looked at them nearly 10 years ago (or in the case of the 2002 SME Banking Undertakings, more than 20 years ago). Specifically with regard to the PPI Order, the underlying market conditions that drove its introduction do not reflect where the market is now. It is therefore important that the CMA gives due consideration to these ongoing interventions and assesses the cumulative cost and impact of leaving them in place now, and considers their proportionality. Where possible the CMA should remove or vary aspects of the outdated remedies which are no longer appropriate given the changes of circumstance and which may themselves now be distorting competition, including in favour of Big Tech.

13. As part of any review, the CMA should also consider whether a set of remedy requirements are no longer effective or of benefit to consumers as anticipated in the initial remedy design. For example, if certain information display requirements or tools mandated by the Retail Banking Order are being used in a very limited way by customers, they should be considered as candidates for revocation on the grounds of limited customer benefit and use.
14. Finally, we also agree with the importance attached to the strategic steer that conveys the message that strong appropriate regulation is still required. This is particularly important in response to emerging, new types of competitors and “channel partners”, some of which will likely have market power at least in certain activities, such as in regards to the entrenchment of digital wallets by big tech providers. Further, there must be a level playing field between big tech and financial services regulation, particularly where the provision of consumer services is adjacent/the same.
15. To this end, the draft strategic steer states that the CMA should use the new Digital Markets, Competition and Consumers Act’s (DMCCA) Digital Market Competition regime flexibly, proportionately and collaboratively to unlock growth across the UK digital economy and ensure that growth and innovation benefits are prioritised. The CMA is well placed to make use of its new digital market powers and track any risks to competition that may be posed by the growing role of global technology companies in UK financial services. To this end, we note the FCA and PSR published their feedback statement on big tech and digital wallets, which points to the CMA’s work under the DMCCA, and we encourage close, aligned regulatory collaboration between the different regulators.

*Improve the transparency of the CMA’s activities*

16. We agree with the point made in the draft strategic steer that the CMA should provide proactive, transparent, timely, predictable and responsible engagement with business. Unfortunately, this has not been the experience of the financial services sector in relation to market investigations and the associated remedies in recent years, where we have had significant concerns about the CMA’s process and oversight. Although we have in the last few months seen some further willingness of the CMA to engage with business on this topic, there are significant improvements that could be made in this area, which would in turn support the growth agenda. We note the CMA is currently reviewing its markets guidance and we trust that DBT will challenge the CMA to ensure that the feedback of business is considered fully as part of this process.
17. To support greater transparency, we would like to see DBT adopt some of the innovations introduced through FSMA 2023 for the CMA. For example, we would like to see the CMA set out clearer information about how it weighs up the costs and benefits of any intervention and establish a dedicated Cost Benefit Analysis (CBA) panel to scrutinise the impact of any regulatory intervention it makes – both as the new regulation is being designed and on an ongoing, periodic basis. A one-off exercise to assess projected cost / benefits at the remedy design stage, as the CMA currently does, is not sufficient given challenges with estimated costs and the

cumulative impact of compliance cost over time. The CMA already has a panel that scrutinises the impact of potential mergers, so the CMA could extend its remit to also consider the impact of wider market investigation work proposed by the CMA. Such a panel, mirroring the requirement in FSMA 2023 for the Financial Conduct Authority (FCA) and Prudential Regulation Authority (PRA), should include representatives from industry to ensure the perspective of business is properly represented as part of this work. The CMA could adopt the templates and principles established by the FCA and PRA in the development of their own panels, to avoid spending time carrying out a blank page study into its own approach.

18. Furthermore, we agree with the draft steer that the CMA should continue to develop a contemporary evidence base to demonstrate its impact on the UK economy. As we set out in our response to the CMA's annual plan, we would like the CMA report on the cost of its regulation to the sectors it effectively regulates through market investigation remedies, and ensuring that these are appropriately balanced against a clear and updated assessment of the benefits of those remedies. This would bring the CMA in line with the FCA and PRA, who must report on the cost of their regulations as part of their reporting requirements under the secondary competitiveness and growth objective. This 'cost to business' metric should be published in the CMA's annual plan to increase the transparency of its activities.
19. Finally, we note that DBT has asked the CMA to consider the actions being taken by consumer and competition agencies in other jurisdictions and, where appropriate, seek to ensure parallel UK regulatory activity is timely, coherent and avoids duplication. As we set out in our CMA annual plan response, it is important that the CMA works closely with different international competition regulators to ensure that the desire of UK firms to compete with global firms in the same sectors, but in different international markets, does not result in other jurisdictions developing market remedies that lead to informal trade barriers or UK active firms cross-subsidising non-UK related activities .

#### *Improving the proportionality of the CMA's regulatory work*

20. Proportionate regulation, where risk is properly calibrated to allow dynamic, innovate markets to flourish, is vital for the growth of the UK economy and the attractiveness to investors from around the world. We were therefore pleased that the CMA has identified 'proportionality' as one of its four key tests as set out in its annual plan. It is particularly important that the CMA examines its approach to proportionality in the context of market investigation remedies.
21. More broadly, to achieve proportionate regulation, regulators must have clear remits and avoid duplicating their activities which create additional burdens for business. We were therefore pleased that the strategic steer makes clear that the CMA should work with other relevant regulators in the UK to ensure that regulatory action is coherent and, ultimately, supports growth in the long run.
22. As we stated in our response to the CMA's concurrency framework call for evidence, we believe it is important for regulators to consider if the oversight for market investigation remedies within financial services is being run effectively. We

believe when the CMA proposes remedies on their back of market investigations relating to a specific regulator's sector, the starting position should be that oversight for these remedies should pass to the relevant sector regulator (such as the FCA or PSR). We believe that the FCA and PSR are better placed to apply their sector expertise and understanding, and can better apply more appropriate enforcement action where needed.

23. This would require a further review of the CMA's concurrency framework, which – following the CMA's response to its call for evidence - still fails to properly hard wire in the principle that sector regulators are often better placed to oversee competition issues using the powers they have in specific legislation, rather than the CMA. We believe this recalibration is required. Now that the CMA has concluded its concurrency review, this work should be wrapped into the review of the gaps and overlaps of financial regulators promised by the new Government.
24. Separately, we note DBT's preference, as set out in the strategic steer, to encourage the CMA to use its range of tools, including its direct consumer enforcement powers under DMCCA, to grow the economy through promoting consumer trust and confidence. This is an important goal, but it is important that the CMA properly balances this against the need to reassure firms on how it will use these new powers. We remain of the view that these enhanced powers, which introduce significant new fines for breaches of the CMA's remedies and allow the CMA to vary existing remedies, have the potential to deter investment into the UK. However, we welcome the clarification by the Government and CMA that these powers won't apply retrospectively to remedies brought in before the Act was passed.
25. Nonetheless, it is now important that the CMA – guided by its renewed focus on encouraging economic growth – provides further assurances about how it will use these powers proportionately in relation to any future interventions. DBT should set out this requirement formally in its final strategic steer.

### **Engagement with government**

26. We agree with DBT that the CMA should continue to engage with government on key policy issues and work closely with ministers to identify areas where it can better support the Government's agenda. To support this, we welcome the Government's commitment to issuing official responses to CMA recommendations under their market tool within 90 days.
27. However, we do not agree with the presumption that government will accept CMA's recommendations. There are numerous reasons why government departments may choose not to accept recommendation from a regulator, that go beyond straight forward policy objections, as ministers must balance the interests of consumers with proportionality and the need to ensure business confidence, as well as competing priorities across Whitehall.
28. Each recommendation the CMA should be considered on its merits without an assumption it will be accepted. To this end, an aforementioned CBA panel

mechanism would ensure independence analysis of CMA proposals which could help inform both the CMA and government on next steps.

### **Accountability**

29. Finally, we strongly support requiring the CMA to set out how it intends to account for this steer in its work and report how it has applied the steer in practice in its annual report.
30. We would like the final steer to be clear about how the CMA's framework agreement will be updated to include new relevant reporting requirements. As part of this, we would strongly urge DBT to consider introducing new reporting requirements similar to those applied to the FCA and PRA following the passing of FSMA 2023. The legislation requires the financial regulators to report – using specific metrics– how they have delivered against their new secondary competitiveness objective.
31. These metrics, focusing on areas such as the cost of new regulations, comparisons with international jurisdictions and the speed in which it authorises firms, are a useful guide to both government and regulated firms as to how well the financial regulators are delivering on their new requirements. Similar metrics could be developed for the CMA to monitor and analyse its commitment to delivering on the Government's growth agenda.