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QUICK LINKS

CMA consults on priorities for 2025/2026 as the DMCC Act comes into force

On 13 January 2025, the UK Competition and Markets Authority (CMA) released its draft annual plan setting out its proposed areas of focus for 2025/2026. Taking on board the renewed government focus on driving economic growth, the CMA announced that it will place UK growth, opportunity, and prosperity at the heart of its strategy for the coming years. In this regard, the plan emphasises the "*vital role*" that recent reforms to the UK competition, digital markets and consumer protection regimes will play in helping the CMA deliver on this agenda.

Key points of interest

In December 2024, UK Prime Minister Keir Starmer issued a letter to the UK's main regulators, including the CMA, inviting them to set out measurable commitments to drive economic growth. The CMA's response, published on 13 January, confirms its "*full support*" for the government's growth mission. On the same day, the CMA released its draft annual plan for consultation, titled *Promoting Competition and Protecting Consumers to Drive Growth, Opportunity and Prosperity for the UK*. The plan lays out the CMA's proposed priorities and actions over the medium term and during the next 12 months.

In a macroeconomic and geopolitical environment "*characterised by uncertainty*", the CMA is proposing to focus on, in particular:

- Harnessing the CMA's new consumer protection powers and digital markets regime under the Digital Markets, Competition and Consumers Act 2024 (DMCC Act) (covered in more detail below).
- Continuing to bring choice and effective competition in areas of essential consumer spend where people are under financial pressure.
- Encouraging competitive markets for green technology, for example, through the CMA's Green Agreements Guidance (see our briefing here) and potential work on green heating and energy efficiency.
- Enabling innovating businesses (both large incumbents and the UK's start-ups and scale-ups) to invest and compete on a level playing-field, particularly in markets with a material impact on innovation, productivity and growth across the wider economy.
- Continuing to target the CMA's markets work (including market studies and investigations) in "*enabling markets with a multiplier effect*" for sectors across the

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whole UK economy. For example, the CMA will look to identify opportunities to unlock investment in critical infrastructure and support the use of key enabling technologies (such as smart data).

- From an antitrust perspective, supporting public sector savings and productivity gains by focusing on rooting out bid-rigging in public procurement, including through the use of AI and data science capability for detecting illegal conduct.

- Working with government to help priority sectors in the Industrial Strategy develop competitively and to their full potential. The CMA's view is that a strategy of building UK champions is not inherently anti-competitive, "*provided this strength does not result in harms to UK consumers from weak competition at home*".

- Deepening the CMA's work with UK consumers and businesses. This includes the recently launched CMA Growth and Investment Council, which brings together representatives from a wide range of business groups, as well as from public and private capital. The Council will identify opportunities where pro-competition, pro-innovation policies can drive growth and investment.

On merger control, the CMA's draft annual plan and recent statements would appear to signal a potentially more flexible approach to the CMA's review of deals where there are strong efficiency or innovation arguments. There have already been signs of a shift in approach in practice. In December 2024, the CMA announced its decision to clear the Vodafone/Three UK joint venture based on the behavioural remedies offered by the parties, which included investments in infrastructure. In this regard, the draft annual plan confirms the CMA's intention to launch a review of its approach to merger remedies in 2025. For more information, see our recent newsletter and Horizon Scanning publication.

Reforms under the DMCC Act: spotlight on digital markets and consumer protection

Central to the CMA's annual plan and strategy are its new powers and responsibilities under the DMCC Act. The DMCC Act introduces major reforms to UK competition and consumer protection laws, which we covered in more detail in a previous edition of this newsletter. In particular:

- The DMCC Act's new digital markets regime, which came into force on 1 January 2025, will apply to large companies designated by the CMA as having strategic market status (SMS) in respect of a digital activity. SMS firms will be subject to targeted conduct requirements imposed by the CMA for the purposes of fair dealing, open choices and/or trust and transparency. The CMA has recently set out its plans for implementing the regime (see here and here). On 14 January, it announced the launch of its first SMS investigation, with more expected to follow. The draft annual plan highlights the CMA's readiness to operate the new regime and to remove barriers to innovation and investment in a "*targeted, proportionate, and more effective way*" for businesses and consumers who rely on digital services.

- As regards consumer protection, the CMA's draft annual plan highlights that this year represents "*a watershed moment*" for the authority's ability to tackle misleading sales practices and unfair terms. The DMCC Act's consumer protection reforms, most of which will come into force this Spring, will enable the CMA to issue infringement decisions for consumer law breaches and directly impose fines of up to 10 per cent of a business' global turnover – effectively aligning the regime with the CMA's existing competition powers. The draft annual plan indicates that the CMA stands ready to take "*more direct and decisive action*" in this area, particularly where online practices are concerned. For more insights, see our recent Horizon Scanning publication.

Next steps

The CMA appears to have taken the Labour government's pro-growth agenda on board. Sarah Cardell, Chief Executive of the CMA, has stated that the CMA "*playing [its] part in delivering positive outcomes for the UK, including ensuring this is a globally attractive place to invest and do business, is not only about the work the CMA does. It must also encompass the way [the CMA goes] about it*".

The consultation on the CMA's draft annual plan is running until 31 January 2025. The CMA expects to release the final version of its plan by the end of March 2025.

OTHER DEVELOPMENTS

MERGER CONTROL

European Commission clears Synopsys/Ansys subject to conditions

On 10 January 2025, the European Commission announced that it has approved the proposed acquisition of Ansys by Synopsys, subject to conditions. Synopsys specialises in electronic design automation (EDA) software to design semiconductor devices. Ansys offers similar tools, also relevant for chip design. The Commission's approval follows a Phase 1 investigation into the proposed transaction's impact on competition in global markets for design software and chips and some other products. While the Commission found that the companies' activities are largely complementary, it identified significant competition concerns in the markets for (i) optics software, (ii) photonics software, and (iii) register-transfer-level power consumption analysis software. The Commission concluded that the transaction, as originally proposed, would have led to high combined market shares, high market concentration levels, reduced competitive pressure, and higher prices with fewer choices for customers.

To address these concerns, the parties offered to divest the entire overlap in activities in the markets where the Commission identified concerns to a suitable purchaser. This divestment includes Synopsys' optics and photonics software businesses - Code V, LightTools, LucidShape, RSoft, and ImSym – as well as Ansys' PowerArtist software for power consumption analysis. The Commission was satisfied that the commitments fully address its concerns. Competition Commissioner Teresa Ribera concluded that the approved commitments preserve competition in the noted markets and "*customers will continue to have access to innovative tools at competitive prices*".

The deal is also subject to regulatory clearance in other jurisdictions. In the UK, the CMA announced its Phase 1 decision on 20 December 2024, finding the deal could reduce competition in the supply of three software products. This was followed by the parties offering undertakings in lieu of a reference to Phase 2, involving the divestment of PowerArtist and Optical Solutions Group. On 8 January 2025, the CMA announced that there are reasonable grounds for believing that it might accept the proposed undertakings, or a modified version of them. The announcement comes as the CMA is set to review its approach to merger remedies in early 2025 (as discussed above in this newsletter).

SAMR publishes new Horizontal Merger Guidelines

On 20 December 2024, China's State Administration for Market Regulation (SAMR) published its guidance on horizontal merger reviews, following public consultation in mid-2024 (as reported in a previous edition of this newsletter).

The final guidance is substantially similar to the consultation draft. The most notable change is the removal of an article which provided that SAMR could require the parties to expand the market definitions to cover all of their business operations, if the markets relevant to the transaction make up less than 50% of their total revenue. Another interesting change relates to the removal of an article specifically relating to *"data-driven horizontal mergers"*, which provided that the protection of data privacy was a relevant factor in the assessment of the transaction's effect on product quality.

While the final guidance makes it clear that it does not have the force of law, it reflects SAMR's receptiveness to public feedback and is a significant step towards improving the transparency of China's merger control system.

ANTITRUST

China's National People Congress invites comments on proposed amendments to Anti-Unfair Competition Law

On 22 November 2024, the National People's Congress of China (NPC) released a new 2024 draft of the amended Anti-Unfair Competition Law (AUCL), which is open for public consultation until 23 January 2025. The AUCL was last amended in 2019, and the process for this latest revision has been ongoing since at least 2021. This is the second consultation draft, which includes some notable and helpful changes compared to the previous draft (published in 2022), made in response to a range of feedback received.

Consistent with the Chinese government's regulatory focus on the platform economy (as demonstrated by, for example, the earlier release of the Interim Provisions Against Unfair Competition in Cyberspace, as reported in a previous edition of this newsletter), the 2024 draft includes provisions which are specific to e-commerce platforms. Another notable feature is the addition of a new provision that prohibits large enterprises from abusing their advantageous position to do certain acts which distort fair competition, such as imposing obviously unreasonable payment terms on small and medium enterprises. This is an improvement to the 2022 draft, which would have broadly prohibited companies with a *"relatively advantageous position"* from *"unreasonably restricting its trading counterparty's business"*.

In addition to the substantive provisions, the 2024 draft also increases the upper limits of the fines for certain infringements. For instance, the maximum penalty for influencing user choice by technical means was raised from RMB 3 million (c. £334,000) to RMB 5 million (c. £557,000). Businesses operating in China should continue to keep an eye on the AUCL-related developments, as business practices not typically covered by the Anti-Monopoly Law may still be caught under the AUCL regime and result in separate penalties.

GENERAL COMPETITION

CMA publishes literature review on the wider benefits of competition policy and enforcement

On 13 January 2025, the CMA published a report prepared by its Microeconomics Unit examining recent evidence on the deterrent effects of competition policy and enforcement, and its wider impacts on growth and productivity. The report builds on previous CMA publications that explored the relationship between competition and productivity (2015) and the deterrent effects of competition enforcement (2017).

The review highlights that deterrence is a critical function of competition authorities, particularly in merger control and enforcement against anti-competitive conduct. Evidence suggests that an effective regime for reviewing and prohibiting anti-competitive mergers also deters other potentially anti-competitive mergers from being proposed. Research also concludes that, while the presence of a competition authority has a beneficial impact across all sectors, the deterrent effects are especially pronounced in non-tradeable goods sectors, where firms face less international competition. While the benefits extend across all industries, research shows that tradable goods sectors experience relatively smaller (though still significant) impacts.

The CMA's literature review further supports strong evidence that competition can drive greater productivity, with recent evidence showing increased competition fosters technological advancement and innovation diversity, highlighting its positive effects on innovation. Moreover, the report emphasises significant productivity gains from effective competition enforcement – although it is noted that the largest productivity growth gains come from establishing a generally effective regime, while incremental improvements to already established and well-functioning systems yield small – but still positive - effects.

The report concludes that the body of evidence reviewed points clearly towards competition enforcement delivering significant wider benefits, with the indirect impacts typically far surpassing the direct effects that are often assessed following concrete interventions.

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